

ARRA (American Recovery and Reinvestment Act) Special Requirements for Initiating Projects and Record Keeping

ARRA (American Recovery and Reinvestment Act) funding brings with it a variety of requirements. Many of the requirements affect capital activities, involving both owners and contractors. This document tries to bring together the critical requirements that are not in our normal approach and to point them out and provide reference. Note that the customary approval processes and procedures for establishing capital projects remain applicable. For additional details on ARRA requirements, all of the Office of Economic Recovery and Investment directives may be found at <http://ncrecovery.gov/RecoveryPlan/NCPlan.aspx>. Some “highlights” are as follows:

Advertising

1. There is a requirement to advertise for any and all design services, regardless of project size. The use of an open-end design agreement is not permitted as each project’s design services must be separately advertised.
2. Advertisements for any project over \$5,000 must be in the newspaper, including minority and women owned outlets, (in addition to our normal approach).
3. The words “Recovery Funds” must be used in the Interactive Purchasing System (IPS) posted project description. Since advertisements are posted to the IPS system based on your submission to the UNC web site, please include this wording in your UNC submissions.
4. Agencies using ARRA funds are required to use their best efforts to notify at least one HUB of the opportunity to participate by submitting a bid (note that this is less than our current requirement).
5. Cannot use existing term, convenience, or agency specific contracts without prior approval of agency establishing contract.
6. 48 hour Employment Security Commission posting requirement on hiring labor and semiskilled positions by contractors; all other positions require 5-day posting.

Reporting

7. Filing, by the University, of a monthly “Use of Recovery Funds Report Form” on HUB participation by 10th of each month on “Use of Recovery Funds Report Form” (Attachment 3 from Directive #3, copy attached).
8. Contractor must provide reports (jobs created, etc) and no direct payment will be made for such reports.
9. Maintenance of records by contractor to substantiate Buy American for iron, steel, and manufactured goods.

10. Compliance with provisions of Davis Bacon Act wages is required. Additional information is available at <http://www.gpo.gov/davisbacon/>.
11. Quarterly Reports by the owner (the “prime recipient” of the funds) to the federal government are required by the 10th of the month following the quarter.

While a number of these requirements fall on the contractor, it is important that we clearly communicate these expectations and work to ensure they are met.

The bulk of the special requirements along with explanations and contact information are in the Office of Economic Recovery and Investment’s Management Directive #3, issued May 5, 2009. This has an Internal Procurement Directive (Attachment 1) and Contract Provisions (Attachment 2). Attachment 1 addresses:

1. Compliance – what happens if you fail to comply
2. Use of Statewide Interactive Purchasing System (IPS)
3. Local Newspaper Outlets
4. Historically Underutilized Businesses (HUBs) Participation
5. Establishing Contracts Using New Procurement Processes – funds may not be used to expand the scope of an existing construction project
6. Fixed Price Contracts – funds may not be used for cost plus
7. Use of Recovery Funds – not allowed for travel
8. Reporting of HUB Participation

While Attachment 2 addresses contract requirements including:

1. Reporting Requirements
2. Posting with the Local Employment Security Commission
3. Required Contract Provision to Implement ARRA Section 902, requiring records be available for inspection
4. Authority of US Inspector General
5. Buy American Provision
6. Wage Rate Provision
7. Availability and Use of Funds
8. Whistleblower Provisions
9. Outsourcing outside the USA without Specific Prior Approval
10. Federal, State, and Local Tax Obligations
11. Anti-Discrimination and Equal Opportunity
12. OSBM Access to Records

The Office of Economic Recovery and Investment's Management Directive #6, issued July 15, 2009, is 13 pages long and is recommended reading. While most of it is more detailed explanations of prior topics such as Davis Bacon "Prevailing Wages and Certified Payroll", it includes answers to common questions and specific contract language.

As you can imagine the details of the program continue to mature.

USE OF RECOVERY FUNDS REPORT FORM

SECTION 1: Contract Award

Contract Award for the month of _____, 20__

Service Contracts: \$ _____

Goods: \$ _____

Construction Projects: \$ _____

Design Services: \$ _____

TOTAL CONTRACT AWARD \$ _____

SECTION 2: Historically Underutilized Business Award

HUB Award for the month of _____, 20__

Service Contracts: \$ _____

Goods: \$ _____

Construction Projects: \$ _____

Design Services: \$ _____

TOTAL HUB CONTRACT AWARD \$ _____

Please return this form to:

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