

PREVENTING STIMULUS WASTE AND FRAUD: WHO ARE THE WATCHDOGS?

HEARING BEFORE THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM HOUSE OF REPRESENTATIVES ONE HUNDRED ELEVENTH CONGRESS

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PREVENTING STIMULUS WASTE AND FRAUD: WHO ARE THE WATCHDOGS?

THURSDAY, MARCH 19, 2009

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Edolphus Towns (chairman of the committee) presiding.

Present: Representatives Towns, Maloney, Cummings, Kucinich, Tierney, Clay, Watson, Lynch, Cooper, Connolly, Norton, Davis of Illinois, Van Hollen, Cuellar, Hodes, Welch, Foster, Speier, Driehaus, Issa, Burton, Platts, Duncan, McHenry, Bilbray, Jordan, Chaffetz, and Schock.

Staff present: Ronald Stroman, staff director; Michael McCarthy, deputy staff director; Carla Hultberg, chief clerk; John Arlington, chief investigative counsel; Joanne Royce and Steven Rangel, investigative counsels; Katherine Graham, investigator; Jenny Rosenberg, director of communications; Adam Hodge, deputy press secretary; Lawrence Brady, minority staff director; John Cuaderes, minority deputy staff director; Frederick Hill, minority director of communications; Dan Blankenburg, minority director of outreach and senior advisor; Adam Fromm, minority chief clerk and Member liaison; Seamus Kraft, minority deputy press secretary; Tom Alexander and Christopher Hixon, minority senior counsels; Ashley Callen, minority counsels; and Jill Schmalz, Brien Beattie, Molly Boyl, and Mark Marin, minority professional staff members.

Chairman TOWNS. Good morning. Thank you for being here.

Our Nation is at a pivotal point in history as we endure the greatest economic crisis in more than a half century. Millions of jobs have been lost. Companies are failing. Americans are losing their homes. States, cities, communities, and families desperately need help. This is the greatest financial crisis since the Great Depression.

Answering the call, Congress recently passed the American Recovery and Reinvestment Act, known as the Recovery Act, which provides \$787 billion in tax cuts and Federal spending to preserve and create jobs, assist those most harmed by the recession, and re-invest in our great country.

I was a proud original cosponsor of the Recovery Act legislation, but along with the opportunity to heal our ailing economy, we have the monumental challenge of ensuring that the American taxpayers' dollars are used wisely and not squandered. The risk of fraud increases when billions of dollars go out of the door quickly.

This is the painful lesson of Iraq War spending and spending in response to Katrina where billions were lost to fraud. Fraud experts estimate that U.S. organizations lose 7 percent of revenues to fraud and waste. When applied to the stimulus package, this amounts to a whopping \$55 billion in American taxpayers' dollars.

Mindful of this history, the Recovery Act provides for an unprecedented degree of oversight and accountability, and it remedies two of the major problems with Iraq and Katrina funding. The law mandates the use of competitive contracting and the use of fixed price contracts. Further, the newly minted Recovery Accountability and Transparency Board, known as the Recovery Act Board, is designed to provide transparency on how Federal recovery money is spent.

I applaud the President for his support of these critically important reforms. However, these reforms are not enough. We need to take steps to ensure that problems are fixed before they arise. Two weeks ago we held a hearing on the Excluded Parties List of businesses that should have been suspended and debarred but that were still receiving Federal contracts.

Last month the Inspector General of the Department of Transportation issued a report which documented that in 2003 executives were paid \$73 million, including the payments of expenses that should have been unallowable, including spa resort bills, alcohol bills, and 45 automobiles including Mercedes, BMWs, and other luxury brands. Most disturbingly, just yesterday the committee learned that several of the very first contracts awarded using stimulus funds may have been less than transparent and/or contain paperwork errors. At least one of these contracts may have had no competition.

Today I will ask that Mr. Devaney conduct a comprehensive examination of this first set of 11 stimulus related contracts to determine whether the contracts are transparent and if taxpayers' money was spent efficiently, and to report back to the committee within 2 weeks with a full report. I will also ask that this report contain an assessment of the fraud prevention programs that are in place at each agency receiving Recovery Act funding. The sad truth is once fraudulent dollars go out the door, the Federal Government historically is only able to collect pennies on the dollar.

I also am concerned that States are already beginning Recovery Act spending. However, States have not been told exactly what information to collect. This needs to be fixed and it needs to be fixed immediately.

In order to assess the adequacy of fraud prevention programs, I will ask Mr. Devaney to report back to this committee within 2 weeks his views on whether each executive branch agency receiving Federal funds has an adequate fraud prevention program.

I also have major concerns about the administration's primary transparency tool, Recovery.gov. The fact of the matter is that Recovery.gov is currently not a usable data base. I fully recognize the difficulty confronting the administration in this task with the need to track funding from each Federal, State, and local agency involved and the need to determine how many jobs have been created. In order for this to work, we need to have uniform standards for collecting and reporting information.

In view of the need to immediately resolve this issue, today, I will be sending a letter to Vice President Biden urging him to convene a high tech roundtable of Federal, State, and private sector IT leaders to come up with a uniform approach to track and account for Recovery Act funding. We need to come up with a workable solution to what information is needed, in what form that information is needed, and how that information should be displayed.

The national outrage over AIG's decision to give \$165 million in bonuses to its employees after receiving Federal bailout money underscores the need for a thorough plan for the tracking and accounting of stimulus funds and preventing waste, fraud, and abuse under the Recovery Act. I look forward to today's hearing for a thorough examination of the problems that our Federal, State, and local watchdogs must overcome. And let us all work with speed and diligence in the greater spirit of cooperation and bipartisanship and everything else to make certain that we are able to do the job that the American people are calling for.

I want to thank all of the witnesses for appearing here today. And I look forward to hearing your testimony. And at this point I yield to the ranking member from California, Mr. Issa, for his remarks.

[The prepared statement of Chairman Edolphus Towns follows:]

HOUSE COMMITTEE ON OVERSIGHT & GOVERNMENT REFORM

OPENING STATEMENT OF CHAIRMAN EDOLPHUS TOWNS

Hearing: Preventing Stimulus Waste and Fraud:
Who are the Watchdogs?

March 19, 2009

Good morning and thank you all for being here.

Our Nation is at a pivotal point in history as we endure the greatest economic crisis in more than a half century. Millions of jobs have been lost, companies are failing, Americans are losing their homes; and states, cities, communities, and families desperately need help. This is the greatest financial crisis since the Great Depression. Answering the call, Congress recently passed the American Recovery and Reinvestment Act (known as the Recovery Act) which provides \$787 billion in tax cuts and federal spending to preserve and create jobs, assist those most harmed by the recession, and reinvest in our great country.

I was a proud original co-sponsor of the Recovery Act legislation – but along with the opportunity to heal our ailing economy, we have the monumental challenge of ensuring that American tax payers' dollars are used wisely and not squandered. The risk of fraud increases when billions of dollars go out the door quickly. This is the painful lessons of Iraq war spending and spending in response to Katrina where billions were lost to fraud. Fraud experts estimate that U.S. organizations lose 7% of revenues to fraud and waste. When applied to the stimulus package, that amounts to a whopping \$55 billion in American tax dollars potentially wasted.

Mindful of this history, the Recovery Act provides for an unprecedented degree of oversight and accountability, and remedies two of the major problems with Iraq and Katrina funding. The law mandates the use of competitive contracting and the use of fixed-price contracts. Further, the newly minted Recovery Accountability and Transparency Board (known as the "Recovery Act Board") is designed to provide transparency on how federal recovery money is spent.

I applaud the President for his support of these critically important reforms. However, these reforms are not enough. We need to take steps to ensure that problems are fixed before they arise. Two weeks ago we held a hearing on the excluded parties list of businesses that should have been suspended and debarred but that were still receiving federal contracts. Last month, the Inspector General at the Department of Transportation issued a report which documented that in 2003, executives were over paid by \$73 million, including the payment of expenses that should have been unallowable, including spa resort bills, alcohol, 45 automobiles, including Mercedes, BMW and other luxury brands. Most disturbingly, just yesterday, the Committee learned that several of the very first contracts awarded using stimulus funds may have been less than transparent and/or

contained paperwork errors. At least one of these contracts had no competition. Today, I will ask that Mr. Devaney conduct a comprehensive examination of this first set of 11 stimulus-related contracts to determine whether the contracts are transparent and if tax payers' money was spent efficiently, and report back to this Committee within two weeks with a full report.

The sad truth is, once fraudulent dollars go out the door, the federal government historically is only able to collect pennies on the dollar.

I am also concerned that states are already beginning Recovery Act spending, however, states have not been told exactly what information to collect. This needs to be fixed immediately. In order to assess the adequacy of fraud prevention problems I will ask Mr. Devaney to report back to this Committee within two weeks his views on whether each executive branch agency receiving federal funds has an adequate fraud prevention program.

I also have major concerns about the Administration's primary transparency tool, Recovery.gov. The fact of the matter is that Recovery.gov is currently not a useable database. I fully recognize the difficulty confronting the Administration in this task. With the need to track funding from each federal, state, and local agency involved with this funding, and the need to determine how many jobs have been created. In order for this to work we need to have uniformed standards for collection and reporting of this information.

In view of the need to immediately resolve this issue, today I will be sending a letter to the Vice President, urging him to convene a high-tech roundtable of federal, state and private sector IT leaders to come up with a uniform approach to track and account for Recovery Act funding. We need to come up with a workable solution to what information is needed, in what form that information is needed and how that information should be displayed.

The national outrage over AIG's decision to give \$165 million in bonuses to its employees after receiving federal bailout money underscores the need for a thorough plan for tracking and accounting for stimulus funds, and preventing waste, fraud, and abuse under the Recovery Act.

I look forward to today's hearing for a thorough examination of the problems that our federal, state, and local watchdogs must overcome. And let us all work with speed and diligence and in the greatest spirit of cooperation to safeguard our investment in America.

I want to thank all of our witnesses for appearing here today, and I look forward to hearing their testimony.

Mr. ISSA. Thank you, Mr. Chairman. And I would ask unanimous consent that my entire opening statement be placed in the record. Chairman TOWNS. Without objection, so ordered.

Mr. ISSA. Mr. Chairman, Mr. Devaney, I am delighted to be here today. I am delighted to be sitting next to the chairman and to endorse and to echo each and everything he just said. We do have a tough job and we look to you to be the spearhead for this.

During the questioning today, I am going to ask you some tough questions. I am going to ask you are you willing to stand up to the Vice President as the IG and say that perhaps he is not overseeing properly his job? Are you willing to stand up to each and every Cabinet officer who received huge amounts of money with little or no guidance and say that, in fact, either follow-on legislation or additional internal regulations are going to be essential? And the list will go on. I have known you for a number of years; I am confident that your answers will be good and that your efforts will be phenomenal.

I have great confidence in you but I don't have great confidence in the body that I serve in here today. The money that you oversee was rushed through in large pots or perhaps puddles of money. One of the first articles that we are going to be talking about that the chairman referred to here today is quick spending by the Forest Service, an organization that received about half a year's worth of extra money and unlikely will be able to spend it wisely in 18 months.

Additionally, you are going to oversee whether these funds are stimulative in their use whenever possible. It is very clear that there is a spending spree going on by government. Some of it will not be stimulative. Certainly, although the chairman was right to note the tax relief that was included in the stimulus package, certainly many of the dollars sent out were sent out knowing that they would not be spent.

Additionally, if the government spends its money poorly or if the consistent message of the stimulus package is Katrina-like, if I can use that term, the American confidence in our recovery and in the fact that stimulus is being used well will slow the overall economic recovery. Mr. Chairman, today we are looking at \$787 billion worth of spending. As you noted in your opening remark, and I think rightfully so, we really do begin here and clearly go to TARP funds, government guarantees, and all of the many trillions of dollars that are currently committed and more to be committed because they are interrelated.

Mr. Chairman, our working relationship has been good in the short time that we have been working together. I expect it to continue being extremely good. And I would note that when you quote President Obama's demand for transparency and you do things like this hearing today to ensure that we begin fulfilling both what he legislatively did when he was a Senator and what he is calling for as a President, we work in the way the American people expect us to work.

So I look forward to all the panels here today. I yield back the balance of my time and thank the chairman.

[The prepared statement of Hon. Darrell E. Issa follows:]

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

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Opening Statement
Ranking Member Darrell E. Issa
Hearing on "Preventing Stimulus Waste and Fraud: Who Are the Watchdogs?"
March 19, 2009

Mr. Chairman, thank you for holding this hearing. In response to the financial crisis we now face, Congress and the Administration have proposed trillions of dollars in bailouts, rescue packages, guarantees, and other efforts to pump more taxpayer dollars into the economy. Part of this spending binge is the President's stimulus package, which will borrow \$787 billion, before interest payments, in an attempt to jump-start the economy. The Administration claims this spending will create or save 3.5 million jobs. Whether this plan succeeds or not, the unprecedented sum of money being spent with such haste makes this hearing a critical first step – but only a first step – in the work of this Committee to ensure the American people's money does not fly out of the federal coffers without full transparency and accountability. If we don't get this right, hundreds of billions of dollars could vanish in the blink of an eye, without the Administration, Congress, or the American people having any chance of knowing where the money went, who received it, and whether it actually created or saved jobs.

Last month, President Obama stood before this Congress and promised the American people a new era of transparency and accountability for this \$787 billion of government spending. He pledged that those entrusted with this money would be held accountable by him and by the American people "for every dollar they spend." I applaud the President for his commitment to Americans' right to know how the government is spending their money. Unfortunately, the Administration's plans for fulfilling the President's promise to America remain woefully incomplete.

A month ago, President Obama signed the stimulus into law. Money is already flowing out the door, though how much has already been spent, and on what, is unknown. The Congressional Budget Office says that by the end of this fiscal year, \$120 billion will have already been spent. This Committee has a responsibility to the American people to ensure that all appropriate steps are taken to provide complete transparency and accountability now.

Today we will hear from Earl Devaney, Chairman of the Recovery Accountability and Transparency Board and the President's point man for combating waste, fraud and abuse of stimulus dollars. I've worked with Earl for many years and I know him to be an honorable and supremely capable man. He will also tell it like it is. So I was extremely distressed to read in the Washington Post yesterday that Mr. Devaney's honest assessment is that the President's much-touted Recovery.gov web site, which is supposed to provide Americans with complete transparency for stimulus dollars now, won't be up to his standards of transparency for at least a year. That is simply unacceptable.

Equally disturbing is that recent guidance from the Administration to federal agencies tells them they only have to follow the money they dole out as far as the state and municipal level. After that, the money trail runs cold. Under this plan, there will be ZERO accountability for any contractors, lobbyists or special interests that get taxpayer money.

Let's be clear about what this means: the state of Illinois will receive a lump payment of billions of dollars, and then pass on a large portion of that money to the city of Chicago. Under the Administration's guidance, that's all any of us would ever know. We won't know if the city leaders in Chicago choose to award the money to reputable companies or politically-connected special interests. We won't know if the contracts are awarded in fair competitions or through sole-source sweetheart deals. And we won't know what is actually accomplished, at the ground level with the federal dollars. Not to pick too much on Chicago, but I'd say that in the town that has perfected pay-to-play for everything from trucking contracts to Senate seats, this is absolutely unacceptable and it certainly doesn't fulfill the President's promise to follow "every dollar." The American people deserve better.

Fortunately, the revolution in information technology now provides the ability to bridge the gap between what President Obama has promised and what his Administration's plans envision. By implementing a standardized and universal system of reporting, we can allow every interested American to contribute his or her own ingenuity and superior knowledge of local projects to the critical job of watching this money. Ordinary Americans can become citizen-regulators, greatly enhancing our efforts to bring transparency and accountability to government spending. All that's required is for the Administration to show the political will and leadership to provide all of the stimulus data in a centralized, uniform, and structured format.

The federal government has experience with efforts to make federal spending transparent, but unfortunately its track record is poor. In 2007, the Office of Management and Budget launched USAspending.gov, which was the result of bipartisan legislation spearheaded by then-Senator Obama. Its purpose was to allow the public to "Google the Government" by creating a searchable database of federal grants, contracts, and other financial assistance. Reports from government investigators and ordinary Americans, however, show that the web site is plagued by incomplete, inaccurate, and untimely data. Real oversight and transparency is impossible if the underlying data is corrupt.

In addition, the Bush Administration failed to comply with the Obama legislation's January 1st, 2009, deadline to post spending data on USAspending.gov down to the contractor and subcontractor level. Since taking office, President Obama has failed to provide this information on the web site as well.

I understand that creating a new database with information on such staggering sums of money and from such a wide array of federal agencies is a difficult task. But the President has promised full transparency for stimulus spending, and he was right to do so. Was this promise by President Obama just an overextended selling point to pass the stimulus package? Or will the taxpayers be able to truly understand how their money is spent? We need to make sure this promise becomes more than rhetoric and actually delivers the transparency and accountability that the American people deserve.

Mr. Chairman, as I said, we have our work cut out for us. It is our responsibility to this Congress and to the American people to ensure that the Administration lives up to its promise that this massive amount of funding is fully transparent and that as little taxpayer money as possible is lost to waste, fraud, and abuse.

I now yield back the remainder of my time.

Chairman TOWNS. I thank the gentleman from California. I agree with him and I look forward to working very closely with him in terms of getting rid of waste, fraud, and abuse. Thank you for your kind words.

Are there any other Members seeking recognition? Yes, the gentleman from Ohio, Mr. Kucinich.

Mr. KUCINICH. Mr. Chairman, I want to thank you for fulfilling the commitment of this committee for effective oversight. It is appropriate that we have a meeting today on this stimulus package so that we can not only review what is being set in place to assure that taxpayers' money is not misspent but also send a message across this country that we take very seriously our oversight role and that we are going to be watching how the money is being spent.

The actual spending component of the stimulus package apart from the tax breaks is over a half trillion dollars. It is an extraordinary amount of money. We are at a time in our country's history where we have an economic emergency and it is important that we spend the money and get it into circulation. Government spending is stimulative. But at the same time, we want all those who are out there to understand that this money is precious.

American taxpayers are putting their faith in us to make sure that we see that money is being spent wisely. And I join with the committee chairman and ranking member in an insistence on transparency, that we be able to get the details about how the money is being spent and get it quickly. I like the idea of Web pages being used to post information and keep it in real time so that people have the ability to get the information as quickly as they can. But this is our function as an oversight subcommittee.

And I want to thank the chairman for reminding the American people that this Congress does care how their money is being spent and that we are going to insist on accountability. I thank the chairman and I yield back.

Chairman TOWNS. Thank you very much. I thank the gentleman for his statement. The gentleman from Utah?

Mr. CHAFFETZ. Thank you. Mr. Chairman, I applaud you for holding this hearing. I think this is core to the function of what we should be doing in the U.S. Congress as a check and a balance, as a true oversight into what is happening in the executive branch. So I applaud you for holding this hearing, the first of what I believe will be many.

And Mr. Devaney, I appreciate you being here. You are a brave man; you are a brave soul to take this on. This is a very difficult and contentious issue. No doubt you will be tossed around and beaten like a punching bag at every step of the way. But please know that the American people are rooting for you. We need you to do your job despite all the pressures, all the input that can be coming from a variety of angles. And I just hope and pray that you will remain strong and true to the task at hand in making sure that we hold people accountable and that there is a maximum of transparency.

I am a freshman here. I didn't create this mess but I do intend to help clean it up. I voted no on the stimulus package because I do not believe that it fundamentally solves the challenges and

things that we were trying to accomplish, as it was reported to be about jobs, jobs, jobs. I find that it is not. And immediately, right out of the chutes, we are already dealing with literally hundreds of millions of dollars that are going to go out the door that the American people fundamentally know is not right.

We have effectively, with the stimulus and bailouts and those sort of things, gone into every single American's pockets and pulled money out and then started to distribute it to individual companies and organizations and who knows where. I fundamentally have a problem with that because I think it is wrong in principle. But at the same time, the decision has been made. I just want to make sure that we do the very best job to make sure that those funds are used wisely and that there is maximum transparency.

I cannot imagine how long we are actually going to be after this because undoubtedly there will be fraud and there will be waste. And I want to make sure that the U.S. Government is tracking every single dollar and is making sure that we give the American people all the information they deserve about where their money is being spent. And with that, Mr. Chairman, I yield back my time. Thank you.

Chairman TOWNS. I would like to thank the gentleman for his words. Let me yield now to the gentleman from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. Mr. Chairman, I want to thank you and the ranking member for this hearing. The timing could not be better.

As you know, Mr. Chairman, what we have done on this committee over the past many years is that we have a lot of times conducted oversight after the fact. Here we are up front. This money is just being distributed, just being laid out there. And whether one agrees with the stimulus bill or not, the fact is, it is like the last gentleman said, it is here. I think holding this hearing sends a powerful message, and this series of hearings that this committee is about to do—because what it says is that we will do our job to make sure that we look over the shoulders of every agency and every person who may have anything to do with this.

But the fact still remains that right now the Obama administration is in a very difficult situation. They are trying to right an economic situation in our country, and as a matter of fact in our world, which is pretty bad. And we need, Mr. Chairman, right now to restore a trust of Government and a trust in our economy. And in order for the President to do that, it is like pushing, as I have said many times, a boulder up a steep hill. When we have situations like AIG, the bonuses that were paid out and the lavish parties and whatever, that simply is like putting a piece of ice, while the Obama administration is trying to provide economic reform, like putting ice on that hill.

Hearings like this give us a grip to get up there so that not only is the money used for what it is supposed to be used for, but it is also done in a transparent manner and is done in a manner with accountability. But most significantly, it leads to the American people knowing and believing that every dime of their tax dollars is being spent in an effective and efficient manner and one which will in the end, Mr. Chairman, benefit them.

And so I applaud you for this. Mr. Devaney, we look forward to working with you. I thank you for taking on this role. I know it is going to be a challenge but I know, from everything I have read about you, I know you are up to the task and more. May God bless you and I yield back.

Chairman TOWNS. Thank you very much. I thank the gentleman from Maryland. At this time, I yield to the gentleman from Virginia.

Mr. CONNOLLY. Thank you, Mr. Chairman. Like my friend from Utah, I am also a freshman. But unlike my friend from Utah, I was proud to vote for the stimulus bill. We did inherit an economic mess and something had to be done. And unlike the previous administration that wanted no accountability or transparency in the TARP program, this administration put the Vice President of the United States in charge of oversight, implementation, transparency, and accountability. I applaud the Obama administration for that and I welcome Mr. Devaney being here today.

Mr. Chairman, as you have ably stated, oversight and accountability of stimulus money is of paramount importance. In that regard, I was pleased that the American Recovery and Reinvestment Act included specific funding set aside for management and oversight.

However, I believe the manner in which these set-asides were defined leaves much to be desired. First and foremost, the set-asides do not apply to States and localities, the very entities to whom much of the ARRA funding will go, despite the fact that States and localities face numerous reporting and accounting requirements. ARRA does include language that allows agencies to adjust awards to help defray the cost of administration recordkeeping but only after going through the formal rulemaking process. This will place unfunded mandates on State and local governments that are already in dire fiscal straits.

Second, the fact that oversight set-asides are only done on a program by program basis does not make much sense, it seems to me. Unless there is a comprehensive enterprise component, the end result will be numerous unnecessary stovepipes of the kind this committee has worked to eliminate in the past. Agencies should be encouraged to take a comprehensive approach to oversight of awards granted under the act.

I am eager to hear what our witnesses have to say about these matters. In my view, based on 14 years in local government, the need for oversight and accountability at the State and local level is just as pressing as it is at the Federal level. This is truly where the rubber meets the road. Thank you for holding this hearing, Mr. Chairman and ranking member.

Chairman TOWNS. Thank you very much. Now I yield to the gentleman from Illinois, Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman. And let me be very brief. As I listened to my colleagues this morning, I was reminded of having a group of eighth graders in my office. They wanted to know what our job was. What are we really supposed to do?

And I said to them that we are supposed to do four things. One, of course, is to legislate, to make laws, to determine what is legal,

illegal, right and wrong, appropriate, inappropriate. Then I said we appropriate. That is, we decide how to spend money and how much of it we are going to spend.

But then we also have the responsibility to investigate, and that is to make sure that the laws are carried out the way we intended for them to be carried out and that the money is being spent the way we intended for it to be spent, that the American people have a way to trace that money and to actually find out whether or not it is going for the purposes that we originally stated. And I must confess that is very challenging.

There are times when my constituents will ask me what happened to the money. And I will have to say, well, I know what was supposed to happen with it, but I am not sure that I can always tell you. And so, Mr. Chairman, I commend you for holding this hearing. I look forward to working with Mr. Devaney and trying to make sure that the American people have the information and the answers that they are seeking. So I thank you very much and yield back the balance of my time.

Chairman TOWNS. I would like to thank the gentleman from Illinois, Mr. Davis. At this time I yield to Mr. Tierney from Massachusetts.

Mr. TIERNEY. I yield my time so that we can move on to the witnesses.

Chairman TOWNS. Thank you very much. At this time we would like to swear in our witness.

[Witness sworn.]

Chairman TOWNS. Let the record reflect that he answered in the affirmative. You may be seated.

Mr. Earl E. Devaney is chairman of the Recovery Act Accountability and Transparency [RAT] Board. [Laughter.]

The RAT Board was created under the American Recovery and Reinvestment Act of 2009, Recovery Act, to provide coordination and oversight of Recovery Act funds which have an estimated cost of \$787 billion. The RAT Board is mandated to audit and to review spending of Recovery funds.

And, of course, I will ask you to summarize your testimony which will allow us to have a period of time to raise questions with you. I am sure you know the routine. The yellow light means you have a minute left and the red light means stop. Some folks don't get that. Sometimes we have problems with that. But I know you have been around a long time and you understand how important that is. And then, of course, we will have a time to answer questions and raise questions with you.

We are delighted to have you here. So you may proceed.

STATEMENT OF EARL E. DEVANEY, CHAIRMAN, RECOVERY ACT ACCOUNTABILITY AND TRANSPARENCY BOARD

Mr. DEVANEY. Thank you very much, Mr. Chairman and members of the committee. I want to thank you for the opportunity to testify today.

And although I have had the honor of testifying before this committee before, I appear before you today in my new role on behalf of the Recovery Act Accountability and Transparency [RAT] Board, a name on which I had no input. My testimony today will address

the current status and mission of the Board. Following my prepared remarks I will gladly answer any questions you might have, and I am sure you have plenty.

The status of the Board is what you might expect 30 days after the act was signed into law. Specifically, the Board is still trying to acquire staff, get our equipment, phones, computers, trying to acquire space which we haven't managed to get yet, and just trying to keep our heads above water in ensuring that the Board fulfills its responsibilities under the Recovery Act. Our first official Board meeting will actually be held next week.

Regarding the Board's purpose, I view the Board as having a dual mission. First, the Board is responsible for establishing and maintaining a Web site, "Recovery.gov," the purpose of which is to foster an historic level of transparency of Recovery funds, but to do so, and this is very important, in a user friendly manner. Second, the Board will coordinate and conduct oversight of Recovery funds to prevent fraud, waste, and abuse.

Regarding the Web site, I have some information to report. Even before the Recovery Act was signed, OMB and GSA had begun designing the architecture and implementing the plan for the Web site. A great deal of credit needs to be extended to them for their efforts. Because of those efforts, all Americans today can go on the Web site, Recovery.gov.

As you know, the Recovery Act invests the Board with the authority to maintain and run the Web site. Going forward, I am eager for the Board to assume control and administration over the Web site, which I don't have today, in order to fully maximize its use as a transparency and accountability tool. Transition of the Web site's control from OMB to the Board's control is expected to take another 30 to 45 days. Although the Web site is still in its infancy, the Recovery funds will have—and the Recovery funds have only just begun to flow—I truly believe the opportunity to achieve a remarkable level of transparency never before realized coupled with unprecedented citizen participation.

Let me give you some of my thoughts about transparency. And I think to shorten up my testimony I will just say that I have always agreed that sunlight is the best disinfectant. And those words lead me to conclude a few things about this Board. The information on Recovery.gov must be easily retrievable and understood by taxpayers, lawmakers, and watch groups alike. We have to find that balance between having all the information that is required to follow the dollars and to make it simple so that the average citizen can go on this Board, maneuver around, and hopefully be attracted to come back in again. And the public must be given an opportunity to provide feedback and be heard.

I have been in this business for a long time and I understand that when you build something they will come. And if you are not prepared to listen to what the citizens have to say, that is actually worse than not having the process in the first place. And then finally, barring some certain exceptions of national security and personal privacy, I believe all Inspector General reports, and for that matter GAO, State, and local government reports ought to go up on this Web site and be periodically updated to ensure the trans-

parency and accountability that the act envisioned is actually achieved.

And, regarding the Board's other mission, accountability, there is encouraging news. Even as the Recovery Act was making its way toward final passages, IGs across the Federal Government were meeting to develop strategies to prevent fraud, waste, and abuse of these moneys. The committee may have noticed that I have been using the word "prevent" to describe the Board's mission of accountability.

That is very deliberate on my part. Most IGs, including myself, generally spend considerable time detecting fraud and waste and then using either a traditional audit or criminal investigation. It strikes me that although those tools will undoubtedly come into play later on, IGs may be better able to maximize their value to the accountability goal of the Recovery Act by concentrating their efforts on prevention.

The language of the Recovery Act strongly suggests that IGs and other oversight entities are being asked to minimize the risk inherent in distributing such an extraordinary amount of money and to maximize the opportunities to prevent fraud or waste in the first instance before it actually happens. Some of those strategies my fellow IGs have been working on include evaluating as yet unimplemented IG or GAO recommendations, evaluating their agency's spending plans and performance measures, conducting evaluations to ensure that proper controls are in place to receive and dispense these funds, providing fraud awareness training to both grant administrators and grantees, developing risk-based analysis tools as an essential part of a preventative work, and conducting outreach to the State and local audit community to provide technical assistance, best practices, and training where needed.

I want to assure each of you that the Board will strive to be as helpful as possible to State and local governments. To that end, the Board staff will include audit, investigative, procurement, and intergovernmental professionals who, as part of their job descriptions, will be responsible for fostering a close working relationship with all levels of government.

I look forward to beginning the Board's mandated role of coordinating with all the other IGs, some 20 plus who will be more directly responsible for stimulus oversight. I foresee the Board actively detecting fraud trends, identifying best practices for conducting reviews, and designing risk-based strategies to help focus all of our limited resources. The IG's well regarded task force in response to Hurricane Katrina should serve as an excellent model for the new challenge. That effort, which is still ongoing, involved \$149 billion and engaged 22 separate IG officers.

Finally, I would like to present some of the impending challenges that I see as having the most impact upon the Board and its mission of transparency and accountability. First and foremost is the issue of data quality. Simply stated, the Federal Government's systems have never been fully successful at producing timely and reliable data. Add to that problem the difficulty of transmitting and reporting data up through multiple levels of government as this act contemplates and you will begin to understand the basis for my concern.

Second to data quality is the lack of adequate numbers of procurement professionals at all levels of government. Federal agencies in particular have a great difficulty attracting and hiring enough procurement professionals to minimize the risks associated with moving this amount of money quickly and to accomplish the act's goals. And finally, I am concerned that there may be a naive impression that, given the amount of transparency and accountability called for in this act, little or no fraud or waste will occur.

I am afraid that my 38 years of Federal enforcement experience informs me that some level of waste or fraud is regrettably inevitable. Obviously the challenge for all of us charged with oversight will be to significantly minimize any such loss. My promise to the committee today is that my staff, the members of the Board, and I will work tirelessly to reduce those losses to the lowest level possible.

Mr. Chairman, that concludes my prepared remarks. Thank you for the opportunity. And I do look forward to answering any questions you might have today.

[The prepared statement of Mr. Devaney follows:]

RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD

STATEMENT OF THE HONORABLE EARL E. DEVANEY
CHAIRMAN

Before the
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 19, 2009



Mr. Chairman and members of the Committee, I want to thank you for the opportunity to testify today. Although I have had the honor of testifying before this Committee in years past, I appear before you now in a new role on behalf of the Recovery Accountability and Transparency Board (the Board), which the President has asked me to chair. My testimony today will address the current status and mission of the Board and, following my prepared remarks, I will gladly answer any questions you may have.

The status of the Board is what you might expect just 30 days after the American Recovery and Reinvestment Act of 2009 (the Recovery Act) was signed into law. Specifically, the Board is in the process of acquiring staff, equipment, and office space, essentially trying to keep our heads above water and ensure that the Board fulfills all of its responsibilities under the Recovery Act. Our first Board meeting will be held next week.

Regarding the Board's purpose, I view the Board as having a dual mission. First, the Board is responsible for establishing and maintaining a website, the purpose of which is not only to foster historic levels of transparency of Recovery funds but also to do so in a user-friendly manner. Second, the Board will coordinate and conduct oversight of Recovery funds to prevent fraud, waste or abuse.

Regarding the website, I have some information to report. Even before the Recovery Act was signed into law by the President, the Office of Management and Budget (OMB) and the General Services Administration (GSA) had begun designing the architecture and

creating the implementation plan for the website. A great deal of credit must be extended to OMB and GSA for their efforts to launch this website. Because of their efforts, all Americans can visit the website today at Recovery.gov.

As you know, the Recovery Act vests the Board with the authority to maintain the website. Going forward, I am eager for the Board to transition into its control and administration over the website in order to fully maximize its use as a transparency and accountability tool. The transition of the website from OMB's management to the Board's control is expected to take between 30 to 45 days. Although the website is still in its early development and the Recovery funds have only just begun to flow, I truly believe we have the opportunity to achieve a remarkable level of transparency never before realized, coupled with unprecedented citizen participation.

Let me share with you a few of my thoughts about transparency and its paramount importance on the website. I believe James Madison was correct when he said, "A popular government without proper information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps, both." But perhaps Justice Brandeis actually stated it better when he said sunlight is the best disinfectant. The words of Madison and Justice Brandeis lead me to conclude the following:

- (1) The information on Recovery.gov must be easily retrievable and understood by taxpayers, lawmakers, and watchdog groups alike.
- (2) The public must be given the opportunity to provide feedback and be heard.

- (3) Barring certain exceptions relating to national security or personal privacy concerns, all Inspector General (IG), Government Accountability Office (GAO), state and local government reports and reviews of Recovery funds should be posted and periodically updated on the website to help establish the level of transparency and accountability anticipated by the Recovery Act.

If these goals can be achieved, the website will be able to exhibit the utmost transparency envisioned by the Recovery Act.

Regarding the other half of the Board's dual mission – accountability – there is encouraging news. Even as the Recovery Act was making its way toward final passage, IGs across the federal government were meeting to develop strategies to prevent fraud, waste or abuse of these monies. The Committee may have noticed that I have been using the word “prevent” to describe the Board's mission of accountability. That is deliberate on my part.

Most IGs, including myself, generally spend considerable time detecting fraud or waste and then examining such fraudulent or wasteful activities through either a traditional audit or criminal investigation. It strikes me that, although those traditional tools will undoubtedly serve an essential purpose once Recovery funds have been awarded and as they are being spent, IGs may be better able to maximize their value to the accountability goal of the Recovery Act by concentrating their efforts on prevention. The language of the Recovery Act strongly suggests that IGs and other oversight entities are being asked

to minimize the risks inherent in distributing such an extraordinary amount of money and to maximize the opportunities to prevent waste or fraud in the first instance, before it happens.

Some of the strategies my fellow IGs have already been focusing on include:

- Evaluating as-yet-unimplemented IG or GAO recommendations;
- Evaluating their agency spending plans and performance measures;
- Conducting evaluations to ensure that proper controls are in place to receive and dispense these funds;
- Providing fraud awareness training to both grant administrators and grantees;
- Developing risk-based analysis tools as an essential part of their preventive work; and
- Conducting outreach to the state and local audit communities to provide technical assistance, best practices, and training where needed.

I assure each of you that the Board will strive to be as helpful as possible to state and local governments. To that end, the Board's staff will include audit, investigative, procurement and intergovernmental professionals who, as a key part of their job descriptions, will be responsible for fostering a close working relationship with all levels of government.

I look forward to beginning the Board's mandated role of coordinating with all of the IGs, who will be more directly responsible for stimulus oversight. I foresee the Board

actively detecting fraud trends, identifying best practices for conducting reviews, and designing risk-based strategies to help focus our limited resources.

The IGs' well-regarded task force in response to Hurricane Katrina should serve as an excellent model for this new challenge. That effort, which is still ongoing, involved \$149 billion, engaged 22 separate IG Offices, and has produced a number of "lessons learned" that seem applicable to our current situation. One of those "lessons learned" was that there is a need to increase outreach, coordination and communication with the state and local audit community and to determine ways of improving data sharing.¹ Clearly, for the Board to accomplish its mission of accountability, we should likewise strive to ensure open communication and frequent interaction with state and local auditors, as well as the Government Accountability Office.

Finally, I would like to present some of the impending challenges that I see as having the most impact upon the Board and its missions of transparency and accountability. First and foremost is the matter of data quality. Simply stated, the federal government's systems have never been fully successful at producing timely and reliable data. Add to that problem the difficulty of transmitting and reporting data up through multiple layers of government, as this Act contemplates, and you begin to understand the basis for my concern.

¹ President's Council on Integrity and Efficiency & Executive Council on Integrity and Efficiency, "Oversight of Gulf Coast Hurricane Recovery: A Semiannual Report" 95 (April 1, 2006 – Sept. 30, 2006), available at <http://www.ignet.gov/pande/hsr/hksemit0906.pdf>.

Second to data quality is the lack of an adequate number of procurement professionals at all levels of government. Federal agencies, in particular, will have great difficulty attracting and hiring enough procurement professionals to minimize the risks associated with moving this amount of money quickly to accomplish the Recovery Act's goals.

Finally, I am concerned there may be a naïve impression that, given the amount of transparency and accountability called for by this Act, little to no fraud or waste will occur. I am afraid that my 38 years of federal enforcement experience informs me that some level of waste or fraud is, regrettably, inevitable. Obviously, the challenge for those of us charged with oversight will be to significantly minimize any such loss. My promise to this Committee today is that my staff, the members of the Board, and I will work tirelessly to reduce those losses to the lowest level possible.

Mr. Chairman and members of the Committee, that concludes my prepared testimony. Thank you for this opportunity. I will be glad to answer any questions you might have.

Chairman TOWNS. Thank you very, very much. I will start with the questioning.

What are some of the specific measures the Recovery Act Board can take to lend a hand to State and local officials to help assure that stimulus funds coming into their communities are not wasted? For example, does your mandate include providing anti-fraud training to State and local officials?

Mr. DEVANEY. Mr. Chairman, I have been speaking the last 2 weeks to State and local officials from around the country. I am doing a lot of listening and I have been hearing a lot of concern about their ability to perform their oversight role. Lack of funding is obviously a major issue for everybody.

But what I also hear is that they are looking to this Board to provide exactly what you just talked about, a level of training, fraud awareness training, to help them develop risk analysis models that might help them focus their limited resources, and procurement training. And as I mentioned in my opening remarks, one of the charges I am going to have to everybody that works for me on this Board is that a major part of the responsibility is State and local interaction. I have been doing this sort of thing for all my career and I have always had a good, healthy working relationship with State and local law enforcement and audit folks. I don't intend to change that now.

Chairman TOWNS. Well, let me just say that I must admit that you have a tremendous, positive reputation in terms of being able to get the job done. Someone said to me the other day that if anybody could do this job, it is you. So I was happy to hear that.

But according to the 2008 report of the Association of Certified Fraud Examiners, occupational fraud is much more likely to be detected by tip than by audits, controls, or other means. Do you have a broad plan on how to harness citizen and whistleblower involvement in keeping an eye on stimulus spending? And also, I guess, along with that, if you do, how do you plan to publicize this so that people will feel comfortable coming forth with information?

Mr. DEVANEY. As you may know, this Web site is getting an average of about 4,000 hits per second so citizens are tuning into this Web site already. And we do need to harness the collective wisdom that comes from this. I think the beauty of this transparency and the concept behind this Web site provide all of us in the audit or enforcement arena an opportunity to hear and see things that we probably never would find unless citizens called in and told us about it.

So we will have to build a process where we can sort of sift through the frivolous kinds of things that are always going to come in to the real nuggets. And I believe that with the fact that citizens are going to hopefully be attracted to this Web site and be on it all the time, that we are going to find things and hear about things that we never would have found or heard about in the traditional processes that we have all used over the years.

Chairman TOWNS. The Recovery Act requires your Board to submit flash reports to the President and Congress. I guess, first of all, what is a flash report and why are they important?

Mr. DEVANEY. Well, I think I may be a pioneer in that area. I actually designed flash reports at the Department of Interior to no-

tify the Secretary of some immediate need for their concern, something that might involve potential loss of life or a security issue.

And so I would use flash reports in this circumstance as providing both Congress and the administration with something they needed to hear right away, to not wait for a quarterly report or a weekly report but just to get it out right away and get that out to whatever department. For instance, if we have money that might have gone missing or wasted, get that out immediately and not wait for the routine reporting process.

Chairman TOWNS. Senator Claire McCaskill of Missouri has introduced a proposal whereby State auditors who historically do single audits every year as required by the Single Audit Act of OMB, Circular A-133, would instead do audits directly related to the Recovery Act stimulus money for the next couple of years. She proposes that the initial round of audits would focus on the mechanisms in place at the State and local levels and the second round of audits would be about how effective these mechanisms have been. Would you please explain the concept of single audits in IG's use in terms of how this helps you?

Mr. DEVANEY. Well, first of all, I would commend Senator McCaskill for coming up with that idea. I know she was State auditor before she was a Senator so it is an interesting proposition. I know the audit community, which would include all the IGs and the GAO and their State and local counterparts, have been talking about this in the last few weeks. And I don't think we have actually arrived at a recommendation about this.

But single audits are used typically to provide audit coverage of moneys where typically over \$500,000 has been expended by an entity. I think there are a few States that actually have their State auditors do this kind of work but most entities are required to hire an outside accounting firm to do those audits. They are funneled into a central clearinghouse at the Federal Government level and then, if there is a problem, the individual IGs that oversee those areas get involved or get to look at that and followup.

Chairman TOWNS. Thank you very much. I now yield to the ranking member.

Mr. ISSA. I thank you, Mr. Chairman. As the chairman said, Mr. Devaney, we have known of your work at Interior and we are counting on you to do a lot of what you did there. I think the difference at Interior was very well established programs. The failures at MMS and some of the areas that you and I have worked on in the past, these were failures in which the rules were very specific. They were either violated or we found circumvention through various means or, in some cases, just misconduct by individuals.

In the case of these funds, isn't one of your problems the fact that without a common set of terms and data base, if you put the information in and then try to search—if a term for a similar expenditure or term for a use of funds is not identical throughout the data base—although you can maybe get some visibility, you are not going to be able in an automated fashion to search it?

Mr. DEVANEY. Well, I think that is absolutely correct. As I mentioned, I have been listening for the last 2 weeks to principally

State and local officials and that is one of the major concerns that they raise. You know, I need to get control of the Web site.

And while I said earlier I think a great deal of credit should be extended to OMB and GSA for getting this Web site up, it has taken me some time to hire the appropriate amount of staff to take control of the Web site, particularly the Web site's content, and then trying to understand the definitions that have already been sent out to States and Federal entities. I sort of arrived at the train station and found that the train had already left. And it was a pretty fast train and it was going down the track. So I am going to get my hands around that. I have heard the concerns.

And I want to, as I mentioned earlier, try to strike that balance between having the system complicated enough so that we can watch the dollar flow from the Federal pot down to the local entity, but yet simple enough so that, and I have been using Mr. and Mrs. Smith from Ohio.

Mr. ISSA. As a former Ohioan, I thank you.

Mr. DEVANEY. Yesterday I was asked and I told them that Mr. and Mrs. Smith who live in Columbus, OH can go on that Web site and maneuver around it and be attracted enough to come back to it. Quite frankly, I am interested in making sure that this is a totally impartial, apolitical kind of site that is also attractive. I don't want to put up sort of a CPA or audit kind of site that wouldn't be attractive enough to get people to come back in. And I want to take advantage of the citizen participation. I look at that, as I mentioned earlier, as an opportunity to learn things we never would learn otherwise.

Mr. ISSA. Well, Mr. Devaney, the Washington Post has reported that, at least in their estimate, it will be a year before that site is searchable based on estimates that they are being given. Last week, this committee held hearings in which XBRL technology and its roll-out at FDIC and now at SEC was underway. Are you able to in your current position explore—that happens to be a not-for-profit—groups that could leverage existing knowledge to maybe increase the speed with which, from a year to substantially less, you would be able to roll out standards that would make this thing searchable?

And I appreciate the fact that you want to make this Web site look good. I will say that the people I am most interested in seeing this is not John Q. Public. It is, in fact, the person who didn't get a contract, the person who thinks they should have gotten funds and who will search analytically to, in fact, uncover perhaps the misspending or the redirection of funds that they thought they could have been awarded. I really need that kind of person. And that kind of person is probably more interested in a green eyeshade site than they are in something pretty.

Mr. DEVANEY. It is a balancing act. I am going to have to find that balance. I want to listen to as many innovative technology folks as possible. I mean, second only to the room where I am keeping all of the resumes that have flowed in is the room where all the vendors have lined up to meet with me.

Mr. ISSA. Good. There is a lot of good technology out there and we need to take advantage of it.

Last, when Congress passed this stimulus, and it is too late for us to point fingers, we did not adhere to certain truisms, if you will. One of them was now President Obama's legislation that called for greater transparency and laid out some of it. We have only gone part of the way. Do you need follow-on legislation or some kind of rulemaking authority that would allow you to get properly through the Government, the Government, the government, the contractor, the subcontractor, and the sub-subcontractor?

Mr. DEVANEY. I don't know the answer to that question right now but I will tell you that as soon as I figure that out, I am going to come back to you and tell you the answer to that.

Mr. ISSA. Thank you. Thank you, Mr. Chairman.

Chairman TOWNS. Thank you. Thank you very much. Now I yield to the gentleman from Maryland, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. Mr. Devaney, I am chairman of the Subcommittee on the Coast Guard and one of the biggest fiascos is this Deepwater Project where we are producing boats that don't float. We have straightened it out now, I think, but one of the biggest problems were people who had experience with regard to acquisitions in the Coast Guard.

I am just wondering, when you look at the stimulus Web site, the question is first of all do States need a Web site? And I am going to go back to acquisitions in a moment. Do States need a Web site? Do they need a stimulus czar to oversee this stuff?

Mr. DEVANEY. I don't know if they actually need one.

Mr. CUMMINGS. Do you recommend one?

Mr. DEVANEY. I have been telling folks—and I have been asked that question a lot—that if you can afford to do that, I think it is a good idea. I am of the opinion that the more transparency and oversight the better.

Mr. CUMMINGS. Are the States telling you that while they want to provide oversight, they may not have everything they need to do it? Is that what you said a little bit earlier?

Mr. DEVANEY. They are telling me that.

Mr. CUMMINGS. And what can you do, if anything, to help them with that? Are there funds in the budget to help them? Because one of the things that I fear is that we will have people, States trying to do the right thing but when we consider the fact that States are in bad shape—in Maryland we are sending people on furloughs and things of that nature, reducing the budget substantially—and I am just wondering, we are quickly trying to get money out and it seems that is fraught with all kinds of possibilities of problems.

So I am just wondering, what is available, if anything, on the Federal level to help the States?

Mr. DEVANEY. Well, the answer to that is literally almost nothing. And while the act I think appropriately and generously funds oversight for Inspectors General, it did not provide the similar kind of moneys for our State and local counterparts. And I view them as counterparts. I don't think there is a day that should go by without us trying to leverage our resources, our joint resources, and work together. The last thing we need to do is be redundant.

So, we need those State and local authorities, whether they are auditors or investigators or prosecutors, we need them to be in a position to work jointly with us. And I am hearing that they don't

have the money. We have looked at the act a number of different ways but we don't see a way where we can get them the kind of money they need. So, it may take some sort of legislative action.

Mr. CUMMINGS. In the "Frequently Asked Questions" on Recovery.gov it is noted that OMB is not planning to issue guidelines to States but suggested agencies do so. Is there a timeline on issuing these guidelines? Are they required? Should OMB issue uniform guidelines for managing stimulus accounting and reporting instead of on an agency-by-agency basis?

Mr. DEVANEY. Well, OMB has issued guidelines and they continue to try to refine those guidelines and publish supplemental guidelines. And I think they are using, in an effort to get those guidelines out as quickly as possible, the traditional manner that guidelines are proffered. Those are traditionally done through the agency that manages the funds that are going out.

So, they have used that traditional approach, and my sense is that they are going to continue, that none of those guidelines are cast in concrete. And, they are going to be refining them and figuring out if they were the right guidelines or if more is needed or less is needed.

Mr. CUMMINGS. I am picking up on something that the chairman asked about whistleblowers. It is my understanding that the stimulus bill goes a little bit further with regard to whistleblowers in that they actually protect the employee of the contractor. Certainly, I am sure you may get some disgruntled employees, some sub-contractors or whatever who aren't getting paid.

I am just wondering what mechanism do you have or will you have to effectively and efficiently take in those calls, screen them, and do what is necessary to be done? And if somebody calls, where does it go from there? And I see this is my last question, but I appreciate if you answer.

Mr. DEVANEY. Well, we are going to have to develop a process to do that very thing. And I think I have a very good history of protecting whistleblowers. I, for instance, have had when I was Inspector General of Interior whistleblower protection officers. I was probably one of the first IGs to do that. So I am very sensitive to this issue. I am very protective of whistleblowers.

And quite frankly, with the amount of transparency and accountability we have on this table, we are going to get more not less whistleblowers. I will work with the other IGs on the Board and the other IGs that are not on the Board to ensure that gets treated appropriately.

Mr. CUMMINGS. Thank you, sir.

Chairman TOWNS. I thank the gentleman from Maryland. Mr. Burton from Indiana?

Mr. BURTON. I yield my time.

Chairman TOWNS. Mr. Chaffetz from Utah?

Mr. CHAFFETZ. Thank you. I appreciate it. There have been some spectacular assertions as to the number of jobs that would be created or saved through this. Would you be willing to commit to providing a detailed methodology for the administration's method for calculating jobs saved and created on Recovery.gov so that Americans can check the math for themselves?

Mr. DEVANEY. Well, Congressman, I am going to try and ensure that whatever the administration's guidelines are for getting information up on that Web site gets up on that Web site. With regard to the issue of jobs, with the definition of jobs created or jobs saved, that is sort of the administration's call to do that. I am going to encourage them to do that.

But, I am probably not going to be involved in the decision-making in that because it is an administration call. And, I really don't think this Board and my role is to get involved in that kind of policy sort of thing. I think, though, that it is clearly a metric that has been thrown out there. I have no idea the methodology behind it. But it is a metric that I think is expected to be tracked on this Web site.

Mr. CHAFFETZ. But the information that is going to be used to calculate those types of conclusions would be the information that we would find on that Web site, correct?

Mr. DEVANEY. Correct.

Mr. CHAFFETZ. Who is in charge? Is it you or is it the Vice President?

Mr. DEVANEY. Well, I think the President has designated the Vice President as being in charge of the Stimulus and Recovery funds. And in turn, I am acting as the chairman of this Board and reporting to the Vice President, but doing so in an independent way.

Mr. CHAFFETZ. How often have you met with the Vice President thus far?

Mr. DEVANEY. Three or four times.

Mr. CHAFFETZ. He, the Vice President, said, and we're going to do this once a week as we kick this thing off to make sure we know exactly what we're doing. Is that happening?

Mr. DEVANEY. My understanding is I am now on his calendar once a week.

Mr. CHAFFETZ. Is that happening?

Mr. DEVANEY. It is going to start next week. But I have certainly seen him as much as I needed to. And I have been given assurances that if I need to see him at any time, I can.

Mr. CHAFFETZ. And what happens? We heard that nobody messes with Joe. How does that work from your perspective dealing with this?

Mr. DEVANEY. I think it is working rather well.

Mr. CHAFFETZ. No, I mean projecting forward. How is that going to work?

Mr. DEVANEY. We need to figure out whether once a week is right. Do we want once every 2 weeks? We are going to try it once a week. I am going to try to do what I have always done with my Secretaries, which is try to have a sort of no surprise policy.

But I have made it very clear that my intention is to tell him what he needs to know, not necessarily what he wants to know. I am not bashful and haven't been in the past about telling people things that they don't particularly want to hear. I told him that in the first meeting I had with him. And I got the answer that I had hoped for, that is what he wants and expects. And we are going to go forward with that.

Mr. CHAFFETZ. Will all announcements of contracts and grant competitions and awards be posted online? Speaker Pelosi has promised us that would be the case. Is that your understanding?

Mr. DEVANEY. That is my understanding.

Mr. CHAFFETZ. Very good. And I noticed that the Department of Defense Inspector General is not part of the Board, yet they are receiving funds. What is your understanding of that situation?

Mr. DEVANEY. Well, I have been asking now for 3 weeks who it was that made up the composition of the Board. I can't find that person. But it is true, in fact, that people that have money like the Department of Defense IG are not on the Board. Some people that are not on the Board have more money to oversee than people that are on the Board. Some people on the Board don't have any money to oversee. So I really couldn't tell you.

What I do know is that each and every one of these Board members has—and I have talked to them each personally; we are going to have our first meeting next week—is committed the same as I am to doing as much oversight as we need to protect the public's money.

Mr. CHAFFETZ. What is your No. 1 concern?

Mr. DEVANEY. My No. 1 concern is that we be able to respond to the amount of citizen information that we are going to get on this Web site and that we do that in a way that ensures that we can get on top of everything that I think we are going to find out. I mean, the citizen participation in this is going to allow IGs and State and local oversight entities to learn a lot more than they would through the normal processes. And do we have the capacity? Do we have the investigative or audit capacity to look at all this stuff? It is a lot of money.

Mr. CHAFFETZ. When do you anticipate actually finding a location at which you can be housed?

Mr. DEVANEY. I am told I am going to go look at one Friday. So I would like to get an address. I would like to get some phones and computers and start taking control of this.

Mr. CHAFFETZ. Very good. Thank you, Mr. Chairman.

Chairman TOWNS. Thank you very much. I now yield to the gentleman from Ohio, Mr. Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman. Mr. Devaney, part of your charge, of course, is to make sure that the money is being spent properly. Do you have any charge with respect to the money being spent? In other words, if this is a stimulus package and this money is being distributed, do you know how much money remains unspent? And are there any metrics established for seeing that this money does get spent in a timely manner to, in fact, be a stimulus?

Mr. DEVANEY. Congressman, my understanding is the information that is going to be flowing into this Web site will, in fact, give us that kind of information. I don't know that we have been seeing it yet but it is coming.

Mr. KUCINICH. So how much has been spent so far?

Mr. DEVANEY. A lot. The first day—

Mr. KUCINICH. Can you quantify "a lot?"

Mr. DEVANEY. No, I can't really.

Mr. KUCINICH. Well, this is my question, Mr. Devaney.

Mr. DEVANEY. A lot of money went out under formula; that type of money went out very early on. Agencies were able to get money out the door quickly to programs that they normally put money into every year. So from a risk perspective, that is probably OK because those are programs that have processes and people in place to receive that money, albeit it is more money than they normally do.

Mr. KUCINICH. It is going out. Is it being spent? You know the problem that we have with these TARP funds. The money goes out but the banks hoard the money. Is this money being spent? Is it stimulating the economy? Do you know?

Mr. DEVANEY. I don't know today, but I do know that the amount of information that OMB is requiring folks to get back to us with will talk about those issues.

Mr. KUCINICH. You know, this committee needs to know.

Mr. DEVANEY. Yes.

Mr. KUCINICH. We need to know that the money is being spent. How it is spent is, of course, our oversight responsibility. But that it is being spent relates directly to whether or not it is a stimulus.

Now I want to talk to you about the general contracting process. Can you explain why the Recovery Act's emphasis on fixed price contracts will help contain fraud and waste?

Mr. DEVANEY. Well, in general terms, there is an incentive to contractors under fixed price contracting to come in with a realistic price and we keep the cost overruns down. Historically, if it is not a fixed cost contract, contractors have little incentive to make sure those costs stay within a certain number.

Mr. KUCINICH. Are you going to be examining contracts to see if people are low-balling in terms of competitive bidding?

Mr. DEVANEY. I think that would be part of an audit process that we at the Federal level, all of the IGs, and our State and local counterparts will be doing.

Mr. KUCINICH. Are you increasing, does the Recovery Act increase mandates for competitive bidding of contracts?

Mr. DEVANEY. It has in place criteria for contracts. And because it does, because we are going to be able to watch that, we are going to have a quicker response time and be able to respond quicker to those that deviate from those rules.

Mr. KUCINICH. Will there be fewer exceptions or waivers granted?

Mr. DEVANEY. I think that the act contemplates that if there are waivers or exceptions, that they be posted on the Web site.

Mr. KUCINICH. I have another broad policy question that I would like you to address. I come from a community, Cleveland, OH, and was mayor of a city where there is a substantial number of minority entrepreneurs. Our African American community in the city of Cleveland is now pretty close to about half the population of the city itself.

Now, a lot of these entrepreneurs are really not given opportunities to get in on these Federal bids. What is being done as part of your charge? And if you are not, who is making sure that minority contractors who are established and part of a community are given an opportunity to be part of this bidding process so that the benefits of the stimulus really get to communities where the help is

needed the most, where people have been established, and making sure the money gets into the neighborhoods?

Mr. DEVANEY. Well, it is not in the Board's mandate to do that. My assumption is that the agencies are going to be working very hard to make sure that happens. So it would be the agencies that are giving the money out and the State agencies as the money flows down to the States.

Mr. KUCINICH. So are you keeping track at all to see if there is any minority contracting going at all? Do you look at that? Are you going to keep statistics so that we can know, in terms of a gross amount of money that might be spent in this country, how much is going to minority contractors?

Mr. DEVANEY. I don't know the answer to that but I will get back to you on that.

Mr. KUCINICH. I would like to know. Thank you. I yield back. I thank the gentleman.

Chairman TOWNS. I thank the gentleman from Ohio. At this time, I yield to Mr. Burton of Indiana.

Mr. BURTON. Thank you, Mr. Chairman. In a Wall Street Journal interview, you stated that the experts, the people who work in the fraud areas say there will be significant fraud, around 7 percent lost to fraud in most cases. That stimulus bill was \$787 billion plus interest. And if you put a pencil to that 7 percent that is about \$55 billion, 55 thousand thousand dollars. Seven percent seems like a very high number. I mean, can't that be improved upon?

Mr. DEVANEY. Well, I think that is the challenge. I think the challenge is that we need to obviously minimize those percentages. I think those percentages, there are very few organizations, but the Certified Fraud Examiners is where that comes from. They annually give out those statistics and it goes up and down in a given year. I think that is the 2008 statistic. And the first time I took a pencil and figured that out, I was horrified to see that it was \$55 billion. So obviously the challenge is to try to minimize those losses.

But it would be naive to think that there won't be, with that kind of money around, people who will come and try to defraud the Government or State and local entities. So I think we have to expect it. I think we have to have a coordinated effort between law enforcement at the IG level and the State and local law enforcement with prosecutors all over this country and to basically take sort of a zero tolerance attitude about fraud.

Mr. BURTON. Well, I think that is great but I presume this percentage has been fairly constant over the years. And if it is 7 percent of something like \$700 billion or \$800 billion, you are talking about big money. And the American people, I mean everybody is raising Cain right now about \$165 million that was given executives at AIG. If they found out that \$55 billion is going out in fraud almost every year when you have that kind of an expenditure, they would march on the Capitol. I mean, it seems in your position that you and your compatriots over there ought to be able to figure some way to get that down to a much lower figure.

Mr. DEVANEY. Well, we are going to try real hard, Congressman. I mean, I think that is an unacceptable level of fraud and we are going to try to do our very best to keep it at a minimum. And I

think trying to send as quickly as possible as many deterrent messages as we possibly can is one way to try to minimize those risks. The other thing is, as I mentioned earlier, it is important for IGs and oversight authorities to get on the front-end of this pipeline as opposed to simply waiting until that fraud or waste occurs and then doing an audit or an investigation.

Mr. BURTON. You have a tough job.

Mr. DEVANEY. Yes.

Mr. BURTON. We have what is called the Weekly Waste Watch, and this is kind of humorous. It says that the town of Union, NY, is getting \$578,661 in Federal Recovery Act funding for a homeless problem that does not exist within its borders. "Union did not request the money and does not currently have homeless programs in place in the town to administer such funds," said the town supervisor. "We hope and encourage these new grantees to develop creative strategies for the funding."

In other words, they want them to create a program that doesn't exist because they gave them the money. Will you guys be perusing and checking these sorts of things out as well?

Mr. DEVANEY. One of the things, quite frankly, that I mentioned to the administration is that, sort of the reverse side of transparency, is that people will come and look at this Web site every day. There is probably not a reporter in America that won't wake up and click on that Web site. And we are going to have to deal with literally thousands of these kinds of examples. The good news is that if we didn't have the transparency and we didn't have the Web site, we wouldn't have found those things in the ordinary course of business.

Mr. BURTON. Well, I have one more question regarding the transparency. Are you aware that the recent guidance from the administration to Federal agencies tells them that they only have to follow the money they dole out as far as the State and municipal level and after that the money trail runs cold. Under this plan there will be zero accountability for any contractors, lobbyists, or special interests that get taxpayers' money.

And I think that the ranking member here in his opening statement used the example of Chicago receiving stimulus funding from Illinois. Under this plan, the current guidance, we wouldn't find out about any sweetheart deals. Now this Web site, how is it going to deal with things that go beyond the State and local level, State and community level?

Mr. DEVANEY. Well, I am going to, when I get a chance to get my hands around this thing, my goal, and what I believe the stated goal is, is to follow the dollar from the Federal Government out to the entity that ultimately ends up with it. And I am going to do my very best. If the guidance hasn't been issued yet to do that, I will be encouraging folks to do that.

Mr. BURTON. So you will want to extend it past the State and municipality level?

Mr. DEVANEY. If it is possible and it is legal, yes.

Mr. BURTON. Well, with this 7 percent problem—and thank you, Mr. Chairman—but with this 7 percent problem in waste and fraud, I hope you go as far as you can. Thank you very much.

Chairman TOWNS. Thank you very much. I recognize the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Mr. DEVANEY, as I indicated in my opening statement, the act provides set-asides on a program by program basis for oversight and accountability. But these only apply to Federal agencies, not States. In your response to Mr. Cummings just a little while ago, you indicated that maybe we would need some legislative relief. Does it make sense legislatively for, say, this committee perhaps, to amend the act to allow for set-asides for States so they can do what they need to do?

Mr. DEVANEY. I would be supportive of anything that gives State and local governments the opportunity to participate fully in this oversight challenge that we all have. So I think the answer is yes.

Mr. CONNOLLY. Mr. Chairman, I think that is an issue we may want to revisit as a committee in terms of the idea of a set-aside for our States to be able to comply with the full panoply of auditing functions.

Let me ask you a question. Are you concerned about the fact that by going program by program, unintentionally we may be creating the kind of stovepipe oversight that actually hasn't been all that useful in the past?

Mr. DEVANEY. Well, I would be perhaps more concerned if we were trying to create a new paradigm in that area because of the speed that the money is going out. If it is going out in the traditional way, I think the risk is less than if we had tried something new. Now, that is the guidance that was issued and that is the way it has gone out. And I suspect that there has been some push back on that and OMB may be reconsidering that. I don't know.

Mr. CONNOLLY. Let me ask, Mr. Devaney, what Federal requirements currently apply to States in connection with the stimulus funds? What are they required to do?

Mr. DEVANEY. They are required to tell us to whom they gave the money, for what purposes those moneys are being used and, to the extent possible, an idea of whether or not that created or saved jobs, and a host of about 80 other things.

Mr. CONNOLLY. Among those 80 other things would be some kind of certification that they have some kind of process in place to ensure against waste, fraud, and abuse?

Mr. DEVANEY. Yes, at the outset. Right.

Mr. CONNOLLY. Are State stimulus Web sites required?

Mr. DEVANEY. No, they are not required but, as I said earlier, I think it is a good idea. I am certainly going to try very hard to have a Web site that links to any of those kinds of Web sites so that if a citizen comes on the Federal Web site and wants further information, they can simply click on and go to those sites that have been set up.

Mr. CONNOLLY. Yes. If we were to revisit the issue of legislation for set-asides, it seems to me Web sites would also be another way of underscoring the importance of the transparency we have been talking about on a bipartisan basis.

Would you recommend, well, first of all, are States required to appoint stimulus czars?

Mr. DEVANEY. No.

Mr. CONNOLLY. Do you think they should be?

Mr. DEVANEY. I think that, from what I can tell, most States have created some position. Whether they call it a czar or not may be an issue. But somebody in every State, and they have already come to Washington, is nominally in charge of Recovery funds for that State.

Mr. CONNOLLY. In the Frequently Asked Questions on Recovery.gov, it is noted that OMB is not planning to issue guidelines to States but suggests that agencies do so. Is there some kind of timeline to your awareness on issuing such guidelines?

Mr. DEVANEY. I would hope that if the Federal Government is releasing moneys to States that guidance is getting out the door at about the same time.

Mr. CONNOLLY. But right now you are not aware of any timeline?

Mr. DEVANEY. I am not aware that there is a specific timeframe mandated.

Mr. CONNOLLY. Are the guidelines mandated?

Mr. DEVANEY. The guidelines are issued by OMB in the normal way all kinds of guidelines are issued by them. And it is a requirement that they follow those guidelines.

Mr. CONNOLLY. But the guidelines are being issued by the agencies, are they not, not by OMB?

Mr. DEVANEY. They are both. There are some general guidelines from OMB and there are specific guidelines from the agencies.

Mr. CONNOLLY. OK. Depending upon the program?

Mr. DEVANEY. Right.

Mr. CONNOLLY. Right. In most cases, Federal stimulus funds will flow directly to Federal agencies, which in turn pass them on to State governments. In some cases, stimulus funds will be disbursed directly to community institutions. Can you explain a little bit the circumstances in which money goes directly to community institutions and whether those institutions have the resources to oversee and audit stimulus funds?

Mr. DEVANEY. Well, there may be a requirement, as I mentioned earlier, if those institutions are getting over \$500,000. There probably is a single audit requirement and in most cases they would have to go out and hire a CPA firm to do that.

Mr. CONNOLLY. But there are no requirements for them to do that right now?

Mr. DEVANEY. There are requirements in place that if it is over \$500,000 they have to get a single audit done.

Mr. CONNOLLY. OK, so they are required?

Mr. DEVANEY. Right.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Chairman TOWNS. Thank you very much. Now we recognize the gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Well, thank you very much, Mr. Chairman. In some of the recent legislation the Congress voted to raise the national debt limit to \$12,104 billion, which is an incomprehensible figure. And some of us, or most of us on this side, had a problem with the fact that in this stimulus we are spending money that we don't have. That was the main problem.

But since we are past that one now, I read recently in the Washington Post—they had an article the day before we voted—and it

said that the stimulus, and they were for it, was going to mean a "massive financial windfall for Federal agencies." Those were the words they used, "massive financial windfall for Federal agencies." And then a couple days later the Post had a front page story that said they were going to hire tens of thousands of additional Federal workers.

I noticed, Mr. Chairman, that some were concerned about some of the excessive claims about job creation. Last week there was a story in a Montana newspaper. The two Montana Senators had apparently put out a press release claiming that a \$1.3 million grant to an agency in Montana was going to create 40 new jobs. And the paper went to that agency and they said, no, actually they were only going to hire two new people. They were going to give raises to the people that were already there and pay other expenses. And so some of us have concerns about this, about how many jobs this thing is going to actually create.

And another concern is that the night before last on CNN they said that the private sector lost 4 million jobs last year while Government created 131,000 new jobs. So while individuals and families in private businesses are having to cut way back, the Government keeps expanding. And what I am concerned about is that most of this stimulus money is going to be a massive financial windfall for Federal agencies first and then State agencies. It seems that every business, every private, every charitable agency in the country is lining up hoping to get stimulus money. And all the schools are hoping to get stimulus money.

What I am wondering is, is there going to be some way to track how much of this stimulus, if any—apparently some of it will but I am afraid it is going to be a very small percentage—is actually going to end up in the private sector? And that is where it is needed the most because, for instance, to hire tens of thousands of people in this area as the Post said was going to happen, this is already one of the wealthiest areas in the country. Are we going to be able to tell how much has actually gone to the private sector as opposed just to Federal and State bureaucrats? Because it appears that they are the ones that are going to benefit the most from this stimulus package.

Mr. DEVANEY. Congressman, I would hope that the Web site eventually is able to talk about jobs created and jobs saved and give us some idea of where that occurred. I am a little bit skeptical of the notion that Federal agencies are going to be able to go on a massive hiring binge because this money runs out. The last thing that I personally would want to do running an organization is hire somebody and then have to let them go 2 or 3 years later.

So I think there might be a lot of retired annuitants that might come back for a while or people that take temporary jobs that have certain expertise. But we will see. And I would imagine that we would be able to tell where those jobs were created or saved.

Mr. DUNCAN. Well, I was just quoting what the Washington Post had said. But I can tell you that there is a real concern there among a lot of us that not much of this is going to trickle down to the businesses and areas that need it the most. And I think there is going to have to be a major effort made to make sure that most of this money is not just spent in areas like this area and

other areas of high Federal employment, that really the main beneficiaries of all this are not just the Federal and State bureaucracies when actually they are doing far better than businesses in the private sector as CNN pointed out the night before last.

Thank you very much.

Mr. ISSA. Would you yield your time?

Mr. DUNCAN. Yes, I will yield.

Mr. ISSA. Thank you. Mr. Devaney, just a followup. Both sides have talked about the no specific funds for oversight for the States and local government. Isn't it true that in many, many, many cases these contributions are cost shifting? In my own district, they picked a fully funded route, they Federalized it so they could use stimulus money, and then they moved those funds to other projects.

So in every State, as far as you know and if you don't know I would appreciate a response later, aren't there funds that are being put into programs that otherwise would have been funded, otherwise were funded? Doesn't that give the States the ability to, instead of moving a road project funding—fully funded in my district—to another road, they could move it to oversight?

I just want to make sure that we understand that all money is fungible and that we not have any chance that a State literally doesn't have the money, is not shifting any money whatsoever from a project, and as a result would have no money to do oversight.

Mr. DEVANEY. Congressman, as I have been listening, as I mentioned, to State and local officials for the last couple of weeks, they don't think they can do that. And I haven't heard OMB tell them that they can. So I don't think that they can shift that kind of money to oversight. I don't think there is an ability to do that.

Mr. ISSA. Mr. Devaney, following up, if they can shift money into a project that was already fully funded and they can shift money out, then the money they shifted out, which is their money, not Federal money, could be used for oversight. Is that correct?

Mr. DEVANEY. I think, yes. I am sorry I misunderstood. I think that could be used. But there is a lack of people out there that can be hired quickly that can do this kind of work. That is another challenge.

Mr. ISSA. Sure. Mark McCormack in one of his leadership books said, any problem that money can solve is just a business decision. So I wanted to concentrate on the money because we can't necessarily solve the business. But if you find any State which literally doesn't have an example like mine in California, so that there is no ability to make the choice to pay for people if they can be bought, I know this committee would be very interested in making sure that we find a way to get additional funds to that State but only if there are no examples where funds are essentially being alleviated.

I thank you and yield back.

Chairman TOWNS. Thank you, gentlemen, for yielding back.

At this time, I recognize Mr. Davis of Illinois.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman. I was just thinking that there are probably other States that do a little Valentine decisionmaking every once in a while when I heard

the reference to Illinois and Chicago relative to some contracting. So I am sure that Valentine's Day exists throughout the country.

But, Mr. Devaney, let me first of all thank you again for being here. My comfort level was greatly enhanced as we were debating and discussing this legislation by all of the conversation about transparency and how we are going to make sure that people knew what was going on, that we were going to make sure that we were watching, that we were going to make sure that the candy store didn't get broken into.

But we always tell people that. I mean, every legislature that I have ever been in, every time we get ready to pass some legislation that relates to spending money, we say that we are going to do it. What do you see different or do you see anything different about this effort than perhaps we have seen in the past?

Mr. DEVANEY. Well, Congressman, I have been in this Government for 39 years and I have never seen an attempt made to be as transparent with the money as this act envisions. I actually think if we do this right, it will serve as a model for the future. And I want to dedicate myself to, sort of in the autumn of my career, to leave government with something like this in place that can be used for future spending.

And so we have an effort here that I think is historic in its complexity and trying to do it at the Federal level. Some cities have done it; some States have done it. But it has never really been tried at the Federal level for certainly this amount of money. So we need to get this right. Undoubtedly it won't be right in the beginning, but as we go forward we will refine this. And, once again, I want it to be a model for the future.

Mr. DAVIS OF ILLINOIS. Let me ask, do you envision your role as being different than that of the Inspectors General that we have for all of the agencies?

Mr. DEVANEY. Well, I think that I am going to, I have decided that I am going to act like an Inspector General. I am still one. I am on a leave of absence. But in this role, I am not going to come before Congress or come before the administration and act any differently than I have the last decade as an Inspector General: candid, straightforward, call it like I see it, be responsive to both parties.

Mr. DAVIS OF ILLINOIS. Let me ask, are you going to review the work of agency IGs or State auditors, other individuals and agencies that are looking at the expenditures?

Mr. DEVANEY. I don't think I would use the word review. I think the role of the Board is more of a coordination to take the work of those IGs and to follow it, to take the work, to discern fraud trends, to develop best practices. If one IG is doing something that is really smart and really innovative, I would like to be in a position to suggest to the other IGs that they adopt that kind of work and on down through government. So, it is more of a coordination role than a review role.

Mr. DAVIS OF ILLINOIS. I note that the duties of the RAT Board include reviewing whether acquisitions and grant personnel are qualified and have sufficient training, which is kind of an interesting addition. If personnel are found not to be trained, what steps would the Board pursue?

Mr. DEVANEY. Well, I think we would first have to do that study and get it out. So that is one of the first things the Board, I am sure, will be trying to get done. I think at that point it would be helpful to have a discussion with OPM to see if there is any sort of waivers that can be given to retired annuitants as a good example of being able to bring people back. I mean, we are going to be essentially sunseting in 2013, so there are about 4½ years here. And there is a lot of experience out there that can be tapped into. So things like that.

Mr. DAVIS OF ILLINOIS. Thank you very much.

And let me just say, Mr. Chairman, if I might, I know that Mr. Kucinich raised the issue of minority hiring, purchasing. Mr. Connolly raised the issue of set-asides. I have never been in a place where we actually did what we said we were going to do in relationship to either one of those. And so I would really appreciate you looking hard at that issue and having a way to examine it.

Mr. DEVANEY. OK, I will.

Chairman TOWNS. Thank you very much, the gentleman from Illinois.

Let me yield to Mr. Schock. And let me just say that we have a vote on the floor. And what we will do is just return to the committee 10 minutes after the last vote. Yes, Mr. Schock.

Mr. SCHOCK. Thank you. I will be very quick, Mr. Chairman. Mr. Devaney, thank you for being here; thank you for your efforts to help establish this Web site and the transparency that comes along with it.

Help me understand. It would seem to me that as a part of this act, the information that we require from the States and local governments in order to get the money, we should already have some kind of a central data warehouse that has all of the information that members on this committee and the general public are really asking for. Is that the case and if so who is the keeper of those documents?

Mr. DEVANEY. Well, I think the vision here is that Recovery.gov will become that place that all people can go including legislators. So it is my hope that it will sort of be one stop shopping at the end of the day.

Mr. SCHOCK. But I mean, it seems to me a function of establishing the Web site is already having the information in a data warehouse. And so I guess I am asking does that data warehouse already exist or does that need to be created?

Mr. DEVANEY. It is being created and the data will be flowing in, a massive amount of data. As I mentioned earlier, sort of a historical amount of data is being collected in one place. So, it has to be created and it will eventually house all of the data that is going to come into this Web site under the requirements.

Mr. SCHOCK. So all of the information that we are requiring the State and local agencies to submit to the Federal Government will then be posted on this Web site for individuals like myself and my constituents to be able to review?

Mr. DEVANEY. That is the theory and it is my hope that will be the actual result.

Mr. SCHOCK. What would stop the theory from becoming reality?

Mr. DEVANEY. I think that there are challenges here. The Federal Government has never really tried this before. The usaspending.gov site was a pioneer work that happened a few years ago when it was tried. And it is up and running well, but it didn't involve this amount of money or this complexity. So there are a number of challenges.

And as I mentioned earlier, I am concerned about data quality. The Federal Government has never been particularly good at getting timely and reliable data into their systems, nevermind sending it to one centralized location. So, it may be that we get the data in, but the data needs to be scrubbed and looked at with a fine-toothed comb.

Mr. SCHOCK. Part of the act requires that State and local governments—there seemed to be some question here this morning about beyond the State government, what information we are going to be able to provide on the Web site and to the taxpayers—part of the act requires that when a local government receives funds from a State government that they submit paperwork that says where the money is going, why it is being spent, what the project is being used for, specifically how many jobs will be created and so on, and even list a contact name in the agency who is overseeing the project.

So, if we are going to get that information, again it is required in the statute, I am assuming that information then will be on this site as well?

Mr. DEVANEY. It will.

Mr. SCHOCK. OK. OK, thank you very much.

Chairman TOWNS. Thank you. I recognize the gentleman from Illinois, Mr. Foster.

Mr. FOSTER. Mr. Devaney, the RAT Board's Web site is supposed to provide a means for public feedback on the performance of the contracts. And I was wondering whether there will be transparency with regards to the actual public feedback? For example, will there be the equivalent of a moderated blog attached to each contract award?

Mr. DEVANEY. Yes, I think we are going to have to. I don't know exactly what that is going to look like, but I certainly, that would be my hope that we could do that. But the volume is terrific here and I think we are going to have to figure out: can we do that and not have to hire 400 people to do it? So, we are going to have to figure out how that is done but that is certainly a goal.

Mr. FOSTER. OK. And you had indicated that in addition to transparency for the actual disbursements, there would be transparency for the grant applications process so the public can see not only the grants that got funded but those that didn't. Is this going to include the actual grant application material, the full application, or will there be limits to that? And also will it include, for example, letters of support from elected officials and very interesting objects such as those?

Mr. DEVANEY. I don't know the answer to that. I can certainly get it for you.

Mr. FOSTER. OK, because I think that would be very valuable if it is possible. It has to do with transparency in decisionmaking.

Let us see, another thing is while I understand the benefits of an attractive user friendly interface, will you also be providing the ability for sophisticated parties to just pull down the entire data base so that they can make an independent search engine on this or so perhaps third parties make even more user friendly access to your data?

Mr. DEVANEY. Yes, I think as it evolves over a period of time there will be that capacity. There are a lot of visualization tools out there today that are very innovative and I want to look at some of those tools because I think it will provide exactly what you are talking about, rather than sort of a standard dashboard where you see charts and graphs and pies, the ability to click on, for instance, a map of a State and drill down and get down to the very end of the pipeline where that money is.

Mr. FOSTER. Yes, I am suggesting that by making the entire data base available for mirroring that third parties may beat you to this by making really cute ideas.

Mr. DEVANEY. I think we need to get a grip on the governance of this Web site. And there isn't quite yet a governance document that is going to govern it. And that would be part of it as to whether or not we would make that available. I suspect, I am open minded to that.

Mr. FOSTER. Yes. Well, I mean the alternative is that people will design robots to go and mine your entire data base in a very inefficient manner.

Mr. DEVANEY. Right, right.

Mr. FOSTER. OK, my next question has to do with subcontractor reporting. I was wondering how State and local governments have handled the reporting requirements for subcontractors, sub-subcontractors, and so on? Are there States and localities that meet the Federal reporting requirements and does the Recovery Act require additional reporting requirements all the way down to the sub-subcontractor? And second, what action will the RAT Board take if these standards are not met?

Mr. DEVANEY. Well, let me answer the second half of that first. If there is a standard or rule or regulation or whatever that is not being adhered to, we will make sure that the appropriate party, be that the agency or OMB, knows about that and gets some action taken about it. I think it is still up in the air about exactly how far down this thing can go and should go. And so I know there are discussions going on about that and we are going to have to make some decisions in the near term about it.

Mr. FOSTER. Right, well, it is an obvious opportunity for fraud to set up a shell company that is the only thing that appears on the Web site and then have the real work being done by someone who is not visible.

Mr. DEVANEY. Sure. And I would love to think that a citizen or a reporter or somebody like that would tell us about that if they could see it.

Mr. FOSTER. You can only know it if you can see it.

Mr. DEVANEY. Right.

Mr. FOSTER. OK, thank you. I yield back.

Chairman TOWNS. Thank you very much. Let me indicate that we have three votes and we will actually adjourn and come back 10 minutes after the last vote.

[Recess.]

Chairman TOWNS. The committee will resume. We recognize Mr. Tierney from Massachusetts.

Mr. TIERNEY. Thank you very much, Mr. Chairman. Sir, I want to thank you for taking this responsibility. First of all, I think it is an enormous undertaking. And I like your attitude about how you are going to approach it and put your arms around things. I see it, as I think you do, as an incredible opportunity to try something new here and extensive. And I am particularly interested in the whole crowd-sourcing aspect on that and the benefit it might do for that.

But first let me start by asking you there, has been a lot of discussion here today about drilling down all the way from the Federal money as it goes all the way down to the final sub-subcontractor at the local level. That is has all been conversation relative to what the computer will show. What do you see as the Board's responsibility for tracking the Federal moneys? How far down should the Board drill, just to the State level, to the municipal level, or beyond?

Mr. DEVANEY. I would say that, as I mentioned earlier, I want to go as far as we possibly can both legally and if it is possible to get there. If it is not, there is going to be a significant amount of auditing being done. And a Federal auditor, for instance, can go all the way down. And we will have the benefit of any report or any review that they do; it will be published on the Web site. So that is another way you get down to the lowest level.

Mr. TIERNEY. So a State auditor or a city auditor's reports will be available to you to put out there?

Mr. DEVANEY. Sure. Right, right.

Mr. TIERNEY. Because you are going to have to leverage your resources, I assume. You are not going to have the capacity to do all that?

Mr. DEVANEY. There is no capacity to do all that. I think we have to be smart about how we deploy our resources. I think I need to use risk-based models that suggest that this kind of money is a little bit more risky than this kind of money and go over here first. So we have to be smart about it. We have to try to get out in front of it and not just wait for the inevitable to happen.

Mr. TIERNEY. I think this Congress for about 8 years was in a coma when it came to oversight or whatever. And I am a little bit amused about some of my colleagues now being so intent on it. But I hope they are serious about it as we go forward.

I think part of the issue is going to be municipalities and States having capacity as well to do it. Do you have presently in your design of what is going on at the Federal level the ability and the capacity to help train their people up to preventative sorts of measures or do you need more resources or more legislation for that?

Mr. DEVANEY. I think time will tell but I am definitely going to make that one of the first goals of the organization—to develop that capacity to train, to distribute best practices, to do everything we can for our partners not only at the Federal but the State and

local levels to help them get on the front end of this money. And that, I think, is a major mandate of this Board.

Mr. TIERNEY. Do you see any substantial differences between the way that States and municipalities now have to report to the Federal Government with respect to non-Recovery and Reinvestment moneys that are allocated to them and with the Recovery money itself?

Mr. DEVANEY. I think there are. I think it could be argued fairly that there are some additional reporting requirements being imposed. Whether or not they are so burdensome that it clogs the system down, just time will tell. I am sure we will hear about it.

Mr. TIERNEY. Did you have an opportunity to read Mr. Brito's testimony? The gentleman will be testifying on the second panel from George Mason University.

Mr. DEVANEY. I did.

Mr. TIERNEY. You did?

Mr. DEVANEY. I did, yes.

Mr. TIERNEY. You did or did not? I am sorry.

Mr. DEVANEY. I did.

Mr. TIERNEY. OK, thank you. It is my hearing thing on this. I also think our microphones need some oversight here from time-to-time. You can't hear.

Do you have any objection or are you comfortable with doing the types of things he is recommending in terms of working with people that are into this type of activity and making the data as useful, Web-friendly, machine-readable, aggregated, standardized, and all those things that he is talking about?

Mr. DEVANEY. No, I have no problem with it at all. I would love to sit down with him.

Mr. TIERNEY. I agree. That is great because I think if we can do that and if you are willing to work in that direction, we have not only our resources but theirs as well.

Mr. DEVANEY. Right.

Mr. TIERNEY. And I agree with you. I am just going to close out with this. I agree with you. This could be a model for every government expenditure all the way down the line where we get the eyes of all the citizens out there and we get rid of the gotcha stuff. It is no longer going to be just like, gotcha, you are doing something wrong. Every company that spends money has people that are looking to do abuse, waste, and fraud.

We wouldn't have the Wall Street situation going on that we have today if that weren't true. Every time there is Government money expended, somebody is going to try it. Every time an individual has money, somebody is going to try it. If we can get all the eyes on it and get rid of the gotcha stuff, we can just have a good, active joint effort here where citizens get involved. We can be on the front end of this.

So, I congratulate you again on your attitude for this. I wish you all the luck and I look forward to working with you on the committee for this venture.

Mr. DEVANEY. Thank you.

Mr. TIERNEY. I yield back, Mr. Chairman.

Chairman TOWNS. Thank you very much. I recognize the gentleman, Mr. Van Hollen from Maryland.

Mr. VAN HOLLEN. I thank you, Mr. Chairman. And Mr. Chairman, thank you for holding this series of hearings on oversight. As we know, we put oversight protections in the bill to create the oversight mechanisms but obviously Congress has a very important role as my colleague, Mr. Tierney, and you have said. And thank you for taking on this responsibility.

I had a couple of questions based on your experience in oversight, generally. And one of them relates to whistleblower protections. The chairman of this committee and I, Mr. Platts, Mr. Braley, and others have been pushing for greater whistleblower protections at the Federal, State, and local levels. The bill we passed, the economic recovery bill, does strengthen whistleblower protections at the State and local levels.

We have some protections already in place at the Federal level. We were trying to strengthen those. We thought it made sense as part of a bill that contained \$790 billion in taxpayer money—some in the form of tax relief, obviously, but the other in investment—that we strengthen the ability of those Federal employees on the front lines to report waste, fraud, or abuse if they see it without fear of reprisal. Because you can't be everywhere; the Inspectors General can't be everywhere.

So just, I know you may not have seen the legislation, but just as a general rule, do you think it is important to ensure that Federal employees and other public officials who see wrongdoing and are wanting and willing to come forward and report wrongdoing are protected against any kind of retaliation? And how important is that in oversight?

Mr. DEVANEY. I think it is very important, Congressman. And as I mentioned a little earlier, I have been somebody who has designed whistleblower protection programs within my organization. I have not been bashful when I have seen retaliation to go directly to the Secretary. So my attitude basically is this: we normally learn a lot from whistleblowers.

It strikes me that the transparency piece of this will result in many more whistleblowers than we normally see and we have to be very careful not to send any bad messages out there. And so I am going to be vigilant about that. When I see it, let's say it happened in the Department of Education, I am going to make sure that the IG knows about it and we will work together to try to cut it off. I want people to come forward.

Now, having said that, it is sometimes labor intensive to sift through the complaints and the concerns of whistleblowers to find that nugget. But that is a process and people that know how to do that can be very helpful in this circumstance. I hope to hire some of those.

Mr. VAN HOLLEN. Thank you. The other area I wanted to ask you about had to do with procurement officers in the Federal, State, or local government. My view is that even before the economic recovery plan was passed we were stretched very thin when it comes to Federal procurement officers. You have one individual that has to oversee lots of contracts. Even the best trained and best intentioned individuals can have a difficult time monitoring all that, even to the point where we started contracting out the re-

sponsibility for overseeing contracts which creates a whole host of conflict of interest problems and other issues.

Do you think it is important as we go through this process to try and bring on more procurement officers at the Federal level so they can ably and effectively deal with the huge increase in contracts?

Mr. DEVANEY. Absolutely. And I think you are right, it is a major challenge. The capacity is just not there. I think around 9/11 we were at \$200 billion of contracts a year and now we are doing \$500 billion, not to mention anything about the stimulus funds, and yet the increase in procurement specialists has remained flat.

So this puts an extra strain that we obviously have to address. So the act calls for the Board to look into that matter, to publish a report at some point. But I know that the Departments are aggressively looking for people, whether or not we will find them or not. Ironically, the economic situation might help us find those kinds of people. But there will never be enough to handle this kind of money.

Mr. VAN HOLLEN. Well, thank you. Mr. Chairman, I hope we can as a committee focus on that. This was, as you know, a problem even before we had the additional funds from the stimulus package, economic recovery package. And that has only added to the burden. And as I said, you can have very qualified and well intentioned people who just get more work than they can possibly follow in a responsible manner.

Chairman TOWNS. The gentleman raises a very good point which I am very sensitive to as well. We will be looking at it further. Thank you very much.

Mr. VAN HOLLEN. Thank you.

Chairman TOWNS. Does the gentleman yield back?

Mr. VAN HOLLEN. I do.

Chairman TOWNS. I yield now to the gentleman from California, Mr. Bilbray.

Mr. BILBRAY. Thank you, Mr. Chairman. Mr. Chairman, God bless you. You obviously have been dropped right into a, I guess it was like an old movie, *The Volcano*. Look, I am at a great position. I didn't support the Bush administration to spend a trillion and I didn't support this administration's action on having to vote on this upfront. And as somebody who has been in Government oversight since I was 25 in 1976, I think that we didn't do our due diligence.

Was it 9 hours from the time we saw it until we started debating it? That means now we have to do due diligence. Now the oversight after the fact is going to be absolutely central in this issue. And I hope we can work together in a bipartisan effort to make sure that we avoid the pitfalls with this legislation as we are seeing today on the House floor with the Bush administration emergency spending that has created so much uproar among the taxpayers.

I have some questions to you. I just came from Oversight in Science and Technology so basically I have talked to the people that you will be working with over at the other side. One of the things that the chairman and I are really trying to work on is to make sure this administration doesn't fall into the pitfalls that the previous administration did and the mistakes.

One of the big things that has not been talked about yet that I think we are going to hear in future months—though we have talked about the contracts in Iraq to for-profit organizations and abuses there; we have not even scratched the surface of what happened in Afghanistan, especially with non-profits—is that non-profits traditionally do not get the type of scrutiny and oversight that for-profits have had.

My question to you is that when we get down this line, are we willing to concentrate and make sure that when we allocate moneys to non-profits the oversight is as strict and diligent as we have hopefully done with for-profit contracts?

Mr. DEVANEY. Well, as an IG, I would never have differentiated between the amount of oversight I gave to a non-profit versus a profit company. So as I sit here today, I can't think of why we would want to be any less vigorous in moneys going to non-profits as to other entities.

Mr. BILBRAY. Well, I will give you one. One is the fact that we talk about cracking down and not giving contracts to those who are under criminal investigation, where the business has at least been indicted or investigated for wrongdoing. And when it comes to a private company, I think there has been an outcry about that.

But then we have non-profits. And I will be very blunt with you. A California organization called ACORN is really under investigation for major voter problems and for certain criminal activity. How are we going to continue to move forward with contracting with non-profits that are under criminal investigation even though we would not do that with a private for-profit organization?

Mr. DEVANEY. Well, without addressing a specific company or organization, I think that in any sort of a risk model, somebody that had those kinds of problems would rise to the top. And if you were going to allocate resources to look at the universe, you would focus in on something like that.

Mr. BILBRAY. OK. I only say this because I want to make sure we avoid that. And I guess seeing the mistakes that were made, people thinking, well, because they are a non-profit, we make assumptions. And people are still pocketing money one way or the other. There is no physical barrier from that.

Let me sort of shift around and get onto something I think the chairman would be more comfortable with. [Laughter.]

It is a big concern and I just want to give you the heads up as you go down there because, as we talked about in Science, we are moving forward on this energy independence issue and clean technology being tied into this. I hope you get your guys working for you to really take the time to touch base with the Secretary of Energy and talk about what are really going to be energy independent and environmentally friendly technologies.

I just want to say for one, as somebody who comes from serving on the Air Resources Board in California, that there are a lot of people who are going to be proposing contracts with you to use this money to perpetuate technologies. One of them that has been really touted in the past is the use of ethanol as an environmentally friendly fuel. And I would ask that you get your experts to look at the fact that Duke University just came out with a report that said

from a greenhouse point of view, it would be better never to plant the crop at all than to grow corn for ethanol.

The other issue is the new Air Resources Board report—the No. 1 air pollution people in the world—that says that ethanol has no environmental benefit over regular gasoline. And I bring this up so that when these proposals come out we draw the line and say, wait a minute, this does not fall under green fuel. The only thing green about ethanol is the money being made from it. And I know those are harsh words. But it is absolutely essential that we don't keep following that line.

And I will remind you that even if we talk about cellulosic ethanol, there is not the market and the ability to use the ethanol that is being produced today. Right now, the industry is asking the EPA to waive the 10 percent maximum in our fuel stream and the EPA is stopping it because of environmental and operational difficulties on that.

So I just want to say there is great opportunity for genetically altered enzymes to produce true green fuels. But please, put it up. If you see ethanol, take a second look at it and say, even with all the political pressure we can get, we don't want to have to line up in front of the Science Committee or the Government Oversight Committee and answer why we gave these grants out for a technology that the experts in California, the experts in the universities are saying are not a green fuel. Is that understood?

Mr. DEVANEY. I understand what you are saying. I think, maybe, that is better addressed to the EPA or the Energy Department. I am not representing the administration here. I am representing the Board that oversees to prevent fraud or waste. And if it arises in that arena, we will be very actively engaged.

Mr. BILBRAY. And as a former mayor and council member, you sit like a council doing oversight to the city manager and the department heads. And that is why I want you to say that it is fraud and it is a waste if we take money that is specifically earmarked for green, clean fuels and because we are not well informed end up sending money into a technology that is an environmental dead end and an economic disaster on the long run.

Now, I am being the squeaky wheel so later I don't come to you and say, why did you spend money on this when you had all the scientific people coming out saying that this was a bad track to go. And I just want to say there are some great environmental opportunities out there. I hate to see us waste one dollar on a technology that is not environmentally friendly when there are all kinds of them lining up to do it.

And I appreciate your allowing me to pontificate on this issue. Thank you very much, Mr. Chairman.

Chairman TOWNS. Thank you very much. And just before we call on the gentlewoman from Washington, DC, let me just say—investigate—I don't have a big, big problem with that because, I mean, investigations happen all the time. I think that what I am really having problems with, my good friend from California—we have worked on many issues together and worked together for a long, long time—is when we have situations where people are being debarred and they still get contracts. I mean, that is a problem.

And, of course, where you have the CEO of a company that is being convicted and then the company still gets contracts from the Government; those are the areas I have problems with. I don't feel uncomfortable if you say that somebody is being investigated. That happens all the time. So I just wanted to share that with you to let you know that doesn't bother me. I think that sometimes when that happens, then it means that the job is being done.

And I think that, you mentioned ACORN but I must admit that ACORN has done some great things in terms of voter registration and, of course, being involved in the community. So I just want to sort of share that with you. And of course many people feel that it is an organization that deserves support.

I yield to the gentlewoman from Washington, DC.

Ms. NORTON. I thank the chairman for yielding.

Just a word about the ethanol. I am not sure that was directed to the right party. And some of us have a lot of trouble with the current source of ethanol because it has us eating gas. And there are food shortages all over the world because corn is being eaten. It is a food in many places and now it is out of reach whereas here, of course, it has been so plentiful that we have been willing to drive on it. So I am not sure the IG can say until after the fact, perhaps, what is right. And I certainly don't know what the right place is to look for biofuels. All I know is we have to look for some place other than corn.

But my question really goes to what I am sure are your responsibilities because the Recovery Act does authorize—in fact, it caught my attention—that the Recovery Act in particular authorizes the IG to look at the contracts, the subcontracts, the grantees, and all of that is done by local officials. It caught my eye because I see the Vice President calling out and telling people he is going to call them out if he goes and he sees that people are building swimming pools and other things that nobody would expect stimulus money to be used for.

But many programs, not just the stimulus money, many programs of the Federal Government get what, 50 percent, 80 percent? I mean, some get even that much, for example, for the Medicaid share. So I would like to know if this is a new authority or if the IGs have always had access to such records of contractors and grantees and subcontractors who share in State and local funds?

Mr. DEVANEY. I think the answer to that is IGs have always had the ability to follow the Federal dollar to wherever it went. And to that extent, these are not new authorities.

Ms. NORTON. Have you known that to be done by IGs?

Mr. DEVANEY. Absolutely.

Ms. NORTON. Can I ask you how you think this will be done and whether this is beginning under this authority? It looks like what the Congress wants here is something pretty systematic.

Mr. DEVANEY. Well, I think that we had a discussion earlier about our need and just being smart about being redundant. So we don't want to have five different entities showing up the same day to look at the same money.

Ms. NORTON. Agreed.

Mr. DEVANEY. So we are going to have to be in a mode where we leverage our resources and make sure that there is a division

of labor here that is appropriate between State, Federal, and local. But the fact of the matter is, Federal IGs have always had the ability to follow that money from its source down to its lowest level, and they often do in audits or investigations.

Ms. NORTON. Yes, well, we would certainly like to find it before the newspapers do. Thank you very much. Thank you, Mr. Chairman.

Chairman TOWNS. Thank you very much.

I now yield to the gentlewoman from California, Ms. Speier.

Ms. SPEIER. Mr. Chairman, thank you. Sir, I just read a story about you that was quite flattering about how over many years you uncovered a lot of fraud, I guess in the Department of Interior. And it went unabated, I guess is a good word to describe it. And eventually you left, is that correct?

Mr. DEVANEY. Actually, I have been in the fraud field for 28 or 29 years. I started in the Secret Service and eventually I was in charge of all the fraud for the Secret Service. Then I went into EPA and ran their criminal program. And then I have been an IG for 10 years. And fraud has always been a part of the portfolio and is always present when there is money around.

Ms. SPEIER. I guess my question is, at some point were you frustrated where action wasn't being taken on issues that you had uncovered? If so, to make sure that doesn't happen again? What do we need to make sure is in place—whether it is more whistleblower protection, more subpoena power—what do we need to do based on your previous experience where some of your efforts to uncover fraud were not addressed?

Mr. DEVANEY. I don't think that I was hampered in any way by not having the tools to uncover fraud. Sometimes on occasions at the Department of Interior when I would uncover misbehavior, whether there was fraud or any other kind of misbehavior, I became frustrated and quite frankly rather noisy about my frustration. And got the attention of the appropriate people and eventually things happened.

But sometimes that is necessary. Sometimes it is necessary to have a congressional hearing and have an IG come in and talk about what he has uncovered and then have the department officials come as well as sort of the second panel. So I don't think there is a lack of tools. I think IGs have the tools. I think this act gives them the appropriate amount of money—you never have enough, I suppose—but a good chunk of money to do oversight.

And they have set about smartly to get this done. I am very impressed with their willingness to try to get on the front end of the pipeline and prevent fraud as opposed to simply waiting for the inevitable and then going in to detect it.

Ms. SPEIER. In the financial services arena, we saw a lot of bad actors in the sub-prime market. And we recently had a hearing in which we found that in the Federal Housing Administration, many of those bad actors had just moved over to provide FHA loans. And the Director of FHA said he just didn't have the resources at the time to preclude them from participating. Now we have since put language into one of our bills that we have moved this year to address that.

But I guess my question is, when you have a volume of bad actors out there, when they have done business with the Federal Government and we found out they were bad actors—many of them are in a position where they just change the name of their company and come right back to try and do business with us—do we have a data base of bad actors out there that we can rely on? Should we have one? Could you comment on that?

Mr. DEVANEY. Well, most departments as you probably know have suspension and debarment programs and they get put on a list. But it has been my experience that people who commit fraud sort of follow the money. And there is no doubt in my mind that with this amount of money on the table, they will come. The challenge for all of us is to leverage our resources in a way that allows us to get at the fraud that will undoubtedly occur.

I view the transparency piece of this act as a big help to investigative bodies because we are going to have hundreds of millions of eyes and ears that we don't currently have in the traditional process. So we are undoubtedly going to hear more from citizens about fraud or reporters that have uncovered fraud by looking at the Web site and by understanding that contract does belong to somebody's brother and telling us about it then we would under the traditional way which is sort of we stumble upon it or we go out and we find a small amount of it.

Ms. SPEIER. Well, I would agree with you and I think the transparency in this process is unlike any transparency we have seen ever. It should be that transparent because it is so much money. So I just commend you. I just want to as one Member to suggest that if it is time to raise the red flags, whether you need more resources or you believe a hearing would be helpful, that you call upon us so that we can be helpful to you. I yield back.

Chairman TOWNS. Thank you very much. We now yield to the gentleman from Missouri, Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman. I will attempt to be brief.

Mr. Devaney, the RAT Board's Web site is supposed to provide a means for the public to provide feedback on the performance of contracts relating to the stimulus funds. Can you explain whether there will be transparency on the actual public feedback itself?

Mr. DEVANEY. Well, we don't actually have control of the Web site yet but when we do we will be looking at the comments that come in. And I suspect we will have a process which involves perhaps not providing notification of all the feedback that we have gotten—I think I mentioned earlier we are getting 3,900 hits a second on this Web site—but we will have a process where if we see a systemic problem that is developing, I am going to want to be very proactive about getting that out there so that not only my fellow IGs and colleagues at the State and local levels know about it, but so the citizens can see that it is becoming a problem and that we are addressing it.

Mr. CLAY. Well, let me ask you about the States, local communities, and independent organizations. Are they aware that the Recovery Act put emphasis on targeting this money toward economically distressed communities and also some emphasis on involving small businesses? I mean, are these communities and States aware of that? Just how will they be apprised of the emphasis that the

act puts on economically distressed communities and small businesses?

Mr. DEVANEY. Congressman, I was asked that question earlier today and I responded by saying that I am not really fully aware of how the act addresses that issue and I would get back to that person. I would be glad to include you in that response.

Mr. CLAY. OK, all right. Well, I thank you and I have no further questions.

Mr. Chairman, I yield back.

Chairman TOWNS. Thank you very much. Let me just say this to Mr. Devaney before we conclude. Will you be able to report back to this committee within 2 weeks with a full report on both the initial set of stimulus contracts and an overview of the fraud prevention programs in place? Could you do that?

Mr. DEVANEY. I certainly heard that request at the beginning of the hearing and as I have been thinking about it, I think the fraud prevention aspect of that is an easier response than the other one. I would ask your indulgence if I can't do it within 2 weeks, I will let your staff know about it and we can maybe work on that. The second one is a little bit more comprehensive. It is also one where we would have to go to the agencies themselves as opposed to just the IGs.

Chairman TOWNS. Right. Well, thank you. If you can, we would appreciate that.

Mr. DEVANEY. Thank you.

[The information referred to follow:]



Recovery Act Accountability and Transparency Board
1849 C Street, NW, MS 4428
Washington, DC 20240



APR 6 2009

The Honorable Edolphus Towns
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515-6143

Dear Mr. Chairman:

Thank you again for the opportunity to testify before your Committee on March 19, 2009. This letter is in response to questions you raised at that hearing. Specifically, you asked me to review the first 11 contracts that had been awarded using funds appropriated under the American Recovery and Reinvestment Act of 2009 (the Recovery Act). You also asked about the fraud-prevention plans that agencies receiving funds had in place and whether, at this early stage, the Board viewed those plans as adequate.

Regarding the initial contracts awarded under the Recovery Act, the Board's staff has conducted a preliminary review of those awards. That review included having the Board's procurement experts make general observations about the contract award announcement on the website FedBizOpps.gov and look at various government-maintained systems such as the Central Contractor Registry, GSA Advantage, USAspending.gov, and the Federal Procurement Data System. The Board also analyzed the Federal Acquisition Regulation and Office of Management and Budget (OMB) guidance regarding contract types and acquisition strategy. Based upon the results of that preliminary review, the Board's staff referred 9 of the 11 contracts to the applicable Department's Office of Inspector General (OIG) – three to the General Services Administration OIG and six to the Department of Agriculture OIG – for a more comprehensive evaluation. We anticipate that these evaluations will be completed within the next 30 days.

With respect to your inquiry on agency annual strategies to prevent fraud, each executive agency head is required to submit a statement to the President and Congress on whether there are reasonable assurances that the agency's controls are working as intended. The controls should ensure that the agency's programs are achieving their intended results, that laws and regulations are being followed, and that programs are protected from fraud, waste, and mismanagement.

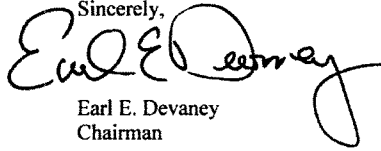
In addition, OIGs are constantly evaluating and reporting on the effectiveness of internal controls at their respective agencies. In that regard, at least nine OIGs are following up on prior recommendations relating to programs receiving Recovery Act funding. Once this follow-up work has been completed, the information obtained will be used to advise the relevant agencies on corrective actions they should implement in order to maximize effective controls over Recovery Act expenditures.

Thus far, the OIGs at the Departments of Justice, Energy, Education, Interior, and Transportation have completed this work and have shared the results with responsible agency

personnel. Those OIGs determined that the general areas requiring improvement included fund accountability and reporting, grant and cooperative agreement execution, grants and contract management, and the management of loan guarantees. The specific risks encountered by those OIGs included the following: programs goals not being achieved; funds not being sufficiently transparent; project delays and/or cost overruns; fund use not being authorized; funds not being provided in a timely, fair, or reasonable manner; breakdowns in the lines of communication; and inadequate monitoring. Typically, OIGs follow up with agencies to assure changes have been implemented and best practices are followed to prevent fraud and waste.

I hope this response sheds some light on the early efforts of the Recovery Accountability and Transparency Board, as well as the OIGs, with which the Board has already established a collaborative relationship. If you have any additional questions, please do not hesitate to contact me, or your staff may contact Nancy DiPaolo, Assistant Director of Communications and Congressional Relations, at (202) 208-5874.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl E. Devaney", with a large, stylized flourish extending from the end of the name.

Earl E. Devaney
Chairman

Chairman TOWNS. And let me just say that we are delighted that you are where you are. As indicated earlier, everyone is saying that if it can be done and done properly, you can do it. So I want to let you know that whatever we can do here from this committee's standpoint, we stand ready to do that. If it is fight for more resources, we stand ready to fight for more resources with you. Because quite often people in a position, will not have the tools to be able to do the job that they are called upon to do.

We want you to know that we stand with you to try to make certain that you have the resources because we want to really deal with this whole waste, fraud, and abuse. As it was pointed out earlier, \$55 billion wasted, not going and doing what it is supposed to do. We want to assure you that we want to bring that number down. And with your help, I am confident that we can bring it down. So thank you very, very much for your testimony and we look forward to working with you.

Mr. DEVANEY. Thank you, sir.

Chairman TOWNS. No further questions? Thank you.

We now call upon the second panel. Mr. William Holland, auditor general of Illinois, is here on behalf of the National Association of State Auditors. Mr. David Gragan, chief procurement officer for Washington, DC, is here on behalf of the National Association of State Procurement Officials. Welcome. Mr. Jerome Heer is the director of audits for the county of Milwaukee and is here on behalf of the Association of Local Government Auditors. Mr. Jerry Brito is senior research fellow. Of course, we are delighted to have all of you here.

And, of course what we will do is that, as you know, in this committee we swear everybody in. So we would like for you to stand and raise your right hands.

[Witnesses sworn.]

Chairman TOWNS. Let the record reflect that all of them answered in the affirmative.

So Mr. Holland, we will begin with you. And, as you know, you have probably heard me say it, that you have 5 minutes. Then after that, we will have time for questions and answers. For your statements, we will just go right down the row. Thank you very much.

Mr. Holland.

STATEMENTS OF WILLIAM G. HOLLAND, AUDITOR GENERAL OF ILLINOIS, NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS, AND TREASURERS; DAVID P. GRAGAN, CHIEF PROCUREMENT OFFICER FOR WASHINGTON, DC, NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS; JEROME HEER, DIRECTOR OF AUDITS FOR THE COUNTY OF MILWAUKEE, ASSOCIATION OF LOCAL GOVERNMENT AUDITORS; AND JERRY BRITO, SENIOR RESEARCH FELLOW, MERCATUS CENTER AT GEORGE MASON UNIVERSITY

STATEMENT OF WILLIAM G. HOLLAND

Mr. HOLLAND. Thank you. Chairman Towns, Ranking Member Issa, and members of the committee, I am pleased to be here today on behalf of the National Association of State Auditors, Comptrol-

lers, and Treasurers to discuss oversight related to the American Recovery and Reinvestment Act of 2009. While I may draw upon my experience as a State auditor in Illinois, I am here to represent public servants and financial officials nationwide who take pride in ensuring that taxpayer dollars are monitored and used for their intended purposes.

Accountability is always our No. 1 priority. However, the challenges of our current economy coupled with the rapid spending authorized by the Recovery Act make accountability more critical than at any other time in our government. We believe accountability can be achieved by clearing defining responsibilities and coordinating the various participants.

The Recovery Act and the initial implementing guidance issued by OMB specifically give Federal departments and agencies such as the Federal Inspector Generals, the GAO, and the Recovery Act Accountability and Transparency Board primary responsibility for maintaining accountability over Recovery Act funds. Substantial dollars are appropriated to each of these entities for that singular purpose.

The Recovery Act provides neither direct responsibility nor direct funds for oversight efforts at the State and local level. Nonetheless, management of these dollars once they leave the Federal Government's hands—as well as the cost associated with that effort—is of utmost concern for to our organization's members.

State auditors already bear significant responsibility for oversight of Federal spending programs by State agencies pursuant to the Single Audit Act and its amendments. These audits are generally conducted annually and provide assurance to the Federal Government as to the management and use of such funds by recipient States and their sub-recipients.

OMB's initial implementing guidance recognizes the importance of the single audit process in two key ways. First, in developing risk mitigation plans, Federal departments and agencies are required to consider prior audit findings involving Federal programs through which Recovery Act funds will be disbursed. Second, single audits are specifically identified in the guidance as an audit tool integral to promoting accountability over Recovery grants.

Clearly, the importance of the single audit process is magnified rather than minimized by the Recovery Act's emphasis on accountability. Nonetheless, during this period of rapid spending, there may be a desire at the national level to increase or alter some existing accountability processes. It will be important to define and communicate any changes in the single audit process in a timely and expeditious manner to the State audit community. We had been fortunate that both the GAO and OMB had been reaching out to the entire accountability community to discuss implementation of Recovery Act requirements. However, we are still uncertain as to our specific roles and what the cost and funding sources for fulfilling our roles will be.

Staffing and other necessary resources in our offices throughout the Nation are at an all time low. Due to the influx of stimulus money to the States, fulfilling our single audit functions will certainly encompass more Federal programs. This in turn will cause us to incur additional audit hours and perform more tests than in

previous years. We believe the appropriated dollars would be better spent by the Federal agencies on efforts to mitigate risk at the front end of the process, for instance, by conducting tests and reviewing prior audit findings to ensure that recipient agencies have a strong internal control process in place prior to their receipt and expenditure of Recovery Act funds. To the extent that Recovery Act funds flow through existing Federal programs, these dollars will already be subject to audit in accordance with the Single Audit Act and OMB Circular A-133.

I should also note that financial officials other than the independent external auditor are very important to this discussion. Specifically I am referring to State comptrollers and treasurers that are responsible for the disbursement and reconciliation of funds. I can tell you that the comptrollers are very concerned about the reporting requirements and how that information will be gathered and reported. While much of the financial information is housed in the State's accounting system, some of the information is actually gathered at the State agency level.

This dichotomy brings up concern regarding reconciliation. We wonder at the State level whether the Federal Government is going to require central State reporting directly to Recovery.gov, individual State agencies reporting directly to Recovery.gov, or individual State agencies reporting to a Federal agency which is then responsible for assuring that the information is posted at Recovery.gov. We await further guidance, timely and expeditious, from the Federal Government in regard to the reconciliation as it will be extremely important. We stand ready to work with our Federal counterparts to assure the most efficient and effective method for reporting is established.

I should also point out the important role that internal auditors will play within individual agencies or at the statewide level in assuring that pre-disbursement internal controls are functioning properly and effectively.

I am happy to join here today with the Chair of the Recovery Board and other important organizations. Individually and collectively, our groups have long been at the forefront of ensuring public accountability. In a talk at the White House Recovery and Reinvestment Act Implementation Conference last week, the President emphasized his commitment to accountability. And he said if we see money being misspent we will call it out. I can assure you that the accountability—

Chairman TOWNS. Your light has gone red. Will you sum up?

Mr. HOLLAND. Oh, it did?

Chairman TOWNS. Yes.

Mr. HOLLAND. I didn't see it. You got to the end of my comments. Thank you for the opportunity to speak.

[The prepared statement of Mr. Holland follows:]



Testimony of William G. Holland, Illinois Auditor General

**Before the
Committee on Oversight and Government Reform
United States House of Representatives**

March 19, 2009

Chairman Towns, Ranking Member Issa and Members of the Committee: I am pleased to be here today on behalf of the National Association of State Auditors, Comptrollers and Treasurers to discuss oversight related to the American Recovery and Reinvestment Act of 2009. While I may draw upon my experience as State Auditor in Illinois, I am here today to represent public servants and financial officials nationwide who take pride in ensuring that taxpayer dollars are monitored and used for their intended purposes.

Accountability is always our number one priority. However, the challenges of our current economy, coupled with the rapid spending authorized by the Recovery Act, make accountability more critical than at any other time in our government. We believe accountability can be achieved by clearly defining responsibilities and coordinating the various participants.

The Recovery Act and the Initial Implementing Guidance issued by the Office of Management and Budget specifically give federal departments and agencies, such as the federal Inspectors General, the GAO and the Recovery Accountability and Transparency Board, primary responsibility for maintaining accountability over Recovery Act funds. Substantial dollars are appropriated to each of those entities for that singular purpose.

The Recovery Act provides neither direct responsibility nor direct funds for oversight efforts at the State or local levels. Nonetheless, management of these dollars once they leave the federal government's hands, as well as the cost associated with that effort, is of utmost concern to our organization's members.

State Auditors already bear significant responsibility for oversight of federal program spending by State agencies pursuant to the Single Audit Act and its amendments. These audits are generally conducted annually and provide assurance to the federal government as to the management and use of such funds by recipient States and their subrecipients. The State of Illinois received \$17.3 billion from the federal government in State fiscal year 2008. This amount could be increased by up to \$8 billion with the addition of stimulus money in FY09. The

FY10 amounts are likely to be higher. OMB's Initial Implementing Guidance recognizes the importance of the Single Audit process in two key ways: first, in developing risk mitigation plans, federal departments and agencies are required to consider prior audit findings involving federal programs through which Recovery Act funds will be disbursed; and second, Single Audits are specifically identified in the guidance as an audit tool integral to promoting accountability over Recovery Act grants. Clearly, the importance of the Single Audit process is magnified rather than minimized by the Recovery Act's emphasis on accountability. Nonetheless, during this period of rapid spending, there may be a desire at the national level to increase or alter some existing accountability processes. It will be important to define and communicate any changes to the Single Audit process in a timely manner to the State audit community.

We have been fortunate that both the GAO and OMB have been reaching out to the entire accountability community to discuss implementation of the Recovery Act requirements; however, we are still uncertain as to our specific roles in the accountability continuum and what the costs and funding sources for fulfilling our roles will be. Staffing and other necessary resources in accountability offices throughout the nation are at an all time low. Due to the influx of stimulus money to the States, fulfilling our Single Audit functions will likely encompass more federal programs and incur additional audit hours and tests than in previous years.

In addition to uncertainty surrounding what role the State auditor will play in the accountability continuum for Recovery Act funds, we are concerned about coordination of those efforts with federal agencies. Before the passage of the Single Audit Act, each federal agency sent a team of auditors into the States asking the same questions and conducting virtually the same work. This was a very inefficient process. We are hopeful that the appropriations given in the Recovery Act to the GAO, the federal IGs and the Recovery Board do not lead to the same inefficiencies we experienced in the pre-Single Audit days. We believe the appropriated dollars would be better spent by the federal agencies on efforts to mitigate risk at the front end of the process; for instance, by conducting tests and reviewing prior audit findings to ensure that recipient agencies have a strong internal control process in place prior to their receipt and expenditure of Recovery Act funds. To the extent that Recovery Act funds flow through existing federal programs, those dollars will already be subject to audit in accordance with the Single Audit Act and OMB Circular A-133.

I should also note that financial officials other than the independent external auditor are very important to this discussion. Specifically, I am referring to the state comptrollers and treasurers that are responsible for the disbursement and reconciliation of funds. I can tell you that the comptrollers are very concerned about the reporting requirements and how that information will be gathered and reported. While much of the financial information is housed in the state's

accounting system, some of the information is actually gathered at the State agency level. This dichotomy brings up concern regarding reconciliation and whether the federal government is going to require central State reporting directly to recovery.gov, individual State agency reporting directly to recovery.gov or individual State agencies reporting to a federal agency which is then responsible for assuring that the information is posted to recovery.gov. We await further guidance from the federal government in that regard as reconciliation will be extremely important. We stand ready to work with our federal counterparts to assure the most efficient and effective method for reporting is established. I should also point out the important role that internal auditors will play within individual agencies or at the statewide level in assuring that pre-disbursement internal controls are functioning properly and effectively.

I am happy to be joined here today by the Chair of the Recovery Board and other important organizations. Individually and collectively, our groups have long been at the forefront of ensuring public accountability. In a talk at the White House Recovery and Reinvestment Act Implementation Conference last week, President Obama emphasized his commitment to accountability when he said, "If we see money being misspent, we will call it out." I can assure you that we in the accountability profession are ready to do our part.

Mr. Chairman, ranking member Issa and members of the Committee that concludes my statement. I am happy to respond to any questions you may have and thank you again for holding a hearing on this most important issue.

Chairman TOWNS. Thank you. Thank you very much.

Just before we go to you, Mr. Gragan, I would like to yield to the gentlewoman from New York.

Mrs. MALONEY. I thank the chairman for granting me a point of personal privilege. I am literally on the floor with Chairman Rangel with the AIG Accountability and Bonus Act that we had been working on all week.

But I wanted to place my remarks in the record. I will send my questions to the individuals. And I complement the leadership of our chairman and ranking member for a careful, sharp pencil in oversight on the Recovery moneys. Congratulations. Thank you. And I have to go back to the floor.

Chairman TOWNS. Thank you very much. I would like to thank the gentlewoman for her support as well. Mr. Gragan.

STATEMENT OF DAVID P. GRAGAN

Mr. GRAGAN. Good afternoon, Chairman Towns and members of the committee. I am David Gragan. I am the chief procurement officer of the city of Washington, DC. I am also representing today the National Association of State Procurement Officials, the organization of the 50 State procurement directors as well as the city of Washington and the U.S. territories. We really thank you for this opportunity to comment on the role of the government procurement professional in preventing fraud, waste, and abuse in the implementation of the American Recovery and Reinvestment Act.

It is our view that State chief procurement officers or CPOs are uniquely positioned to assist in the development of guidelines regarding use, timelines, and transparency of purchases we make as a result of this act. NASPO recognizes that the effectiveness of a State's CPO is clearly linked to his or her ability to engage with policymakers at the highest levels in government and that this engagement is critical to ensuring effective direction, coordination, and control over public expenditures.

Additionally, State CPOs are charged with protecting all public funds from conflicts of interest, anti-trust violations, fraud, and abuse and have already developed controls to address these concerns. Therefore, in order to proactively prevent fraud, waste, and abuse under the Recovery Act, it is imperative that central procurement be given the opportunity from the outset to help in developing strategies for properly spending stimulus funds.

In your invitation to NASPO to participate in this hearing, the committee asked that we address three specific questions. First, what proactive steps are State procurement officials taking to prevent wasteful spending? It is imperative that we no longer wait for annual external audits to identify waste, fraud, and abuse. Audit, in my opinion, is continuous. In D.C., we post information about every purchase—including purchase card transactions—on a Web site for public scrutiny. That is the sort of transparency that I believe that this act envisions and that we all, as procurement professionals, embrace. The eyes of the public are the most powerful tool against improper contracting behavior.

In terms of developing specific safeguards and processes for stimulus funds, and in anticipation of these projects, NASPO members are developing and using a variety of strategies to aid their staff

and customer agencies in spending the act stimulus money efficiently, effectively, and, most importantly, properly. Closer collaboration with our oversight partners in government—the auditors, the comptrollers, the Inspectors General—that is No. 1 among the tools that we are using right now, communicating more aggressively.

State central procurement offices must communicate guidance and expectations as well as best practices to user agencies and localities. Most States are issuing guidance to agency customers to promote uniformity of requests and reporting while other States are creating data collection forms for customer agencies to help identify and track stimulus funds.

Many of us are creating focused procurement teams, which we have done here in Washington, DC, to ensure that the stimulus contracting, which is on a unique timeline for public procurement, is still effectively managed. We recognize that the need to aggressively and proactively search out the needs of our customers as opposed to waiting for a requisition is different from the way procurement professionals typically do business.

And finally, we are using early identification of appropriate existing contracts. CPOs are encouraging their staffs to identify viable cooperative and preestablished contracts for internal use. Cooperative purchasing is an effective tool and popular because it can save significant time with existing, already competed contracts for those commonly used needs. Many of the stimulus funds, I think, will be spent on existing needs.

No. 2, you asked, what plans do States have for audits and investigations to identify and prosecute fraud in stimulus programs? As discussed in almost all of the opening remarks of this committee this morning, transparency is a cornerstone of the act and is an essential element of procurement strategies to identify waste, fraud, and abuse. NASPO and its partner organizations are currently in discussions with OMB, with GAO, and with related agencies to identify the recommended flow of information as it relates to act reporting. And State CIOs are working closely with State CPOs and the stimulus teams to develop those reporting chains.

The third question you asked was, what oversight challenges are State governments facing as we prepare to properly expend this stimulus funding? The overarching concern in central procurement and among the NASPO members as well as NIGP, the National Contract Management Association, and all professional procurement associations is the rapidity with which we are expected to expend these funds. Generally, our concerns are related to the way we are going to manage data and the actual procurement operation.

For data management, I will be very brief. It is about knowing what information we need, when we need it, when and how to report it. That has already been brought up and I won't belabor that. More important are the procurement operations. Government procurement typically does not respond well to compressed timelines. The process is built to be deliberative and methodical in seeking best value awards for every customer need. Our process was developed to deliver value while preventing fraud, waste, and abuse and, perhaps most importantly, to instill public confidence in the way

that their money is being spent. Requiring States to perform to accelerated timelines and procedures countervails the fair, open, and transparent goals of the act. The rapidity with which these funds must be contracted requires unprecedented communication, coordination, and standardization across State agencies and the central procurement offices.

In conclusion, with this great opportunity for procurement directors for all of the citizens to accomplish the mission that our President and the Congress have given us, I would make three final points. As procurement professionals, we must plan carefully, we must execute flawlessly, and we must do so in a manner that is respectful to the public trust.

We cannot forget nor forego our responsibility to uphold the public integrity that is the fundamental underpinning of Government contracting. On behalf of NASPO, NIGP, NCMA, and all the other public procurement professional organizations, I want to thank you for holding this hearing and for inviting us to be a part of this.

[The prepared statement of Mr. Gragan follows:]

Written Testimony of David Gragan
Chief Procurement Officer, District of Columbia
Board Member of the National Association of State Procurement Officials
Before the U.S. House Committee on Oversight and Government Reform
Hearing on "Preventing Stimulus Waste and Fraud: Who Are the Watchdogs?"
Thursday, March 19, 2009

Mr. Chairman and members of the Committee, my name is David P. Gragan; I am Chief Procurement Officer of the District of Columbia and a Member of the Board of Directors of the National Association of State Procurement Officials (hereafter referred to as "NASPO").

NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. Its membership is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. NASPO is an organization through which the member purchasing officials provide leadership in professional public procurement, improve the quality of procurement, exchange information and cooperate to attain greater efficiency, economy, and customer satisfaction. We thank you and welcome the opportunity to comment on state procurement's role in preventing waste, fraud and abuse in the implementation of funds released by the American Recovery and Reinvestment Act (hereafter referred to as "the Act").

NASPO has identified a number of ways at the state and local level to help minimize the potential for waste, fraud and abuse inherent in spending such a large amount of stimulus money so quickly. These include:

1. advocating the role of central procurement in all stages of contracting (from the identification of agency acquisition priorities to contract management following award);
2. ensuring adequate staffing of central procurement offices to allow strong and effective oversight; and
3. encouraging the use of cooperative contracting measures across states, their agencies and their local governments to aid in quick and efficient spending of stimulus dollars.

All three of these strategies will help states in their quest to spend the stimulus money promptly (so as to achieve the Administration's and Congress' goals of rapid economic impact) while also spending the money effectively (by avoiding instances of waste, fraud and abuse).

This testimony will also highlight the proactive steps state procurement offices are taking to prevent wasteful spending; the plans that state procurement offices have for audits and investigations to identify and prosecute fraud in stimulus programs; and the oversight challenges that state governments (and especially state central procurement offices) are facing in receiving the funds from the Act.

**The Role of Central Procurement, the Need for Adequate Procurement Staffing,
and the Use and Benefits of Cooperative Purchasing**

The Role of Central Procurement

A good procurement strategy is comprised of several factors. Formal competition strategies are essential, and these strategies must be prescriptively and explicitly phased and structured. It is imperative that central procurement be actively engaged in the initial stages of identifying and defining agency needs in order to optimize the efficiency and effectiveness of the solicitation developed to satisfy those needs. Criteria for evaluation and award must be identified, and the protocols for bid evaluation must be established. Procedures must also be established and guidelines followed regarding any necessary public notice of an intended procurement. Finally, a comprehensive file of all action, correspondence, and supplemental materials related to a contract must be maintained to ensure transparency and an auditable trail of all solicitations and awards.

Central procurement offices must be present for all of the stages noted above. The state Chief Procurement Officials (“CPOs”) and their staffs have full and practical knowledge of current applicable state laws, best practices, strategies, and processes within the parameters of their own state procurement regulations.

NASPO has recently issued a resolution encouraging state Governors and the U.S. Office of Management & Budget to include state (CPOs) and NASPO in the development and implementation of state and federal strategies and guidelines for spending stimulus money provided to the states as a result of the American Recovery and Reinvestment Act of 2009 (“Act”). (Please see Appendix A to this Testimony for a copy of that resolution.)

This resolution further recognizes that state CPOs are uniquely positioned to assist in the development of guidelines regarding use, timelines, and transparency of efforts and purchases compelled by the Act and that state CPOs will be primarily responsible for developing the contracts that states and localities will use in conjunction with spending the money released to the states by the Act.

NASPO has and continues to recognize that the effectiveness of a state CPO is clearly linked to his or her ability to engage with policymakers at the highest state levels, and this engagement is critical to ensuring effective direction, coordination, and control over central procurement’s user agency spend. Additionally, state CPOs are charged with protecting all public funds from conflicts of interest, anti-trust violations, fraud and abuse and have already developed controls to address these concerns. Therefore, in order to proactively prevent waste, fraud and abuse of Act dollars, it is imperative that central procurement be given an opportunity from the outset to weigh in at the state and federal level on strategies for disbursing and spending state stimulus money from the beginning of the process and in conjunction with guidelines and recommendations developed by state stimulus leaders and their related stimulus teams.

The Need for Adequate Procurement Staffing

The procurement process does not begin nor end with the issuance of a solicitation and the award of a contract. A typical procurement is comprised of a variety of stages, including the development of specifications (which should be done in conjunction with the requesting customer agency and can sometimes include consultation with potential vendors to ensure an effective and comprehensive solicitation document), market research (to identify and understand the current supply market), drafting the solicitation, posting the solicitation (in accordance with prescribed state procurement laws and regulations), bid evaluation, contract negotiation, bid award, and potential protests and claims. Once a contract is awarded, a central procurement staff member is also tasked with managing that contract in its entirety, from award to the end of the contract period. Meticulous recordkeeping is essential to this process, and the Act has added to this process by increasing reporting requirements and analysis.

As a result of states' budget deficits prior to the allocation of funds through the Act, many state central procurement offices have been forced to either lay off staff or to observe a statewide hiring freeze preventing those offices from filling vacant positions. The stimulus funds provided by Act present a unique opportunity to state central procurement to play an essential role in the responsible and effective use of those dollars; but the added contracting burden placed on these offices must be alleviated. States should be encouraged or directed via specific guidelines to increase their procurement staff either by filling and adding open positions, or by contracting for procurement officials to assist the states in the term of any contracts developed as a result of the stimulus funds.

Public procurement professionals add value to every government program by providing efficient delivery of products and services, obtaining best value through competition, offering fair and equitable competitive contracting opportunities for suppliers, and maintaining public confidence through ethical and transparent procurement practices. It is imperative that state central procurement offices be fully staffed with qualified and efficient procurement professionals in order to maximize the benefits to the states from the Act funds and to minimize and mitigate the risks of waste, fraud, and abuse that are real concerns as a result of an overextended procurement staff and the rapidity with which the funds are to be spent.

The Use and Benefits of Cooperative Purchasing

The central role of public procurement is to obtain quality goods and services to support effective and efficient government, thereby ensuring the prudent use of public funds. One way that state and local governments do this is through cooperative purchasing. In simple terms, cooperative purchasing involves sharing procurement contracts between governments.

Cooperative purchasing is effective and popular because it can save significant time and resources in contract production as well as lower contract prices through the power of

aggregation. As the complexity and workload involved with central procurements has increased, cooperative contracts have helped ease the contracting burden on state, agency, and local governments.

As the chief organization representing state procurement since 1947, NASPO plays a critical role today in administering multi-state cooperative purchasing. Currently, NASPO and its subsidiary the Western States Contracting Alliance (“WSCA”) administer thirty-two (32) regional cooperative contracts, for items ranging from computers to tires to floor products and carpets. Since 1993, purchases from contracts administered by NASPO member states have totaled over \$14 billion.

These and other cooperative contracts (including the GSA Schedules and other cooperative procurement opportunities) are effective tools that procurement managers at all levels of government can use to obtain effective, best-value solutions for the state and the taxpayer. Aggregated volume creates significant price breaks, sometimes in the double-digit percentages. Partnering with a lead entity can reduce time, administrative overhead, and other costs, while leveraging the experience and expertise of those with specialized knowledge in a sector.

While it is important to note that the ability to use a cooperative purchasing contract varies from state to state, cooperative procurements present ready-made and previously-vetted purchasing opportunities that can allow states and localities to spend stimulus money quickly, confidently, and reduce the risk of waste, fraud or abuse.

Specific Comment

In its invitation to NASPO to participate in this Hearing, the Committee asked that NASPO address three specific questions.

What Proactive Steps are State Procurement Officials Taking to Prevent Wasteful Spending?

Independent of stimulus funds, Procurement Officials are more and more focused on developing sound controls into their procurement process. Absorbing significant budget reductions and avoiding embarrassing headlines require that procurement offices no longer wait for annual audits to identify waste, fraud and abuse. In the District of Columbia, for example, we are using transparency as a key tool to keep the process clean. We post basic information about every purchase order and purchase card transaction on the District’s website. The curious eyes of reporters and the public are powerful tools against bad behavior.

In terms of developing specific safeguards and processes for stimulus funds, many states are awaiting additional formal guidance from the U.S. Office of Management and Budget (hereafter referred to as “OMB”) and a variety of stakeholder federal agencies (due out on March 31, 2009). However, in anticipation of these projects, NASPO members are developing and using a variety of strategies to aid their staff and customer agencies in

spending the Act stimulus money efficiently, effectively and properly. These strategies range from the generic to the specific, dependent on the level of involvement states have had in the development of their states' overall stimulus strategies. They can also generally be identified as external and internal strategies.

Externally, state central procurement offices recognize the need for clear, consistent and direct communications with both their partner and customer agencies. This means that close collaboration with government partners (e.g. their state's auditors, comptrollers, CIOs, and/or stimulus leaders) is necessary to provide a unified strategy and approach to the receipt, spending, and tracking of stimulus funds within the parameters of the Act. State CPOs are working closely with these groups and their state CIOs to increase their capacity to conduct more online solicitations in an effort to create more easily searched, organized and accessible bid and contract information as well as assist state central procurement offices in electronic reporting in accordance with the stimulus guidelines as they are developed. In an effort to accomplish these things, state CPOs are advocating their inclusion on stimulus teams within their states from their inception.

This also means that state central procurement offices must communicate guidance and expectations/best practices to user agencies and localities. Most states are issuing guidance to agency customers to promote uniformity of requests and reporting, while other states are creating data collection forms for customer agencies to help identify and track stimulus funds. Procurement offices are working with agencies to identify projects and begin drafting specifications and statements of work. State CPOs and their staffs are promoting the use of cooperative and pre-established contracts, while also proactively setting up contracts for local governments and school districts specifically related to stimulus funds.

Internally, state CPOs and their staffs are busy researching the Act and current OMB guidelines to prepare accurate timelines for spending the money and identifying which internal procurement timelines (e.g. bid, award, etc.) must be compressed in order for states and agencies to be in compliance with many of the "use it or lose it" provisions in the Act. States are also identifying available staffing resources for in-house stimulus teams charged with developing stimulus-specific contracts (which may be more specific or more fast-tracked than traditional procurements). State CPOs are encouraging their staffs to identify viable cooperative and pre-established contracts for internal use as well.

What Plans do States Have for Audits and Investigations to Identify and Prosecute Fraud in Stimulus Programs?

Transparency is a cornerstone of the Act and is an essential element of state central procurement strategies to identify waste, fraud, and abuse of stimulus dollars. NASPO and its partner organizations are currently in discussions with OMB, GAO and related agencies to identify the recommended flow of information as it relates to Act reporting, and state CIOs are working closely with state CPOs and the stimulus teams to develop systems to assist in this reporting. State CPOs are developing guidance and guidelines for state agency customers in an effort to promote uniformity of requests and reporting,

and consequently promoting methods for easier analysis by both the public and audit officials. Some states are currently issuing solicitations for audit and accounting staff to help monitor, track and report on the use of stimulus money.

The District of Columbia has developed a separate wiki site, to which they are posting any and all documentation related to procurements made with Act funds. This wiki will be open to the public for review, comment and suggestion. In addition, the District will be holding a free, open and public roundtable in order to identify and discuss all potential and perceived agency contract needs.

The important focus for state CPOs is to put controls on spending and reporting in place ahead of Act fund use in an effort to mitigate any potential for waste, fraud or abuse and to facilitate audits during and after these funds are spent.

What Oversight Challenges are State Governments Facing in Receiving Stimulus Money?

The overarching concerns of state central procurement offices and CPOs are the challenges posed by the rapidity with which Act funds are to be spent and the lack of guidance to date for practical strategies for spending and tracking these dollars. Basically, the concerns of the states can be broken down into two categories: data issues and procurement concerns.

Data Issues

To date, the federal government through OMB has not given states clear instruction or guidance on data points that states are to track, what expenditures states are supposed to track, or how and in what format stimulus expenditures are to be tracked and reported. In addition, it is unclear as to whether a part of the Act funds for states should or are meant to be used for information systems upgrades to facilitate transparency and reporting.

While the current OMB guidelines and the Act itself (Section 1512 of the Act) give specific information on data points to be reported, there has yet to be additional definition of what those data points comprise. For instance, how should states quantify job creation and how does the Recovery Board expect to make this formula uniform across states?

The state central procurement offices are also awaiting guidelines related to exactly what they are expected to track and report related to stimulus money. Specifically, is the state responsible for accountability for funds that are expended by just the state, or also for funds that flow through the state to the local units of government? What about for funds that are disbursed to local governments directly from federal agencies? Guidance is necessary to help states identify what specific reporting and monitoring requirements they must have in place for money the state receives as well as money spent by their customers.

Finally, there exist non-uniform reporting requirements and mechanisms across states as well as across state user-agencies. States are anticipating guidance to determine whether uniform reporting will be developed (from OMB and across agencies and states) or if reporting requirements will be agency-specific (from federal agencies, e.g. Education, Energy, etc.) If the reporting requirements are agency-specific, it will place an undue and currently unfunded burden on state procurement offices. In addition, confusion exists in the states as to the process for reporting—will state agencies report their use of stimulus funds to the federal agencies (forcing states to cull that information individually from the federal agencies for their own transparency websites), or will they report that use to the state (forcing federal agencies to confront the similar problem of having to cull this information individually from states in order to report the results on their agency transparency websites)? Requiring agencies to report to both raises timing concerns—some states or federal agencies may be more proactive than their counterparts, resulting in lags between reporting and/or unmatched data being published.

Procurement Concerns

The compressed timelines provided for in the Act could well compromise state procurement procedures and regulations, and also result in a staffing resources issue which has been discussed earlier in this testimony.

Many of the procurement timelines prescribed in the Act currently are outside of normal state procurement procedures, some of which are legislatively mandated. These state timelines were developed to prevent fraud and abuse, and requirements to invoke accelerated timelines and procedures make conducting a full and open competitive process more challenging. In addition, procurement functions within different states fall along the full range of centralized to decentralized. This means that each state must come up with somewhat individual procedures to spend the Act money quickly and within the guidelines of the Act. Developing these strategies is essential to obligating the money responsibly, but requires resources that will impact states' timelines for developing bids and award contracts. Finally, the rapidity with which these funds must be contracted requires unprecedented communication, coordination and standardization across state agencies and the central procurement office—the successful implementation of which will also decrease the amount of time left over for states to obligate the funds per the Act deadlines.

Additional specific challenges state central procurement offices are facing include the Buy American provisions and potential supply constraints resulting from mass government spend of both recommended purchases as well as emergency purchases. States need specific guidance addressing how existing Free Trade Agreements (“FTAs”) are impacted by the Buy American provisions in the Act, and which FTAs and other obligations apply to the use of the Act funds.

Finally, simultaneous spend by states, agencies and localities could lead to inefficient pricing and/or supply constraints. For example, if all 50 states decide to update their traffic lights with LED lamps, the resulting demand will drive up the price for these

lamps to inefficient levels. Similarly, should there be a limited number of vendors for certain items, there could be an insufficient supply of these items for the states to procure, raising the probability that states will not be able to spend the funds in the spirit of the Act in sufficient time to be compliant with the timelines provided for in the Act.

Conclusion

In conclusion, NASPO advocates the inclusion of central procurement leaders in all stages of stimulus funding planning at the state level, encourages stimulus-funded solutions to the crisis of insufficiently staffed central procurement offices, and advocates the use of established cooperative contracts as a means to save states, agencies, and localities time and resources in their efforts to spend the Act funds quickly and wisely. This written testimony was also designed to highlight proactive measures states are taking to prepare for the use of funds allocated by the Act, and to identify the existing and potential issues or roadblocks that state procurement may encounter along the way.

We thank you again for this opportunity to speak with the Committee today.

Attachments:

- Appendix A: NASPO Resolution dated March 6, 2009 calling for NASPO to be recognized as the central point of contact and clearinghouse for information and resources related to state procurement and the impact and development of guidelines to be issued to states regarding procurement under the Act; and that state central procurement officials be invited to state discussions surrounding strategy development for the use of stimulus funds.
- Appendix B: NASPO joins with NASBO, NASACT, and NASCIO letter to OMB dated February 17, 2009 calling for coordination on the stimulus bill.
- Appendix C: List of specific procurement issues remitted to OMB in preparation for the Act Implementation Conference on March 12, 2009.

For more information you can visit NASPO's website (www.naspo.org)

APPENDIX A



Resolution encouraging state Governors and the U.S. Office of Management & Budget to include state Chief Procurement Officers (CPOs) in the development and implementation of strategies and guidelines for spending stimulus money provided to the states as a result of the American Recovery and Reinvestment Act of 2009.

WHEREAS, the 111th United States Congress has passed the *American Recovery and Reinvestment Act of 2009*; and

WHEREAS, the state Chief Procurement Officer (CPO) has full and practical knowledge of current applicable state procurement legislation, best practices, strategies, and processes within the confines of their own state procurement regulations; and

WHEREAS, state CPOs are uniquely positioned to assist in the development of guidelines regarding use, timelines, and transparency of efforts and purchases compelled by the ARRA; and

WHEREAS, state CPOs will be primarily responsible for developing the contracts states and localities will use in conjunction with spending the money released to the states by the ARRA; and

WHEREAS, the ARRA calls for specific levels of transparency of state spending of the stimulus dollars; and

WHEREAS, states have a variety of reporting and transparency guidelines designed to ensure equity and fairness in awarding contracts which will need to be standardized as a result of the reporting and transparency provisions in the ARRA; and

WHEREAS, state procurement protects public funds from conflicts of interest, anti-trust violations, fraud and abuse; and

WHEREAS, the inclusion of state CPOs will facilitate and set precedent for greater cooperation between state agencies and state procurement offices, creating an environment of collaboration that will continue to serve the states and their taxpayers in the future; and

WHEREAS, the National Association of State Procurement Officials recognizes and asserts that the effectiveness of a state CPO is clearly linked to its location in the government structure, and that placing the office at a high level is critical to ensuring effective direction, coordination, and control over a government's procurement spend; and

WHEREAS, the National Association of State Procurement Officials is uniquely positioned to disseminate information to state CPOs and their staffs, and to gather responses related to legislation and procedures affecting state procurement;

NOW THEREFORE, BE IT RESOLVED, THAT the National Association of State Procurement Officials advocates the inclusion of state Chief Procurement Officers in the development of guidelines for contracting procedures related to the spend of state finances authorized by the American Recovery and Reinvestment Act; and

BE IT FURTHER RESOLVED, THAT state Chief Procurement Officers should also be present in discussions with Governors' offices and state agency leaders in developing projects and strategies for spending state money authorized by the American Recovery and Reinvestment Act; and

BE IT FURTHER RESOLVED, THAT the National Association of State Procurement Officials should be recognized as the chief point of contact to assist in distribution of information to state CPOs and as a collective resource for the development of guidelines related to the American Recovery and Reinvestment Act as they relate to state procurement.

Adopted by
National Association of State Procurement Officials
March 6, 2009

APPENDIX B

NASACT	NASBO	NASCIO	NASPO
<i>National Association of State Auditors, Comptrollers and Treasurers</i>	<i>National Association of State Budget Officers</i>	<i>National Association of State Chief Information Officers</i>	<i>National Association of State Procurement Officials</i>

February 17, 2009

Dr. Peter Orszag
Director
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Mr. Gene L. Dodaro
Acting Comptroller General of the United States
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Dr. Orszag and Mr. Dodaro:

The passage of the American Recovery and Reinvestment Act (ARRA) provides significant funds to states across an array of programs with tracking and reporting requirements to ensure accountability. As representatives of the state auditors, comptrollers, and treasurers, the state budget officers, the state chief information officers, and the state procurement officials, we sincerely believe that a coordinated approach is imperative and want to express our strong interest in working with your staff on the reporting and compliance aspects of this important legislation.

States are working on processes to ensure that funds are spent as efficiently as possible while maintaining the appropriate controls and reporting mechanisms to ensure accountability and transparency. Many states have existing accountability and transparency initiatives or are in the planning stages to make investments in the near future. Your guidance to the states on the reporting and accountability requirements will be extremely helpful. We look forward to meeting with your staffs soon to provide information to ensure that these stimulus funds are spent in the most efficient and effective manner. Please do not hesitate to call upon us when we can provide assistance.

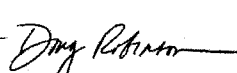
Sincerely,



Kinney Poynter
Executive Director
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(859) 276-1147



Scott Pattison
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Executive Director
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President
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APPENDIX C



Issue List for ARRA Implementation Conference (to be held March 12, 2009)

- Federal Acquisition Regulations (FAR)
 - Will they apply to states' use of stimulus funds?
 - Is there a difference between grants from Federal agencies vs. allocations from discretionary accounts?
 - Will FAR be modified?
- Free Trade Agreements (FTAs)
 - What is the impact of reduced notice times on member states' compliance with various Free Trade Agreements and the WTO IGPAC?
 - How does the Buy America provision in the ARRA affect states' compliance with the WTO IGPAC and other FTAs to which they are party?
 - Does the Buy America provision put them in non-compliance with these agreements? What are the implications of noncompliance? Will there be a retaliatory effect that states should anticipate? (I have attached a PDF of states and the various trade agreements to which they have signed on. This data is current as of 2008.)
 - How will the "use it or lose it" provisions and time periods affect states' compliance with posting/reporting requirements under the WTO IGPAC and other FTAs to which they are party? For instance, the WTO IGPAC is quite prescriptive as to publishing/advertising requirements for all open bids, which in some cases are longer than the time period within which states must allocate and/or spend their stimulus money. Has this issue been addressed in the guidelines, and what can states expect as a result of noncompliance with these standards?
- Accountability
 - How will state central procurement officials be made aware of grant or other funding allocations in their state to which they might possibly be responsible for awarding contracts?
 - Will there be detailed guidelines on audit procedures and requirements to promote complete compliance and to protect central procurement from penalties later?
 - Will there be guidance on capturing and qualifying job creation data?
 - How will OMB ensure consistency of data collection methods and strategies across federal agencies to simplify reporting by state agencies?
- Transparency
 - What additional auditing and reporting requirements will there be?
- Other Issues
 - Concerns about staffing state central procurement offices in order to spend the stimulus money

Chairman TOWNS. Thank you very much for your statement.
Mr. Heer.

STATEMENT OF JEROME HEER

Mr. HEER. Chairman Towns, Congressman Bilbray, I am honored to be here today as a founding member of the Association of Local Government Auditors [ALGA], to speak with you on behalf of ALGA and to give you a broad overview of local governments' efforts to ensure accountability for the use of Federal stimulus funds disbursed under the American Recovery and Reinvestment Act.

First I would like to say a little bit more about our organization. ALGA was founded in 1989 to support and strengthen local government auditing. We provide training and information sharing for members and assist local governments in establishing and maintaining independent audit functions. ALGA also provides a peer review program to assure the public that auditors meet professional standards. We currently comprise about 300 organizational members representing more than 2,000 local government auditors in cities, counties, school districts, and authorities.

Nearly 60 percent of our members are in the States that will be covered by the GAO in their longitudinal study of the long range use of Recovery Act funds. ALGA is well positioned to coordinate with the GAO in its mandate to monitor local use of the funds because local government auditors possess in-depth knowledge of our operations, our organizations, and our management controls.

To that end, we have recently sponsored a teleconference with Acting Comptroller General Gene Diderot to discuss how the Recovery Act will affect local governments and to coordinate oversight efforts. We have also invited GAO to speak at our annual conference for a more in-depth discussion of the role local government auditors will play as we move forward.

We have been asked about proactive steps local officials are taking to prevent wasteful spending. Some of our member organizations have already started monitoring the requirements under the act and communicating expectations to management. And some members are already providing fraud prevention training with special emphasis on Federal requirements.

But you should have some comfort in the notion that our existing oversight infrastructure will also be very helpful in providing assurance that the Recovery Act funds are well spent and that the process is indeed transparent. These include the Single Audit Act, the performance audits that we conduct, our hot lines, and our longstanding, strong relationship with auditors at different levels of Government.

With regard to the Single Audit Act, due to the size and scope of the Recovery Act, we anticipate that much of the newly available Federal assistance will indeed be subject to the single audit requirements. Our members either assist in conducting those audits or contract for them. As to performance audits, more than 80 percent of our members conduct performance audits. These are designed to assess whether a program is achieving the intended benefits at a reasonable cost.

But another important tool is our hot lines. Many local government audit organizations operate hot lines to receive information

from vendors, employees, and the public about waste, fraud, and abuse. These audit organizations have established policies and procedures for investigating complaints and ultimately for referring cases for prosecution or other disciplinary action. We publicize our hot lines and we use them to vigorously pursue fraud in partnership with State and Federal prosecutors.

Another key strength is our coordination with auditors at different levels of government. Local government auditors interact with Federal and State auditors in our work and through the National Intergovernmental Audit Forum and its 11 regional forums. The mission of the forums is to improve cooperation among its members to enhance Government accountability and transparency and to increase the public trust.

We were also asked to describe our plans for audits and investigations to identify and prosecute fraud in stimulus programs. Most of our member organizations have not yet scheduled specific audits of programs funded by the Recovery Act because we are still learning how our governments will be affected. However, we anticipate that many of these high profile programs are already an existing part of our audit plans.

Additionally, most of our member organizations base their audit plans on risk analysis. Because Federal funds carry inherent compliance risks, we anticipate that local governments and audit organizations will add audits of these projects to their plans. Most importantly, the large majority of ALGA members follow standards that require us to pursue potential fraud when we do conduct our audits.

The final topic we were asked to address is the challenges we face in meeting our oversight obligations. While we recognize the potential benefits that the stimulus funds provide for our local economies, we do face three significant challenges. First, despite our efforts, we estimate that fewer than 20 percent of the Nation's larger cities and counties have an independent audit function.

If I could offer one suggestion to improve accountability nationwide, it would be that you craft a way to encourage more local jurisdictions to create audit functions. Ultimately every taxpayer would benefit with better oversight of Federal dollars spent at the local level.

The second challenge is resources. The majority of our local government audit organizations are very small in comparison to the resources that we audit. One third of our members have only one or two staff. Finally, most local governments have experienced budget reductions in the current economic downturn. Many of our member organizations have cut positions or implemented furloughs.

But let me close by saying that despite these challenges, we welcome the opportunity to work closely with the GAO, with the Inspector General community, and with State auditors to provide oversight of local governments's use of the Federal stimulus funds. Thank you.

[The prepared statement of Mr. Heer follows:]



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March 19, 2009

Chairman Towns, Ranking Minority Member Issa, and Members of the Committee:

My name is Jerome Heer, Director of Audits for Milwaukee County, Wisconsin. I am a founding member of the Association of Local Government Auditors (ALGA) and served as president of the organization in 1994 and 1995. I've served on the U.S. Government Accountability Office's (GAO) Domestic Working Group since 2001, and as a member of the Comptroller General's Advisory Council on Government Auditing Standards since 2004.

I'm honored to be here today to speak to you on behalf of ALGA to give you a broad overview of local government efforts to ensure transparency and accountability for the use of federal stimulus funds disbursed under the American Recovery and Reinvestment Act (Recovery Act). I'll discuss steps local officials are taking to prevent and detect wasteful spending, plans for audits and investigations to identify fraud in stimulus programs, and oversight challenges specific to local governments.

The good news is that much of the necessary oversight infrastructure is already in place. Local governments that have independent auditors provide greater assurance that federal funds are used appropriately to achieve intended benefits. ALGA members see how federal dollars support specific programs or projects, and we craft our audit plans to focus accountability on areas needing improvement. In addition, we communicate regularly with our state and federal counterparts on potential audit areas.

Local government audit organizations are conducting required audits of federal grants, performance audits of programs expected to be eligible for funding, and recurring audits of internal control systems that form the backbone of accurate and transparent reporting. Local government audit organizations are also operating hotlines to flag potential waste and abuse. Unfortunately, local governments face significant challenges. Many local governments lack an independent audit function. Among the local governments that do have independent audit function, the majority are very small in comparison to the areas subject to audit. Finally, most local government audit organizations, like the jurisdictions they serve, have experienced budget reductions in the current economic downturn.

First, I'd like to say a little bit about our organization. ALGA was founded in 1989 to support and strengthen local government auditing through advocacy, collaboration, education, and training, while upholding the highest standards of professional ethics. ALGA provides training, networking and information-sharing opportunities for members through conferences, seminars, a quarterly newsletter, and a robust listserv. ALGA promotes the value of independent performance auditing throughout the local government community. ALGA provides model legislation and guidance to assist local governments in establishing independent audit functions and offers professional resources and support to organizations with new audit functions and organizations considering diminishing their audit function. ALGA also provides a peer review program to assure local officials and the public that the auditors maintain competence, integrity, objectivity, and independence in planning, conducting, and reporting their work.

ALGA currently comprises about 300 organizational members, representing more than 2,000 auditors in cities, counties, school districts, transit authorities, and local utilities. Nearly 60% of our member organizations are in the 16 states that the GAO has selected for ongoing longitudinal analysis of use of the Recovery Act funds. The GAO has estimated that these states – Arizona, California, Colorado, Florida, Georgia, Iowa, Illinois, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas – will receive about two-thirds of the intergovernmental grant funds available through the Recovery Act.

ALGA is well positioned to coordinate with the GAO in its mandate to monitor local use of the funds. Local government auditors possess deep knowledge about their organizations' procurement and operational processes, as well as financial recording and reporting. ALGA sponsored a teleconference with Acting Comptroller General, Gene Dodaro, to discuss how the Recovery Act will affect local government audit organizations and ways to coordinate audit and oversight efforts. We have also invited GAO to speak at our annual conference in May for a more in-depth discussion of audit approaches and the role local government auditors will play in assuring transparency and accountability for use of Recovery Act funds.

What proactive steps are local officials taking to prevent wasteful spending? While we are still learning about the requirements of the Recovery Act, some of our member organizations have already taken steps to alert managers of monitoring requirements and management principles defined in the act. In addition, some member organizations are providing fraud prevention training, with special emphasis on federal requirements. Some organizations are creating central positions to oversee administration of federally funded projects. Some audit organizations are establishing ways to identify and track inflows of stimulus funds, a task that may be complicated because the funds will be allocated through various federal and state agencies.

In addition, existing oversight infrastructure will help provide assurance that Recovery Act funds are well spent and the process is transparent, including:

- **Single Audit.** Federal law requires a standardized audit or examination to provide assurance that recipients' use of federal assistance funds complied with applicable laws and grant provisions. The requirement applies to state and local

governments and nonprofits receiving \$500,000 or more of such assistance in a year. The audit encompasses financial records, statements, transactions and expenditures; general management of operations; and systems of internal control. The auditor is required to report to the federal government instances of noncompliance, deficient internal controls, illegal acts, fraud, and questioned costs. Questioned costs – spending that the auditor determined was not permitted – must be returned to the federal government. Results of the audits are summarized on a standard data collection form and submitted to the federal granting agencies.

Due to the size and scope of the Recovery Act, we anticipate that much of the newly available federal assistance will be subject to Single Audit requirements. Many of our member organizations either assist the external auditors in conducting the Single Audit or are responsible for contracting for the audit.

- **Performance audits.** Unlike the Single Audit, performance audits most often seek to assess whether a program is achieving the intended benefits at a reasonable cost. Performance audits are intended to make recommendations to improve operations, rather than simply to correct deficiencies, although the scope and objectives of performance audits vary and can include assessing compliance with applicable laws and regulations. Performance audits provide a more in-depth perspective on whether funds are well spent, but are not standard across jurisdictions and are resource-intensive. More than 80% of our member organizations conduct performance audits, which account for an average of about 60% of their audit time.
- **Cyclical audits.** About two-thirds of our member organizations conduct financial-related audits of payroll, accounts payable, or information systems on a regular cycle to test their government's disbursements and related internal controls. Audit procedures include tests intended to identify indicators of potential fraudulent, wasteful, or abusive activity.
- **Hotlines.** Many local government audit organizations operate hotlines to receive information from employees, vendors, and members of the public regarding waste, fraud, and abuse. These audit organizations have established policies and procedures for recording, tracking and reporting on hotline activity, protocols for investigating complaints, and ultimately for referring cases for prosecution or other disciplinary action. Several states have passed Whistleblower protection legislation that exempt hotline records from being subject to open records requests to protect the confidentiality of those who report observed or suspected wrongdoing.
- **Continuous monitoring.** Some local government audit organizations have undertaken continuous monitoring, which uses information technology data

extraction tools to flag unusual financial transactions, either in real time or on a periodic basis. The existence of red flags can trigger an audit or investigation.

- **Public reporting.** Local government auditors issue public reports on their findings, including activities related to projects with federal assistance. In addition, audit results are often presented at meetings that are televised or posted as videos on government web sites. These public discussions provide transparency in how the organizations use federal funds and provide forums for public input.
- **Financial impact statements on legislation.** Some local governments require financial impact statements to accompany proposed legislation or agenda items that identify the sources of funds and expected longer-term impacts. These documents also provide transparency in how the organization intends to use federal funds and the expected benefits. While more common at the state level, some local government audit organizations are responsible for preparing or reviewing the financial impact statements.
- **Coordination with auditors at different levels of government.** Local government auditors communicate and interact with federal and state auditors through the National Intergovernmental Audit Forum and its 11 regional branches. The forum is an association of audit executives at all levels of government with a mission to improve coordination, cooperation, and communication among its members; to address common challenges; enhance government performance, accountability, and transparency; and increase public trust.

GAO plans to leverage existing resources as part of its oversight of state and local spending under the Recovery Act. ALGA will continue to coordinate and liaise with the GAO and federal Inspectors General as Recovery Act assistance is awarded and projects get underway.

What plans have local government auditors made for audits and investigations to identify and prosecute fraud in stimulus programs? Most of our member organizations have not yet scheduled specific audits of programs funded by the Recovery Act because we are still learning how our governments will use the funds. However, much of the funding appears to be allocated to increase spending on, or reduce cuts to, existing programs such as airport security, roads and bridges, and local law enforcement. We anticipate that many of these high-profile programs are already part of existing audit plans. Additionally, most of our member organizations prepare risk-based audit plans.

Because federally funded projects carry inherent compliance risks, we anticipate that local government audit organizations will add audits of these projects to their upcoming annual plans. Most importantly, the large majority of ALGA members follow the same audit standards as the GAO, which require us to notify law enforcement when we uncover evidence of potential fraud.

What challenges do local governments face in meeting their oversight obligations? We recognize the potential benefits that stimulus funds will have on our jurisdictions and our local economies. The additional funds, however, carry additional responsibilities. Local governments face significant challenges in meeting their oversight obligations.

- **Lack of independent audit functions in many jurisdictions.** Despite ALGA's ongoing advocacy efforts, we estimate that fewer than 20% of the nation's larger cities and counties have an independent audit function.

While there are no authoritative figures, we estimate that only about 42% of the approximately 1,500 U.S. cities and counties with populations greater than 50,000 have an audit function. Jurisdictions without an in-house audit function hire commercial audit firms to conduct financial and applicable single audits, and may hire audit firms or consultants to review operations. While commercial firms provide a valuable service, they are less familiar with internal operations and less committed to long-term organizational improvements than in-house auditors who can provide continuity in oversight and long-term follow-up on recommendations.

Further, we estimate that only about 45% of local government audit organizations meet the definition of independence in the Comptroller General's *Government Auditing Standards*. Many local government auditors have reporting relationships within their organizations to those responsible for areas subject to audit, and lack sufficient statutory protections against interference in how they conduct their work or report results. Many local government auditors also face restricted access to employees, property, records, and information systems.

If I could offer one suggestion to improve accountability nationwide, my request would be future federal legislation crafted in a way that encourages more local jurisdictions to create audit functions that follow *Government Auditing Standards*. Ultimately, every taxpayer would benefit from stronger oversight and improved effectiveness when federal dollars are spent at the local level. ALGA members across the country are prepared to advise and assist those jurisdictions in building an effective accountability system.

- **Limited audit resources.** The majority of local government audit organizations are very small in comparison to the areas subject to audit. One-third of our member organizations have only one or two staff, and another 30% have three to five staff. Only 8% of our member organizations have more than 15 auditors on staff. While our member organizations are carrying out important, innovative work, they do not currently have the ability to take on additional tasks. We will need to realign our work priorities to meet the needs of the Recovery Act.
- **Economic downturn.** Finally, most local government audit organizations, like the jurisdictions they serve, have experienced budget reductions in the current economic downturn. Many of our member organizations have cut positions,

implemented furloughs, and reduced training and travel budgets. Some of our member organizations have been eliminated as their jurisdictions work to balance budgets. In fact, our membership has declined by nearly 5% from last year.

Despite these challenges, we are pleased that the GAO has recognized the value that local government auditors provide to the accountability community, to their jurisdictions, and to the public in enhancing transparency and accountability for the use of public resources. We welcome the opportunity to work closely with the GAO and other federal agencies to provide the same rigor to oversight of local governments' use of the federal stimulus funds.

Chairman TOWNS. Thank you.
Mr. Brito.

STATEMENT OF JERRY BRITO

Mr. BRITO. Thank you, Mr. Chairman, members of the committee. My name is Jerry Brito and I am a senior research fellow at the Mercatus Center at George Mason University and an adjunct professor of law at George Mason University School of Law. I want to thank you for inviting me to testify on preventing stimulus waste and fraud.

This committee knows why it is so important to keep close tabs on the nearly \$800 billion of spending contained in the American Recovery and Reinvestment Act. The question is how do we do it. Dozens of Inspectors General and official auditors around the country will follow the stimulus money. They will do commendable work but they can't possibly look at every payment and every transaction.

While we might want to, we can't hire an army of auditors charged with tracking every single dollar. However, we can supplement a very small number of professional auditors with a very large number of small contributions from citizens. That is, we can crowd-source accountability the same way that Wikipedia crowd-sources the writing of an encyclopedia.

In fact, this very testimony that I am reading was crowd-sourced. I published a draft of it on a wiki Web page and alerted other transparency enthusiasts and academics of its existence. In the 24 hours that the Wiki was online, over a dozen persons made edits and additions to these words, all of them adding value.

If the Government requires clear, timely, and profound reporting of how every dollar is spent, everyone, not just Government auditors, could keep track of the money. Millions of citizens around the country would be able to look at the transactions related to Recovery funded projects in their neighborhoods. How would Government enlist the help of citizens to keep Recovery spending accountable? It doesn't have to. It just has to provide the data.

If the Government makes the raw spending data available, a strong community of transparency enthusiasts and scholars will build tools that allow citizens to search, sort, and report it. It doesn't have to be just one Recovery.gov. If we make the data available, citizens can take that data and make many Recovery.govs with different focuses and different sorts of presentations of the data.

Earlier this year I launched a Web site, StimulusWatch.org, with the help of two very talented volunteer software developers, Peter Snyder and Kevin Dwyer. The site presents the nearly 20,000 "shovel ready" projects that the U.S. Conference of Mayors reported as candidates for stimulus funding. Citizens can easily find a list of projects in their hometown and then rate, discuss, and add factual context to each project.

Now that you have passed the Recovery Act, we want to expand the capabilities of our Web site to allow citizens to track the projects that will be funded in their communities. I know that other Web developers would like to make similar tools, including

applications that track job creation and plot stimulus dollars on maps coded with unemployment and other statistics.

There is no limit to the number of useful and innovative presentations that public-minded netizens can create. However, before we can make useful tools for the American public, the community of transparency innovators needs the raw spending data in full. To make sure we have that, we need you to clarify and strengthen existing data disclosure requirements. There are two key issues that need clarification that I would like to bring to your attention today: the depth of disclosure and standardization.

The first is a question of how deeply disclosure will go. While the Recovery Act requires that recipients of Federal stimulus funds report to the awarding agencies how the funds are spent, there is no clear instruction that every level of subcontract or subgrant must be disclosed. The OMB guidance interpreting the act states that only the “prime non-Federal recipients of Federal funding and the subawards” are on the hook for reporting to Recovery.gov. This is very troubling.

If the Government wants to ensure meaningful accountability, then we must have transparency at every level of transaction. It is not enough for citizens to know that the EPA made a grant to Florida which in turn made a subgrant to Miami, where I am from. We also need to note that Miami made a payment to ACME concrete, which a citizen with local knowledge could recognize and flag as a firm owned by the council member’s son-in-law. Right now it is not clear that we will get this information.

The second key issue is standardization. At this point, the OMB guidance does not explain what data elements we should expect Recovery.gov to publish. By data elements I mean such things as project name, contractor, amount spent, purpose of the project, jobs created, street address, city, State, etc. If you think of the raw data as a spreadsheet, we would like to know what the column headers will be. We also don’t know in what format the information will be presented. As I explain more thoroughly in my written testimony, ideally the data would be published in a structured format such as Extensible Markup Language [XML].

In his first day in office, the President signed a Memorandum on Transparency and Open Government. The three central themes of the memorandum to which the President committed the administration are transparency, participation, and collaboration. A community of interested and knowledgeable parties wants to participate and collaborate with the government to make online disclosure of Recovery spending data succeed. For example, a wide range of groups and individuals from all parts of the political spectrum have formed a Coalition for an Accountable Recovery. I commend to you and the administration the Coalition’s vision statement and proposed online transparency architecture, which I have attached to my written testimony.

I am happy to report that so far the administration has been quite good at listening to suggestions from those of us who are interested in Recovery data. Unfortunately, it has not been as good at sharing information in return, a necessity in true collaboration. Ideally the folks building Recovery.gov would be allowed to talk

with us so we can learn what they are planning and we can tell them what we would like to see included.

We are willing to help track the stimulus money and take part of the responsibility for seeing it well spent. But to do so, we need the data.

Thank you.

[The prepared statement of Mr. Brito follows:]

MERCATUS CENTER
GEORGE MASON UNIVERSITY

Testimony of
Jerry Brito, J.D.
Senior Research Fellow
Mercatus Center at George Mason University

Before the
House Committee on Oversight and Government Reform

March 19, 2009

Mr. Chairman and Members of the Committee:

Thank you for inviting me to testify on “Preventing Stimulus Waste and Fraud.” This committee knows why it is so important to keep close tabs on the nearly \$800 billion of spending contained in the American Recovery and Reinvestment Act. The question is: how do we do it?

Over the last few years my research has focused on how Internet technologies can be leveraged by government and citizens to increase transparency and thereby ensure accountability. I’m happy to share with you some of the things I have learned.

You are one of the most important institutional organs of oversight. But you cannot do it alone, and the public is eager to help. Perhaps most importantly, oversight is not accomplished at a single point in time. It is best accomplished through continuous, multifaceted analysis.

Luckily, we are moving into a networked media environment where direct access to data will allow a wide variety of actors and entities in the public to do essentially direct oversight of you in the government, and of programs like the recent economic stimulus act. We in the transparency community want access to data so that we can do this public oversight.

Crowdsourcing Accountability

Dozens of inspectors general and official auditors around the country will follow the stimulus money. They will do commendable work, but they can’t possibly look at every payment and every transaction.

While we might want to, we can’t hire an army of auditors charged with tracking every single dollar. However, we can supplement the very small number of professional auditors with a very large number of small contributions from citizens. This is an approach sometimes called crowdsourcing, in which complex tasks are distributed among

a wide community of interest. Almost any short phrase entered into Google, for instance, will retrieve a top-ranked result from Wikipedia, an entirely crowdsourced encyclopedia.¹

In fact, this very testimony you are reading was crowdsourced. I published a draft on a wiki web page and alerted other transparency activists and academics of its existence.² In the 24 hours that the wiki was online, over a dozen persons made edits and additions to the words in this document—all of them adding value.

If the government requires clear, timely, and profound reporting of how every dollar is spent, everyone—not just government auditors—could keep track of the money. Millions of citizens around the country would be able to look at the transactions related to recovery-funded projects in their neighborhoods. Thousands of journalists could also keep an eye on the spending and the work being done in the communities they serve. Contractors would be able to keep an eye on their competitors, and academics and watchdog groups could sift through the spending data to find interesting patterns.

The point of this exercise would not be to foster “gotcha” games. Sure, we should suss out fraud, waste, and abuse when it’s there, but, more importantly, we want to make sure that government managers spend money wisely and that projects are run efficiently. Crowdsourcing is one way to overcome the temporal problems associated with traditional oversight. Local passions, ignited by the spark of local projects, are likely to increase with the passage of time and keep all participants in the economic recovery honest and on track even after traditional watchdogs have turned their attention to the next problem.

How would government enlist the help of citizens around the country to keep recovery spending accountable? It doesn’t have to enlist help: it just has to provide data. If the government makes the raw spending data available, people across the country will build tools that allow citizens to sift, sort, and report it.

A strong community of transparency activists and enthusiasts is eager to do this. Earlier this year, I launched the website StimulusWatch.org with the help of two very talented volunteer software developers, Peter Snyder and Kevin Dwyer. The site presents the nearly 20,000 “shovel-ready” projects that the U.S. Conference of Mayors reported as candidates for stimulus funding. Citizens can easily find a list of projects in their hometown and then rate, discuss, and add factual context to each project. The site has received 2 million unique visits in its first month.

Within hours of launching the site, users found projects such as golf courses and dog parks and voted them to the top of the least critical projects list. Users also heavily annotated the web pages of projects that at first blush seemed unworthy of funding with information and explanations of the merits and necessity of these projects.

¹ Jerry Brito, *Hack, Mash & Peer: Crowdsourcing Government Transparency*, 9 Columbia Science & Technology Law Review 119 (2008), available at <http://www.stlr.org/html/volume9/brito.pdf>.

² See Jerry Brito, *Contribute to my congressional testimony*, Mar. 16, 2009, at <http://jerrybrito.org/post/87008457/contribute-to-my-congressional-testimony>

Now that you have passed the Recovery Act, we want to expand the capabilities of our website to allow citizens to track the projects this act will fund in their communities. Among other things, we would like to build a tool that allows citizens to discuss a project, track and annotate payments related to a project, and rate a project's performance.

I know that other web developers would like to make similar tools, including applications to track job creation and to plot stimulus dollars on maps coded with unemployment and other statistics. There is no limit to the number of useful and innovative presentations that public-minded netizens can create.

But before we can build any of these tools of accountability, we need the raw spending data. As I said before, citizen participation in the accountability process requires clear, timely, and profound reporting of how every dollar is spent. Without question, the most effective way for government to make such a large dataset available is to put it online in useful formats.

The key to the success of such a project is that last phrase: *useful formats*. You must present data in a standard, web-friendly, machine-readable format that can be aggregated, parsed, and sorted.

Although my techie friends will give me grief for simplifying it this way, think of it as rows in a spreadsheet with standardized column headings. You could make a full and thorough disclosure of spending in prose, or even in haiku, but while such a report could fully account for every dollar, a computer could not analyze it. However, if you released the information in spreadsheet form, people could sort by the different columns: low to high dollar amount, state or city, contractor, or any other available column.

If you make the data available in a nonproprietary structured format such as EXtensible Markup Language (or XML for short), and using a common standard for the expression of required information, a citizen could then sort the data in much more complicated ways. For example, he could easily look up the top ten payments to contractors with names that begin with the letter "R" in a particular congressional district. Information made available in useful formats also allows third parties to build interesting tools such as StimulusWatch.org or the many third-party tools found on the Sunlight Foundation's website.³

Clarifications Needed

Now that you understand what's possible, I can tell you what the community of web developers and transparency enthusiast need to make it happen. Before we can make useful tools for the American people, we need the data in full. To make sure we have that, we need you to clarify and strengthen existing data disclosure requirements.

³ Sunlight Foundation, *Insanely Useful Websites*, at <http://sunlightfoundation.com/resources>.

The American Recovery and Reinvestment Act calls for the disclosure of spending information online. However, its provisions are vague and do not require structured machine-readable formats. The Office of Management and Budget has issued guidance to federal agencies on how they should comply with Recovery Act reporting requirements, but that document also leaves many questions unanswered.

There are four key issues that the Administration and the Recovery Accountability and Transparency Board must address soon: the depth of disclosure, standardization, aggregation and centralized access.

First is the question of how deeply disclosure will go. While the Recovery Act requires that recipients of federal stimulus funds report, to awarding agencies, how the funds are spent, there is no clear instruction that every level of subcontract or subgrant must be disclosed.⁴ The OMB Guidance interpreting the Act for agencies states that,

Reporting requirements only apply to the prime non-Federal recipients of Federal funding, and the subawards (i.e., subgrants, subcontracts, etc.) made by these prime recipients. They do not require each subsequent subrecipient to also report. For instance, a grant could be given from the Federal government to State A, which then gives a subgrant to City B (within State A), which hires a contractor to construct a bridge, which then hires a subcontractor to supply the concrete. In this case, State A is the prime recipient, and would be required to report the subgrant to City B. However, City B does not have any specific reporting obligations, nor does the contractor or subcontractor for the purposes of reporting for the Recovery.gov website.⁵

This is very troubling. If the government wants to ensure meaningful accountability, then we must have transparency at every level of transaction. It is not enough for citizens to know that the EPA made a grant to New Jersey, which in turn made a sub-grant to Newark. We also need to know that Newark made a payment to “Barone Sanitation,” which a citizen with local knowledge could recognize as a firm owned by a councilmember’s son-in-law.

Congress and the Administration should make it clear that in fact every dollar will be accounted for all the way down the chain. You should also make it clear that you will publish the full reports online in useful formats. Right now, despite the Act’s mandate for

⁴ American Recovery and Reinvestment Act of 2009 § 1512 [hereinafter ARRA].

⁵ Office of Management and Budget, Initial Implementation Guidance for the American Recovery and Reinvestment Act of 2009, Feb. 18, 2009, pages 14-15, *available at* <http://www.whitehouse.gov/omb/asset.aspx?AssetId=703>.

a transparency website, there is nothing in the Act or the Guidance guaranteeing that you will make the complete dataset of recipient reports available online.⁶

The second key issue is standardization. At this point, the OMB Guidance does not explain what fields we should expect Recovery.gov to publish, if and when spending reporting becomes available. That is, we don't know what the columns of our metaphorical spreadsheet will be; we don't know by what data fields we will be able to sort.

The Act requires that initial recipients report spending using "data elements required to comply with the Federal Funding and Transparency Act[.]"⁷ These include such elements as the name of the entity receiving the award, the amount of the award, program source, description, city and state, etc. But what data elements will actually be published has not been addressed. Nor do we know in what format we can expect it.

Those of us who plan to use Recovery.gov data for the public's benefit would like to know as soon as possible what exactly Recovery.gov will offer so that we can begin working on our software applications. Additionally, knowing ahead of time what standards are in the works will allow us to give feedback to the team building the government's transparency.

It is important to have data in a common structured format, ideally expressed in XML. This does not need to be the final, perfect, national standard, but a common open standard needs to be applied to all Recovery.gov datasets.

Closely related to standardization is the third issue of aggregation. When information sharing is standardized along critical dimensions of who, what, where, and when, it becomes much easier to automatically aggregate, or roll-up, information automatically with computers. The Recovery.gov website is already nicely aggregating public relations announcements from respective agencies. What we need now is more information about how the financial and performance data will be aggregated.

The fourth and final issue is centralized access to the data. The distributed nature of the projects means information will ultimately come from many sources, just as information on the Web comes from many sources. But for the information to be user-friendly, this information must be searchable from central locations by both humans and computers. Just as search engines provide one-stop search for the Web, citizens and application

⁶ While ARRA § 1512 (c) requires stimulus fund recipients to report to awarding agencies how they have spent those funds, there is arguably no requirement in the Act that those reports be made available to the public. ARRA § 1512 (d) state that agencies "shall make the information in reports submitted under subsection (c)" available on a website. (Emphasis added.) This is not the same as saying that agencies "shall make the reports submitted under subsection (c)" available on a website. It would be helpful to know that "information in reports" means that the actual reports, in full, will be disclosed.

⁷ ARRA § 1512 (c)(4)

developers should be able to go to one central location—presumably Recovery.gov—to find every single reporting dataset.⁸

The Act requires agencies to publish quarterly spending reports on “a website,”⁹ but does not specify which. Reading the Act, I assume that it is on the agencies’ own websites. The Guidance seems to confirm this, directing agencies to publish reports on a /recovery subdirectory of their main sites. Compliance with the Guidance will scatter reports in dozens of websites around the web.

This approach is not necessarily a bad thing. In fact, it might be a good way to ensure scalability. That said, if the central “library” at Recovery.gov does not house all datasets, then there must at least be one central and easy to use “card catalog” with references to all datasets. Again, it would be useful if we knew ahead of time what we might expect.

Conclusion

In his first day in office, the President signed a “Memorandum on Transparency and Open Government.”¹⁰ The three central themes of the memorandum—to which the President committed the Administration—are transparency, participation, and collaboration.

About public participation, the memorandum states that “Knowledge is widely dispersed in society, and public officials benefit from having access to that dispersed knowledge.” About collaboration, the memorandum states, “Executive departments and agencies should use innovative tools, methods, and systems to cooperate among themselves, across all levels of Government, and with nonprofit organizations, businesses, and individuals in the private sector.”

A community of interested and knowledgeable parties wants to participate and collaborate with the government to make the online disclosure of recovery spending data succeed. For example, a wide range of groups and individuals from all parts of the political spectrum have formed a Coalition for an Accountable Recovery, and I commend to you and the Administration the Coalition’s vision statement and proposed online transparency architecture, which are attached.¹¹

I’m happy to report that so far the Administration has been quite good at listening and taking suggestions from those of us who are interested in recovery data. Unfortunately, it has not been as good at sharing information in return, a necessity in true collaboration.

⁸ Providing centralized search does not imply a monopoly. The SEC’s Edgar database centralizes SEC filings, but third parties provide alternative, value-added centralized search, too.

⁹ ARRA § 1512 (d)

¹⁰ President Barack Obama, Memorandum for the Heads of Executive Departments and Agencies on Transparency and Open Government, Jan. 21, 2009, *available at* http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/

¹¹ Also available at Coalition for an Accountable Recovery, *at* <http://www.ombwatch.org/car>

There are many of us who would like to build accountability tools for the American people. But we need to know what we can expect from Recovery.gov, and the Administration has not been forthcoming.

We, the people, need to know that there will be—as there should be—disclosures of the funds spent at *every* level. We need to know where and how we will be able to access the data.

Ideally, the folks building Recovery.gov would be allowed to talk with us so we can learn what they are planning and we can tell them what we'd like to see included, but the most crucial thing the Administration must do is realize that it cannot release data related to this unprecedented expense of our money on the traditional limited "need to know" basis. It's our money. We're willing to track it and take part of the responsibility for seeing it is well spent, but to do so, we need the data.

Thank you.



A NATIONAL SYSTEM FOR COLLECTION AND DISSEMINATION OF GOVERNMENT SPENDING DATA

The need:

A comprehensive data collection and dissemination approach to government spending that helps the public understand how government money was used and whether it produced results.

The approach:

Transparency and accountability of Recovery Act funding are key elements, but not the sole issue. The main objective is to develop a system for transparency that applies to all government spending, starting with the Recovery Act.

As a starting point, USASpending.gov, a mandated federal website that requires disclosure of information about nearly all government spending, including who gets how much money for what purposes, should be the "data house" for Recovery Act (and other government) spending. The government now has experience with that framework and can quickly address any weaknesses in it. Using USASpending.gov as the "data house" will provide consistency for the public.

Government needs to employ Web 2.0 technologies for secure information sharing, collaboration and functionality of the web. At a minimum, government websites must provide:

- a. Access to the underlying raw data;
- b. Open programming interfaces that allow websites and developers to share data; and
- c. Timely, accurate data on how federal funds are spent.

Incorporating these principles, USASpending.gov would not be the sole source of information on spending, but should be the core source of data about who is getting how much money for other sites such as Recovery.gov, state websites, and non-government websites. In this manner, others sites could complement the "official" spending data with other appropriate information, including data about results.

Each recipient of federal funds, including their subcontractors, should be required to report electronically on the funds received from the federal government, including on how the funds were used with the aim of measuring results. The reports should use common standards and data definitions so that the reported information is compatible with the federal USASpending.gov and related websites such as Recovery.gov – and each recipient or sub-recipient should have a unique identifier to make data sharing easier. Websites created by states need to provide comparable data about state spending. An online tool and an automated hotline should be established for citizens and government workers to report any misuse of Recovery Act funds.

Moving Towards the Ultimate Objective:

1. **Make sure USASpending.gov has accurate, timely data.** USASpending.gov has made remarkable progress since its inception. Accordingly, it should be built upon as the platform for housing government spending data, including under the Recovery Act. However, among the improvements USASpending.gov needs to address, these three are top priorities:
 - a. *Ensuring agency spending data is up to date.* It appears some of the work will be placing greater pressure on agencies to report the data on time, and some is achieving faster loading of data obtained from agencies or the Federal Procurement Data System.
 - b. *Improving data quality.* There are a host of issues that must be addressed regarding quality of the spending data, but number one is to improve and make publicly available the parent ownership identifier. Without quality information on parent ownership it will be difficult to analyze the Recovery Act data or any spending data.
 - c. *Improving access to the data.* The Application Programming Interface (API) allows other websites to actively search and pull information from the website, thereby allowing the constantly updating data to be more easily used throughout the internet. However, there are at least two ways the API needs to be improved. First, the 1,000 record limit needs to be lifted so that Recovery.gov, state websites, and other entities can make maximum use of the API. Second, the parent company identifier must be part of the data that can be obtained through the API.

In addition to improving the API, USASpending.gov needs to improve its services for downloading data, either subsets of the data or the full database. The service for downloading data under specific searches is extremely useful, and a similar approach to broader data elements would be useful.
2. **Create the right method for tracking Recovery Act spending.** The funds appropriated under the new Recovery Act should be assigned an additional budget code reflecting their use [or designation] for recovery. In addition to other traditional spending codes and identifiers that designate the program or project the funding is for and the agency that is spending the money. This added code for Recovery Act funds will make it easy to pull the data from USASpending.gov for sites such as Recovery.gov.
3. **Make sure we have the right data.** The success of Recovery.gov rests with marrying the spending data from USASpending.gov with key data that will help the public, news media, analysts, and policymakers see that the money was spent wisely. Some Recovery Act spending is intended to create or preserve jobs, some to build longer-term investments that will help stimulate the economy, and some to create short-term stimulus. Whatever the purpose, there should be metrics that identify results.

For some funds, new disclosures will be necessary to evaluate the expenditures. For instance, because not everyone receives equal benefit from tax relief, it is important to disclose information about such provisions. This might start with disclosure in aggregate

form, but should progress over time to greater detail while never revealing personally identifiable information. Other funds, such as support for Medicaid, food stamps, and unemployment support, already have program-based performance measurement tools. These measures, usually housed in the respective federal agency, should be available through Recovery.gov.

A large portion of the Recovery Act will go to states for infrastructure and other projects that generate jobs. For this type of spending, we need:

- a. The activity/services to be provided under the contract, grant, loan or subsidy, including copies of the contract;
- b. Relevant performance measures (e.g., jobs saved or created, wages and benefits paid for such jobs, demographics of those hired); and
- c. Performance data about the recipient of federal funds (e.g., on-time performance, quality of work).

Strong requirements must be instituted for timely electronic reporting and posting of this data, preferably every 30 days after receiving Recovery Act funds.

Information about contractors lobbying executive branch officials at the state or federal level for money under the Recovery Act should be posted to Recovery.gov. Any communication with an executive branch official by an employee of an entity applying for funding or an individual representing an entity applying for funding must provide information about the communication, the cost of such communications, and the people involved.

4. **Make sure there are strong reporting requirements.** The federal government should explore expanding current reporting mechanisms. If, however, these mechanisms prove too limited, slow or difficult to use, or cannot be quickly improved, then new reporting structures should be established as quickly as possible. Distribution of federal funds should be conditioned on satisfactory reporting by recipients and sub-recipients of federal funds.

More specifically, there should be:

- a. Clear definitions of reporting requirements, including jobs saved and created.
- b. Standards for reporting so that data can be manipulated and used quickly. One common open standard is eXtensible Business Reporting Language (XBRL), which uses XML syntax and related XML technologies to communicate business and financial information.
- c. Requirements for open competition for funds, including money spent by states. Any exceptions to open competition should be identified on the Recovery.gov website accompanied with a justification for why open competition could not be done.
- d. Requirements to electronically report directly to the federal government as well as to the state or local government if a recipient of pass-through funding.

- e. Each entity receiving federal funds, including sub-recipients, should be assigned a unique identifier for award and for entity. Each entity's unique identifier should be correlated with unique identifiers for parent company.

Because states have a critical role in spending the Recovery Act funds as well as other federal funds, it is essential for the head of the Office of E-Government and Information Technology within OMB to meet with states and their representatives to develop common ground on reporting requirements. These reporting requirements should be flexible enough so that states can employ them on their websites and their own state spending. One issue that should be resolved is how to report data about federal spending that is co-mingled with state funds. (While this may not be a major issue for Recovery Act funding, it will be for other federal appropriations.) States should be encouraged to produce their own searchable websites of their spending, ideally pulling the information directly from the federal website through an API or other open programming interfaces.¹

5. **Ensure user friendly services on the website.** There are a variety of services that should be implemented. Three top items include:
 - a. There should be a section on website for whistleblowers and others to identify misuse of funds. The individual posting information should have the option of making the information public or confidential. There needs to be dedicated staff within government reviewing and acting on this information.
 - b. Information on the website needs to be searchable by recipient of federal funds, geography, project type, federal agency, number and type of jobs, and other criteria. The data should be geo-coded for mapping applications.
 - c. Beyond posting data on the website, the Recovery.gov website should have information about oversight reports as required by the law. There should be a section of the website inviting public feedback on site improvement, data mash-ups, and other innovations.
6. **Provide resources for data analysis.** Not only should the federal government be analyzing the data collected about Recovery Act spending, but they should provide resources to states to conduct state-specific reviews.

¹ It may be that a requirement for uniform state posting of stimulus information is the best way to ensure consistent state level reporting.



March 5, 2009

Steering Committee
(in formation)

Gary D. Bass, Co-Chair
OMB Watch

Danielle Brian, Oversight Chair
Project on Government
Oversight

Ellen Miller, Technology Issues
Sunlight Foundation

Greg LeRoy, Co-Chair
Good Jobs First

Interim Recovery.gov Data Reporting Architecture

On February 12, the Coalition for an Accountable Recovery (CAR) provided a vision statement¹ for developing a national collection and dissemination system to monitor government spending. This document expands on that vision by providing the first steps in building the architecture for such a system, starting with federal responsibilities in implementing the American Recovery and Reinvestment Act (herein called the Recovery Act).

The architecture in this paper starts from the activities outlined in OMB Director Peter Orszag's memo to agency heads on implementing the Recovery Act (herein called OMB Guidance).² It makes several other assumptions, including:

- The data provided through USASpending.gov will continue to be disclosed, even as the website and the data may be improved.
- That each recipient of Recovery Act funds has an obligation to report on use of those funds. Currently the OMB Guidance only requires the prime recipient and the first sub-recipient to report. It does not require those receiving money from the sub-recipient to report, which we think is a major problem that requires correction. Given the Recovery Act's specific definition of "recipient," this document will refer to all organizations who receive more than \$25,000 in Recovery funds as "ultimate organizational end users."
- Identifying who gets how much money for what purposes will be a major governmental accomplishment. However, we believe such information needs to be combined with information about what the spending achieved, even beyond the number of jobs saved and created as called for in the OMB Guidance. Such information can be used to demonstrate the accomplishments of government funding, just as it can be used to draw attention to waste, fraud and abuse.
- Our hope is that the Obama administration will use this performance data as a learning tool to improve the quality and effectiveness of federal programs. Those involved in the delivery of government services seem to draw public attention only for failures – this "gotcha" approach is manifest in scorecards of programs. Yet a good

¹ http://www.ombwatch.org/files/budget/CAR_Govt_Spending_Disclosure_Model.pdf

² Peter R. Orszag, "Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009," M-09-10, February 18, 2009, available at <http://www.whitehouse.gov/omb/asset.aspx?AssetId=703>

monitoring system doesn't just give out grades, it also uses interim goals so that self-correction and improvement can be undertaken.

- The Recovery Act depends heavily upon state and local governments, as well as corporations and nonprofit organizations, over which the federal government may have little control. The data collected by the federal government will reveal weaknesses (as well as strengths) in the American governance infrastructure that could be valuable on at least two fronts. First, the federal government should use interactive tools to pursue discussion on how the data from this accountability initiative can help improve governance structures. Second, the federal government needs to work collaboratively with state and local governments, as well as corporations and nonprofits, to identify how to improve accountability and transparency for future spending beyond the Recovery Act.
- No single website will serve all the needs of the public. Therefore, Recovery.gov data must be organized in ways that can be redistributed to states and non-governmental organizations in simple, machine-readable formats. We assume that non-governmental organizations will add context to the data that is disseminated to help the government better understand what works.
- The model described herein assumes that federal agencies will continue to report awarded grants and contracts to USASpending.gov and that recipients, sub-recipients, sub-sub-recipients, etc. report to a central reporting system on how Recovery funds were used and what the end results of those expenditures were (see graphic on page 11).

This report is divided into four sections:

1. Data Elements: The data elements that should be collected by the federal government
2. Reporting Architecture: The methods for reporting of the data
3. Data Access: The means by which machines and people will consume the data
4. Changes in Policy: The changes to laws and OMB guidance that may be necessary to enact the model described herein

1. Data Elements

The choice of what data are collected is at the heart of determining whether Recovery.gov will be groundbreaking in building new levels of transparency and accountability. Requesting the right data elements will be critical to ensuring that the recovery website can answer the questions the public will have about the government's actions. A great deal of information will need to be tracked for each transaction/project/ultimate organizational end user, some being information that has never been collected and some being information that has been collected but not linked to this type of accountability endeavor. While we realize that requiring the reporting of numerous data elements can slow down the process, only with sufficient information will the recovery data be useful to taxpayers, combined with other information sources and analyzed by other groups. Accordingly, we have carefully balanced the burden imposed on those who must report with the importance of accurate, accountable information to ensure taxpayer dollars are wisely spent.

We strongly believe that we have found the right balance in the type of data elements that must be collected. At the same time, we understand that there may be ways of automating the

collection of information to minimize the burden on those reporting – and we are very supportive of such approaches.

1.1 Use USASpending.gov data fields

As a starting point we recommend using the data elements tracked in USASpending.gov for contracts, grants, and loans. However, just duplicating the data elements from this database would be insufficient to accomplish the level of transparency called for by the Recovery Act.

1.2 Use of Identifiers

Identifiers will be essential to tracking the flow of money throughout the country. The recovery data will have to include unique identifications (names or numbers) for all ultimate organizational end users (including sub-recipients), projects, geographic regions (cities, counties, congressional districts, street addresses), program areas, etc. Ensuring consistency in the use of these identifiers will be a challenge. Without a methodology such as auto-completion fields, pull down menus, or confirmation fields, simple misspellings and data entry mistakes will make federal funds disappear in the system.

With so many entities reporting data, it will be critical to provide clear guidance and definitions for all fields. Reports must understand what is being asked for and how they should be reporting each field. Logical groupings into basic categories such as entity identification (name, parent company, industry, etc.), expenditure elements (amount, date of payment, etc.), contract specific (competition, contract type, etc.), and grant specific (program area, etc.) will help those reporting better understand what is being sought in each group.

1.3 General Data Elements

- 1.3.1 Geographic Information.* Ultimate organizational end users of Recovery Act funds should report information about where the agency or company is located, as well as the primary service location. It is critical that the public obtains the primary service location for the specific project funded, whether that project be a bridge or a research lab, and not just where the ultimate organizational end user's (public or private) address is. Geographic information should be reported by congressional district, street address, ZIP code, and census tract. Some information, such as census tract, may not be readily known to those who must report. In such cases, software may be able to translate street addresses into census tract automatically, thereby minimizing burden imposed on those who must report.
- 1.3.2 Full Contract Information.* The OMB Guidance calls for contract summaries on all contracts larger than \$500,000 and those awarded without open competition. This is significantly better than nothing, but is not fully satisfactory. The full contract (with redactions, if necessary), and the Request for Proposals should be posted.
- 1.3.3 How Money Is Spent.* The total amount of the individual Recovery Act award that is the subject of the report and the amount spent or committed by the reporter to date, along with information about the number of jobs created or retained, wages paid for those jobs, and other benefits of the award. (More on jobs is provided below in 1.4.)

- 1.3.4 *Meeting Success Metrics.* Whether the award is on track to meet the established metrics for success, and, if not, what needs to change to meet the goals.
- 1.3.5 *Other Benefits of Spending.* There should be reports of other intended benefits of Recovery Act funding, such as energy efficiency improvements, avoided carbon dioxide emissions, and students' academic progress, for example.
- 1.3.6 *Point of Contact.* For each entity that receives or administers Recovery Act funds, the identity and contact information of the individual designated as its primary coordinator for recovery-related efforts.
- 1.3.7 *Labor Agreements.* Any labor agreements or memoranda of understanding regarding labor practices related to work conducted with Recovery Act funds should be made publicly available.
- 1.3.8 *Uniformity for Similar Types of Spending.* There needs to be clear instructions for different types of spending: formula grants, discretionary grants, mandatory spending, contracts, etc. Each similar type of financial award should have similar core reporting requirements.

1.4 Jobs Data

Job creation is one of the primary goals of the Recovery Act. In this section we offer some initial suggestions on how to track the employment impact of the act in the most complete and effective way. Because we believe that job quality is inseparable from job creation, we also offer some suggestions on data collection relating to wages, benefits and hours.

1.4.1 Estimates vs. Reporting

The Recovery Act and the initial OMB Guidance refer to an obligation on the part of recipients to provide *estimates* of jobs created and retained. This needs clarification. We want to be sure the use of that term is not seen as diminishing the obligation of ultimate organizational end users to keep careful records of their activities and to provide reports that feed into Recovery.gov. We trust that all contractors and subcontractors hired with Recovery Act funds will be required to provide actual data based on their payroll records.

We understand that employers may have to resort to estimating when it comes to determining, for example, how many workers can be considered to have been retained as a result of Recovery Act-related business (especially when a firm has both Recovery Act and non-Recovery Act projects). What we want to avoid are situations in which government agencies substitute their own estimates of job creation and retention for actual payroll data from employers.

1.4.2 Who Does the Job Reporting?

The OMB Guidance gives the impression that reporting requirements will extend no farther than the states. Particularly in the case of job data, this is not adequate. An obligation to report jobs data should extend to all final employers receiving Recovery Act funds from a federal agency, from state agencies through

which the federal funds flow, or from a contractor hired by one of those federal or state agencies. This means that all contractors and subcontractors on Recovery Act-funded projects should be reporting their jobs data.

A more complicated question is whether to extend the reporting requirement to firms that serve as suppliers to Recovery Act contractors and subcontractors, which generate what are known as "upstream" ripple effect jobs. Their job creation and retention will be properly seen as an indirect impact of Recovery Act spending, but it may not be practical to expect those companies to report. The same would go for jobs generated by the spending power of workers directly created by Recovery Act funding, known as "downstream" ripple effect jobs. To avoid inflated ripple-effect claims, credible economic input-output models, such as the RIMS-II Series of the Bureau of Economic Analysis, can be employed.

Also to be resolved is where the reporting responsibility lies with employers that have multiple worksites. The Multiple Worksite Reports used by the Bureau of Labor Statistics could serve as a model. The tagging of corporate entities will make it easier to determine relationships among different reporters.

1.4.3 What Gets Reported?

- *Hours of work.* Given the lack of a universal definition of a "job," we recommend reporting on the total number of hours of work performed on Recovery Act projects. The number of workers (including both employees and independent contractors) putting in those hours should also be reported. Together, these two figures will allow one to determine both the number of full-time equivalent positions being generated by Recovery Act funding and the average number of hours for each worker (which will indicate whether excessive overtime or excessive use of part-timers is taking place).
- *Creation vs. Retention.* Given that the Recovery Act is concerned with both job creation and retention, employers should be required to divide the work time in two categories: hours of work on new activities that would not be occurring but for the existence of Recovery Act funding, and hours of work on previously occurring activities that would not be continuing but for the existence of Recovery Act funding. Clearly, this is an area in which employers will have to engage in some degree of estimation, but they should be given some guidance. For example, the U.S. Department of Commerce Economic Development Administration states that for a job to be claimed as retained, its loss must be "imminent and demonstrable."
- *Type of work.* If employers are allowed to combine all kinds of jobs into a single number, that will reveal little about the nature of any specific jobs being created or retained by Recovery Act. Employers should be required to break down their work-time reporting into a short list of occupational categories, such as those used in the Equal Employment Opportunity Commission's EEO-1 Survey.
- *Wage levels.* For each of those occupational categories, the employer should be required to report the total payroll and to divide it by the total number of hours to show the average hourly pay for each group. Criteria for calculating the payroll could

follow the procedures used by the Bureau of Labor Statistics in its monthly Establishment Survey.

- *Healthcare coverage.* Given the Obama Administration's emphasis on reducing the number of Americans without medical insurance, employers should be required to report how many hours of work in each group were performed by workers receiving company-provided health insurance.
- *Demographic characteristics.* It is a matter of great concern that Recovery Act funds end up helping all sectors of the population. For this reason, employers need to provide demographic information on the workers they are hiring and retaining. Here, too, the EEO-1 Survey is a long-established model.

1.4.4 Mechanics of Reporting

- *Frequency.* Because both policymakers and the public need current information on the uses of Recovery Act spending, we recommend that Recovery Act employers be required to report on job creation and retention on a monthly basis. This would be consistent, for example, with the Bureau of Labor Statistics Establishment Survey, which covers about 150,000 firms.
- *Certification of Accuracy.* In the same way that corporate executives must now certify the accuracy of financial reports submitted to the Securities and Exchange Commission, we recommend that a certification system be adopted for Recovery Act reporting.
- *Validation and Auditing.* While we recommend that all ultimate organizational end users of Recovery Act funds and contracts report directly to Recovery.gov and that these raw reports be publicly accessible online, we also recommend that state and federal agencies review at least a portion of the submissions to determine whether the information is plausible given the nature and size of the project. We assume that more detailed audits of a portion of ultimate organizational end users will be necessary to safeguard against waste, fraud and abuse.

1.5 Other Program-Specific Data

1.5.1 General State Information

Key baseline data are needed for each state during state fiscal years 08, 09, 10 and 11, including:

- State reserve funds;
- Total general fund expenditures, and expenditures specifically in elementary and secondary education (K-12), higher education, Medicaid/SCHIP, human services, transportation, corrections, and other areas;
- Per-pupil state K-12 expenditures as well as distribution by school districts;
- Changes in Medicaid eligibility and services with 2008 as a baseline;
- Enacted changes in taxes and fees, including impact on annual revenues; and
- Actual revenue collections by quarter, both with and without adjustment for legislated changes.

This baseline information is vitally important to better understand how states are using Recovery Act funds in the context of the state's own resources. Simply measuring jobs saved or created will not capture displacement of state funding.

1.5.2 Surface Transportation Program

For the \$27.5 billion in the Recovery Act devoted to the Surface Transportation Program, states should report the net number of new lane miles, if any, generated by projects. The key is to know whether resources are being used to fix existing roads and bridges before devoting resources to building new capacity. In addition to tracking new highway lane miles, new transit capacity should be tracked via new service mileage for fixed guideways and expanded fleet capacity for all transit modes (in comparison to replacement fleet purchases). Additionally, there should be reporting on whether funds have been "flexed" over to other programs such as public transit, intercity rail, or pedestrian improvements as allowed by law. This type of data will allow better informed debate over transportation policy in terms of whether states are deploying money in ways that will increase or decrease our nation's dependence on foreign oil.

1.5.3 School Construction

It is important to know how much of the discretionary funds in the \$53.6 billion education State Fiscal Stabilization Fund goes to pay for school building improvements, both for elementary and secondary schools and for higher education and where those activities occurred. Thus, funds associated with education construction should be coded as "infrastructure" so it can be monitored. To augment the data from USASpending.gov, the direct reporting needs to include:

- The name of the school district (including school) or college/university, along with the code assigned from the Common Core of Data, which is the Department of Education's primary database on public elementary and secondary education in the United States.
- Project justification such as whether it was to save energy, meet safety and health codes, upgrade building components and systems, enhance education design, reduce crowding, or increase building utilization.
- Expected life of improvement.
- Whether matching funds were involved, how much, and source of the matching funds.
- With regards to any contract, in addition to the original contract, owner-initiated and contractor-initiated change orders, and the ultimate size of the contract.

1.5.4 Agency Goals

The Recovery Act enumerates a set of goals for each agency that is charged with disbursing stimulus funds. For example, the Assistant Secretary of Commerce is tasked with establishing a national broadband service development and expansion program that is to "provide improved access to broadband service to consumers residing in underserved areas of the United State." For every goal specified in the Recovery Act, the responsible agency should report whether that goal has been met, and if not, what the completion status of that achieving that goal is.

1.5.5 Tax expenditures

For entities receiving tax breaks authorized by the Recovery Act, the IRS should require a special code with the clear intention to make such information publicly available. All entities seeking tax relief under the Recovery Act should be informed that the amount of tax reduction will be disclosed. Individuals should be excluded from this disclosure requirement.

2. Reporting Architecture

The current system for reporting of grants and contracts relies on federal agencies reporting such information to the USASpending.gov database. For contracts, the Federal Procurement Data System is used. For financial assistance, such as grants, the Federal Assistance Award Data System is used.³ Thus, USASpending.gov provides information about funds that have been distributed.

2.1 All Ultimate Organizational End Users of Recovery Act Money Must Report

To complement federal agency reporting to USASpending.gov, the government should create a central reporting mechanism to which all ultimate organizational end users of Recovery Act funding must register and report. All recipients and sub-recipients, regardless of how many layers removed from the initial federal dispersal should be required to report to the system for any Recovery Act money over \$25,000. This *de minimis* will eliminate unnecessary reporting by very small subcontractors or suppliers. All reporting should be done through digitally secure communications.

2.2 Create a Centralized Registration System

The OMB Guidance requires direct recipients of federal funds to register under the Central Contractor Registration (CCR). We are supportive of using a central registry. However, three changes need to occur. First, all ultimate organizational end users of federal funds need to register, not just direct recipients of federal funds. All registrants must provide information that CCR already collects, including street address, NAICS, and a host of other data.

Second, there needs to be an improved identification system, particularly for entity ID and parent company ID. Currently, applicants for federal funding must obtain a Data Universal Numbering System (DUNS) number, a nine digit unique number given by Dun & Bradstreet that identifies the organization. A DUNS number of the parent company is also reported on the CCR. The problem is that the DUNS number is a private sector identifying system, which means that the government has little control over how the numbers are assigned or for that matter disclosed. Instead, the federal government should have its own unique identifier that can be made publicly accessible, and recipients of federal funds, whether direct or indirect, must keep their profile up to date in the registry, including changes in parent company identifier (e.g., when

³ Some agencies are participating in FAADS Plus, which expedites the information being sent to USASpending.gov and includes data elements not collected through FAADS. See the OMB memo from Robert Shea, Associate Director, to agency heads, "Guidance on Future Data Submissions under the Federal Funding Accountability and Transparency Act (Transparency Act)," March 6, 2008, M-08-12, at <http://georgewbush-whitehouse.archives.gov/omb/memoranda/fy2008/m08-12.pdf>.

a company is bought out or merges). Accuracy and transparency in the parent identifier is essential for tying together different databases in government.

Third, the federal government should coordinate with states so that the unique identifier is used in tracking state grants and contracts.

2.3 Create a Centralized Reporting System

Direct reporting by ultimate organizational end users into a central system, rather than reporting back up through the chain of funding, will eliminate the possibility that data will be manipulated or delayed by agencies or companies higher in the chain. When data are "cleaned" to identify and correct errors, the raw reported data should also be preserved. A central reporting system ensures the raw data are actually raw and not manipulated before the federal government receives it.

When a financial award is made, a unique award number must be assigned. This is separate and beyond the identifier that is it Recovery Act funding. This unique Award ID must follow the money wherever it goes. If a state receives Award ID 100, and provides a sub-award to the city, the sub-award should be identified as Award ID 100-A. If the city provides three contracts, then each contractor's funds should be identified as part of Award ID 100 (e.g., Award ID 100-B, 100-C, etc.). In this manner, when any ultimate organizational end user reports on their use of the funds, the original source of the award can easily be identified.

There may be systems, such as USASpending.gov, that can be expanded to become this reporting system. But building an entirely new system, though difficult and time consuming, might avoid the many limitations that those systems currently contain. Since the Recovery Act already requires companies receiving stimulus money to register with the federal CCR, it may also serve as an ideal location for a central reporting system. Locating a reporting system for spending, jobs and results at the same place companies register their name, location and other information could create a useful synergy that would make it easier to ensure data quality.

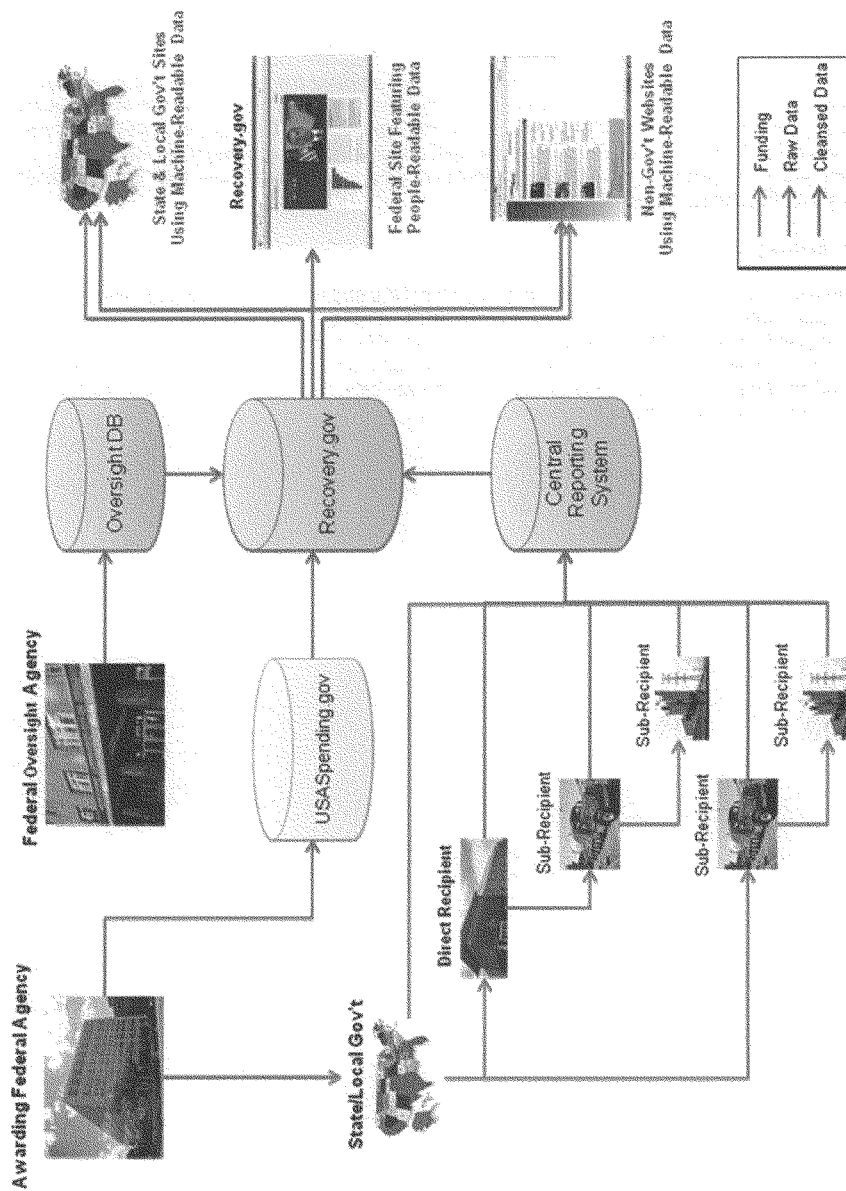
2.4 Reporting Formats

All reporting should be done electronically for maximum speed and accuracy. The federal government must establish clear standards and formatting for the electronic reporting to avoid confusion and misreporting. One standard that is increasingly used – and the SEC has familiarity with using – is eXtensible Business Reporting Language (XBRL). XBRL is based on XML (eXtensible Markup Language), a widely accepted standard, that has the ability to "tag" or code each element of a Recovery Act report with information such as description, amount spent, jobs created or saved, etc., so that it is easy to identify and understand for users of the information. All the elements are grouped together into a collection of reporting terms called a "taxonomy". XBRL is extensible, meaning that the terms available for use can be customized so that companies using XBRL can create their own elements – called "extensions" – to describe a unique reporting situation. XBRL is not an accounting standard and will not change what is reported, only how it's reported. The XML tagging means that the information in a report is computer-readable and can be more easily extracted, searched and analyzed by users of that information. The information can also then be reliably extracted and analyzed across companies with no manual intervention. Developing this standard is essential for data interoperability and can also improve data quality.

Considering the wide variety of formats agencies and companies may be using to track the Recovery Act data, the federal government should not mandate the software used for reporting information. Instead it should focus on the standard. Thus, the issue is not whether Microsoft Word or Excel is used to maintain the data, but rather whether the information is consistently coded in a standard format, such as XBRL. At the same time, the government should establish a webform for reporting directly into the central reporting system. This would allow a variety of vendors, institutions, and open source developers to create new reporting tools for filing information. For example, SAP or Oracle could create a module that allows their systems to file data with the central reporting system.

2.5 Merging Data

With accurate company and parent company identifiers and other identifiers (e.g., award identifier), along with a data standard such as XBRL, it will be possible to merge data from USASpending.gov and the central reporting system. Recovery.gov should be the website where these merged data sets come together. (When moving beyond Recovery Act funding, USASpending.gov should be the site for merged data sets. However, that website will need substantial overhaul to make that happen.)



3. Data Access

3.1 Data Standards

To help with existing and new data fields, we suggest that OMB establish a data dictionary. Multiple agencies, 50 states, hundreds of municipalities, and thousands of contractors will be exchanging information, and under this architecture, it will all converge in one location. Without universally accepted parameters that explicitly define each element of data, computer systems and humans alike will be confused about what information exactly is being exchanged or reported, rendering Recovery.gov virtually unusable.

When a library of required and optional collected data is established, a data dictionary that explicitly defines the parameters of each data field (e.g. "A 'city' is no more than 35 characters and describes a unified, geographically defined, autonomous municipal entity") should be promulgated before agencies, states, localities, and contractors begin implementing reporting systems.

The federal government should encourage states to adopt federal spending reporting data standards to facilitate not only the development of individual state spending data collection systems, but to facilitate the electronic exchange of data between states and the federal government. A universal spending data dictionary would also facilitate the development of third-party data analysis tools. For example, a nonprofit research advocacy organization could produce a website like FedSpending.org that could easily be used for state spending analysis and adapted for multiple states.

3.2 Machine-Readable Data

It is of primary importance that all that data that are collected through the Recovery.gov be available in an electronic format and accessed from Recovery.gov by machines. The underlying details of the implementation of such access methods are better left to a more technical document, but what does get implemented should function as an open programming interface such as an Application Programming Interface (API). An API is a commonly used method by which computers exchange information. Enabling such machine-readable access to Recovery.gov data through an API is essential to allowing outside stakeholders to analyze collected data. In addition to API access, Recovery.gov should also provide bulk access to structured data. Digital copies of contracts as well as CSV or Microsoft Excel files, QuickBooks files or other reporting application files can be easily organized into simple directory structures and made accessible via FTP or HTTP.

But making the data available via APIs or FTP must also be accompanied by clear documentation and help files to assist developers in building applications around Recovery.gov data. Developers should also have access to an address to which they can email questions to a Recovery.gov expert.

3.3 Raw-Data Access

Human-created data will be imperfect even when a standard such as XBRL is employed. Data standards and machine access to data, while decreasing the probability that the data will be corrupted, cannot eliminate inevitable errors in human data entry. Data entered by humans, scanned in from bar codes, or transcribed from paper documents are considered "raw" data.

They will contain trivial (e.g. "Street" instead of "Lane") and substantial errors (e.g. "\$1,000,000" instead of "\$10,000,000"). There are a host of data correction tools that can be built into the central reporting system in order to standardize information. For example, it will not be unusual for someone to abbreviate "association" with "assn" while another filer will use "assoc". The reporting system should normalize these terms to a common standard. Errors in company spelling, such as "Acme" and "Acme Inc." and "Acme Inc" can be addressed through the company and parent identifiers.

Simple data corrections will be necessary to improve the accuracy of the data, but transparency advocates have concerns over the degree to which the data will be "cleaned." On the one hand, "dirty" data may do more to obstruct transparency in that the reported data do not reflect the reality of the world the data are supposed to describe. On the other hand, cleansing of data provides an opportunity for government officials to insert inaccurate information. For example, a project completion date might be altered by a month to create the appearance of timely execution. To elide this problem, both sets of data should be made available, and both sets should be associated with a set of provisos indicating the potential problems associated with each.

3.4 *People Readable Access*

3.4.1 *Searchability*

Once the data are collected from the various data repositories (USASpending.gov, Central Reporting System, and the Oversight database), the data should be displayed on the Recovery.gov website in a manner that allows non-expert users to easily observe the flow of federal funds and the impact those funds are having. Two dimensions should be paramount in making decisions how to display information on Recovery.gov: data knowledge of the user and technology skills of the user. Recovery.gov should serve those at the low end of both dimensions, but not at the expense of the high end for each dimension.

At a minimum, the data should be searchable by:

- Ultimate Organizational End Users of federal funds
- Geography (state, congressional district, street address, ZIP code, census tract)
- Project type
- Federal agency
- Number and type of jobs
- Dollar amount
- Other criteria

3.4.2 *Display*

Federal spending data should be displayed in a format similar, but not necessarily identical to the federal government's USASpending.gov. Although the user interface of the site could be improved, it should serve as the basis for how the data should be displayed. The principle is that the public should be able to search by federal agency, company, state or city, for example, to obtain aggregate information and then drill down on specific transactions.

Recovery.gov initially provided expectations in terms of jobs created or saved in each state that will result from Recovery Act funding. Development of these expectations or interim goals is laudatory (see 1.5.4 above). The aggregate data displayed on Recovery.gov should be juxtaposed against these expectations or goals.

Not only should the federal government be analyzing the data collected about Recovery Act spending, but they should provide resources to states to conduct state-specific reviews.

3.4.3 Upstream Communication

While providing information about federal spending may be the sole purpose of Recovery.gov, we believe more can be achieved. In addition to posting oversight reports and findings by various government offices, as required by law, Recovery.gov should also serve as an avenue by which citizens can send information to the federal government. There are at least three areas for interactivity:

- *Site Improvements.* There should be a section of the website inviting public feedback on site improvement, new “data mash-ups,” and other innovations. There may be issues that need to be solved and inviting the public to offer solutions, data collections, or crowdsourcing fixes would be consistent with President Obama’s memo to agency heads issued on Jan. 21 that said two of three principles guiding his administration will be citizen participation and collaboration.
- *Anonymous Reporting of Misuse of Funds.* Recovery.gov should provide an online form and telephone number for whistleblowers and others to identify waste, fraud, and abuse. Allowing anonymous reporting of such misuse of funds will be critical. Additionally, there should be dedicated staff within government reviewing and acting on this information.
- *Discussion of Government Successes.* Recovery.gov should not become a public relations gloss for Recovery Act spending. But when government has achieved outcomes, there should be an opportunity for public discourse about the success and the lessons learned from that success. A key part of Recovery.gov should be presenting a theme that government needs to learn from both successes and failures in order to make things work better when moving forward.
- *Macro Measures.* Recovery.gov should have a tracking of various key measures of success, including employment statistics.

4. Changes in Policy

Changes in federal contracting regulations, OMB Guidance, and public laws may be required to implement this architecture. This subject deserves further study, but upon superficial examination it appears that several aspects of this architecture would require policy changes.

4.1 Reporting Requirements for Sub-Recipients

The initial OMB Guidance requires that federal award data be collected from the first level sub-recipient only. In the example given in the Guidance, a city that receives federal funds from a state would be the last organizational user to report on the use of federal funds. The architecture outlined herein requires that any organization that receive funds from the city – such as a contractor hired to build a school and that contractor's subcontractors and suppliers – be required to report on their use of federal funds if above a *de minimis* amount of money.

4.2 Timeliness of Reporting

Current law requires that federal award information be uploaded to USASpending.gov no more than 30 days after a contract or grant is awarded. Like the requirements of data uploads to USASpending.gov, uploads to Recovery.gov should be no later than 30 days after receipt of an award. However, the Recovery Act and the initial OMB Guidance, in accord with the law, require that agencies report on Recovery Act fund usage on a quarterly basis.

4.3 Federal Agency Lobbying Disclosure

Current law does not require that the federal government disclose efforts undertaken by potential award recipients or their agents in persuading a federal agency to award a contract or grant to that recipient. The information that is collected by the federal agencies is minimal and is not necessarily stored in an electronic format. President Obama's Executive Order on "Ethics Commitments by Executive Branch Personnel" calls for ramped up disclosure of such lobbying activities. The administration should implement such reporting and disclosure; that information should be on USASpending.gov or Recovery.gov so that it is clear what types of influences may have gone into the award of federal funds.

4.4 Contractor Misconduct Information

The public has a right to know with whom the government does business. Too often contractors are not complying with tax requirements or fail to properly implement federal regulations related to worker safety or environmental protections, for example. With an accurate company and parent company identifier, it is possible to combine databases from various federal agencies to better describe who receives federal funds. Such a database can also help government contract managers who would be well served to have the ability to search a contractor misconduct database to identify potential risks.

Chairman TOWNS. Thank you very much. Let me thank all of you for your testimony. Let me begin with you, Mr. Brito. Since you just finished up, I will come right back to you. Would you agree that technology is not a barrier to solving problems?

Mr. BRITO. It is not a barrier to solving problems, no. I mean, it is a barrier to the extent that there are legacy systems in place in Government and at the State level that might not be quite at the speed they need to be to report the data. To that extent, they could be a barrier. But it is a barrier that could be overcome.

Chairman TOWNS. Let me put this to you, Mr. Holland, Mr. Heer, and also Mr. Gagan. As you may know, there are strong provisions in the Recovery Act protecting State, local, and contractor employees that report fraud and waste in connection with stimulus spending. Do you have a broad plan on how to harness citizen and whistleblower involvement in keeping an eye on stimulus spending? Do you plan to publicize the new whistleblower protections in order to encourage whistleblowers to come forward? Let me just go down the row. Let me start with you, Mr. Holland.

Mr. HOLLAND. Mr. Chairman, I think that the best way to address the fraud and abuse that might occur is to catch it before it begins, which is exactly what I said in my statement. And it is probably to rely more upon Mr. Gagan's people, the procurement officers, to go back and take a look at what we said in our single audits where there were weaknesses in internal controls in procurement and in contracting policies. Strengthen the procurement policies that might be out there to avoid any fraud and abuse that might take place. But as it does take place, auditors at the State level are always prepared to disclose any fraud, any abuse, any waste that they come across. We do so already.

Chairman TOWNS. Strengthen the procurement policies, what does that really mean?

Mr. GRAGAN. I think it means really that the policies generally, as I mentioned in my oral remarks, are in place. They need to be reemphasized. People need to be, in many cases, trained again on the meaning of those policies. I would suggest to your specific question, Mr. Chairman, that we have whistleblower protections in place. I think that we have very good ones in the city of Washington, DC, and the other two very large governments that I have had the privilege of being an official in. I would say that we need to reemphasize them.

As we try now, one of our greatest antiseptics to anything going wrong here is just massive communication, whether it is by Web sites or all the things Mr. Brito said and many others of us have said. Let us communicate more aggressively. Let us make it so easy for any interested member, whether it is the public or the press or any oversight function that has a direct role in the process of overseeing the expenditure of funds, let us make it ultra easy for them to see where every dollar goes, and not only that but to inquire as to the legitimacy of any expenditure. So I think now is as good a time as any, a better time probably than most, to reemphasize those whistleblower protections that I think we do have in place.

Chairman TOWNS. Do you think it is easier now to do it with Devaney coming in the picture or does that make it more difficult?

Mr. GRAGAN. I will be honest with you, I don't know the specifics of exactly how these roles are going to hash out. I think the idea of putting an organization in place to be responsible as a single point of information, if you will—a single point of truth, I will call it because I love that phrase—I think that is the right idea. And we have to make it work.

Chairman TOWNS. Mr. Heer.

Mr. HEER. Mr. Chairman, I would agree that this is a time to reinforce existing practices dealing with whistleblowers. But I would also suggest that it is a time for local governments to maybe think about starting up hotlines and providing whistleblower protections through their local legislation. We started our hotline in 1994. We were not the first.

But there are a lot of governments that have just started very recently bringing up hotlines at the local level. The city of Milwaukee is only a couple years old. The State of Wisconsin just put one up last year. And if you are going to take information from people alleging fraud, you need to have well-positioned whistleblower protection. So I think that we will use this opportunity to try and reinforce and expand the use of hotlines at the local government level.

Chairman TOWNS. One of the things that has been talked about a great deal is the inability to communicate. And, of course, I suggested to the Vice President to call in and have a summit to see in terms of a technology standpoint if we can't sort of have everybody on the same page. And, of course, I am being discouraged at the fact that they are saying that I am being unrealistic. I mean, this is coming from professionals. I mean, and I am to the point where I am saying, why can't we do this? I would like to just sort of get some opinions on it. Mr. Brito, you touched upon it earlier. What do you think would stop us from doing it?

Mr. BRITO. Well, I mean, like I said, there are going to be some legacy systems. And by that I mean old computers that don't have the capability to produce the sort of data formats that we need. But aside from that, I think that you can get the data out in a useful enough format that others can take and aggregate and make it useful on Recovery.gov and other Web sites.

So, I guess to answer your question directly, no, technology should not stop us. This is an unprecedented amount of money that we are spending. It is the American people's money and they have a right to know how it is being spent. And the best whistleblowers are the folks that don't know they are whistleblowers. If they can go online, look up projects that are in their neighborhoods, and say, "boy, I know something about this project," that is what is important.

Chairman TOWNS. Any other comments before I yield?

Mr. HOLLAND. I would add to this that at the Federal level, rightfully so, you talk in trillions and billions. At the State level, we talk in billions and millions. At Jerry's level, they talk in millions and thousands. When we start inputting that information at the millions and thousands level across the country, with lots of different people having responsibility for inputting that data—deciding what is a job created, what is not a job created—it may be different in Springfield, IL, versus Brooklyn. It may be different in Miami or in Chicago.

It is going to be different all over the place. It is a very complex issue with lots of bits of information that at some point you are going to want to look at and say, it all is the same. And that is a challenge before us, to create all that information the same across the country so that the proper analysis can be done. And it is not an easy job to do. I caution you to have a realistic approach.

When you start thinking about it, just that people are going to put it in, that people are going to say this is the spending for this 2 week period, it is going to vary all over the country. It is a real challenge at the grassroots data entry level. And ultimately it is going to get to you, but you want it to be right.

Chairman TOWNS. Yes, but the reason I am so concerned is that everybody is saying that \$55 billion will be wasted if we are not careful. And, of course, that to me is very disturbing. That is B as in boy, \$55 billion. That is a lot of money. I feel that we could do a lot of things with that money. If it is wasted, then, I think that we are not doing the American public the service that we are supposed to be providing if we are allowing \$55 billion to go out the back door, side door, or whatever door. I think that is a real concern. I think it is an issue that we need to continue to talk about. I yield now.

Mr. BILBRAY. Thank you, Mr. Chairman.

Let me first go over and say, Mr. Holland, I want to just say that from where you come from and the job you have done in the past, you are the meanest SOB I think that has ever counted beans. [Laughter.]

So I appreciate that. And the challenges in D.C. astonish me. As a former mayor, I would love to have a shot at this city for a few years. But there are real challenges there.

I have a question for you. When we were bringing this bill up, there was a discussion about putting conditions in so we made sure to direct these funds in a certain way. And, in fact, the Senators kept wanting to strike some of the guidelines because they said don't worry, we have oversight. How far does the oversight and our hands-on ability go? I guess the way to explain it is, when the Federal Government contracts with somebody to do a project, we have direct oversight. The administration has direct oversight. There is a contractual relationship.

When it goes through the State, and then through down to the city and the county, is that contractual relationship broken? Or does the contractual or implied contractual relationship follow the money as it is going through and thus allow the accountability to follow the money as it goes through? Or is the nexus separated at the State line and we are now at a whole different relationship where our ability to hold a contractor at the city accountable has been broken because we went through that system?

Mr. HOLLAND. Well, if I can jump to what I think the answer you might be looking for is that under the Single Audit Act, when money comes to the State and it is for Federal programs being spent, who is responsible for that accountability, at the State level, that is me. At the city level, that is Jerry. So that accountability, that single audit, that tracking Federal funds—and with regard to the stimulus money, it is our understanding that the vast majority of the stimulus money will go through existing Federal programs—

we will be responsible under those existing programs and the existing single audit program for the accountability for those funds. Does that get that question?

Mr. BILBRAY. But let us just say if you do it through a city program. Let us just say we are building, construction. We have standards that are on the books and are coming onto the books that are a Federal minimum for every contractor. When you accept those funds, is there an implied contract that you are now a contractor and fall under that? Do you have to live like other guys do or are you exempt from that to where you don't have to follow the same rules as somebody who is a private sector contractor with the Federal Government?

Mr. HEER. Mr. Chairman, in my experience, when we audit that dollar spent at the contractor, subcontractor level, we audit against the criteria that is established at whatever point upstream we got the money from whether it is the State or Federal Government. So if you have restrictions on those funds as to how they must be spent, those attach to our audit program and we follow through on those restrictions.

Mr. BILBRAY. OK, let me just be very frank. There was a real concern here that we make sure that when we create jobs, we create legal jobs. We are not going to have hundreds of thousands of people that are illegal using false documents, false social securities, getting these jobs. There were Senators that said the condition that we put on at the House to require E-Verify was repetitive because the administration was now going to require as of March that all Federal contractors had to use E-Verify.

The question is this: Is it understood that part of the fraud and abuse part of this is that when you hire somebody under these funds, you are going to make sure that they are who they claim to be and that they are qualified under Federal law to work legally in this country? The big question is, does that requirement that this administration is going to apply to Federal contractors, will that be followed, will that follow the money all the way down to the local level?

Mr. HOLLAND. Well, we would hope that would be done at the front end where the people who were responsible for administering that program would follow the law. And then, if that is the law, if that is a provision within that contractual arrangement, that would be subject to audit by either a State auditor or a local auditor.

Mr. HEER. I would agree with that, Mr. Chairman.

Mr. BILBRAY. So in other words, what you are going to look for is specific language in the text of the grant rather than the general policy of the Federal Government? You need that specifically stated? I am wondering here because there are all kinds of fraud and abuse that I don't think is specifically stated that you will de facto pick up. I don't know about nepotism; I don't know about conflict of interest. I assume in a lot of those contracts they are there.

But there is a lot of this that I hope you maintain as a standard that isn't specifically referred to in the grant but as sort of a common sense approach that you are not going to give this money to somebody or some group that is in violation of the law. But the big question is, will that apply also to this segment that the House

strongly, overwhelmingly put into our bill that, let us make sure that the only people that get the jobs or get these grants are people who are legally in the country by requiring E-Verify to be used?

Mr. HOLLAND. I can't speak to any specific program at this particular point not knowing what is in each specific program. But if there are those restrictions, we will audit against those restrictions.

Mr. BILBRAY. Yes, sir?

Mr. BRITO. I can't speak directly to what the requirements are on this gentleman right now. But they all seem to agree that they are accountable for how the money is spent and that they are in charge of making sure the money is spent accountably. What I would like to know, and what I would like to suggest is important as well as accountability from the IG level, is reporting.

So the question for me would be, does the fact that the money goes from the Federal Government to the State to the city, does that still carry reporting requirements where the city must report what were the contacts that were made, who was paid, and what for? And then any sort of interest that you might have about how the money is being spent, a citizen in that locality can look at that contract and maybe raise a red flag directly.

Mr. BILBRAY. Yes, because this is one of the things you do if somebody says, oh, I hired this many people. If you don't check that the social security number and name are actually viable, they could put any person they want. There is no way for us to audit the books if there isn't that data available.

And the way you get that data available is through E-Verify. You actually go and Social Security says, OK, this guy sent us this name, this number and you match it up. That allows auditors to say, yes, this was really a person and we can verify that because here is the number, here is the name and it has been checked.

Mr. HOLLAND. That should be done by the people who are running the program at the front end. Your goal should be never to see me again as an auditor because things have been done right.

Mr. BILBRAY. OK. Mr. Chairman, I apologize but there is one issue. The reference to Recovery.gov not being up and going for another year, somebody want to comment on that? Mr. Brito.

Mr. BRITO. Yes, I think that would be a real shame. I mean, if the money is being spent now, we need folks looking at the dollars being spent now to flag anything that might be inappropriate or might be wasteful. And this isn't just about gotcha games.

Mr. BILBRAY. That is what we want to avoid, gotcha games.

Mr. BRITO. It is not about gotcha games. It is about performance, really, in a large part. And citizens on the ground are the best placed to be able to communicate to folks in their own local government, in their State government, to you that the project that is going down in their neighborhood—maybe it is a community center, maybe it is a bridge—that it is not going very well. Maybe they can't get a job there even though there are supposed to be this many jobs available.

And the only way that you allow them to know what is going on is by releasing the data as soon as possible online. And I understand that Mr. Devaney is facing many challenges, the least of which is taking over the site now after 30 days. But I think they

need to make that a top priority because that would mean enlisting millions of auditors which are called the American people.

Mr. BILBRAY. And the chairman has really tried to make this get away from the gotcha game, to avoid the problem to start with and if the problem shows up, address it while it is small, don't wait. And what I worry about with this item is that we won't know for a year. And that could be enough time for real problems. Then it ends up being a big blow-up rather than a little problem we can address. Anybody else want to comment on that 1 year timeline problem?

Mr. HEER. I would agree that is an excessively long period of time for us to start getting data. If we are going to have to wait that long we will probably rely on other resources so we can share information in the audit community and get ahead of problems and not wait that long to find them.

Mr. BILBRAY. I just want to followup on this, Mr. Chairman, because I think this really shows what we have done in the past in the Federal Government. And if we are going to change the outcome, we have to change the process.

And I think this is one place Republicans and Democrats ought to be working together to help to keep this administration out of the gotcha game by us actually saying we need you to do the right thing first so we avoid having to point out that you did something wrong after the fact. I appreciate it, Mr. Chairman.

Chairman TOWNS. Yes, I agree with you. I think that transparency is very, very important. And this is what we are really talking about. And I think that any way that we can do that should be explored. I think is just so important because \$787 billion is a lot of money. We need to try to make certain that it is being spent properly. At this time, I yield to the ranking member.

Mr. ISSA. Thank you, Mr. Chairman.

Mr. Brito, we have been throughout the day concerned and I would like your view on the fact that apparently it is going to take an estimated year for Recovery.gov to get to a level of transparency. Can you take us through how we can reduce that down to as close as possible to acceptable level to get transparency through the entire process available to either search engines or the public?

Mr. BRITO. I think that OMB, or now it seems that Mr. Devaney is taking over the Web site so it would be the Recovery Act Accountability and Transparency Board, they need to issue guidance—and I would hope that my colleagues up here can answer this as well—can issue guidance maybe after some collaboration where this guidance is developed. Basically, issue guidance that will tell cities, contractors, those who would actually be receiving moneys and would have to be on the hook for reporting, what they need to report so that we in the transparency community can know what we can expect coming down the pike. And I am talking about what fields need to be added, which is: the name of the contractor, the cost, number of jobs created, etc.

Mr. ISSA. So you are saying they have to define, somebody on the government side has to define the fields so that when you answer the question you put them into fields that are consistent so they can be searched?

Mr. BRITO. Consistently across the country. And I want to emphasize that I hope this is done in collaboration with the folks on the ground in the cities and the folks in the transparency community who are interested in receiving the data and using it. So that is the first thing. The other thing is something you all have been doing here today, which is sort of clarifying how deep will the reporting go. Because you need to clarify that it is going to go down to the ultimate, terminal user of the money and that they will be as on the hook as anybody else.

Mr. ISSA. As you have gone through the legislation, would it be correct to say that nowhere in there does it either provide for or require that there be reporting down to the contractor and subcontractor nor is there authority for those rules to be created?

Mr. BRITO. I think that would be correct as far as saying that there is nowhere in the act that specifically says that all contractors, subcontractors, subgrantees, etc., are on the hook for reporting. I am not sure, neither does it prohibit it, so I am not sure that authority is required. Maybe this is something that OMB could require on its own. I am not sure.

Mr. ISSA. OK. So I think, Mr. Chairman, that is probably the one point we have between Mr. Devaney and here, and I would like to get responses from the others, that we don't have a clear answer to whether or not they will require it and that they believe they have the rulemaking authority. I believe they do, by the way. I think by being silent on it, they do have the authority. But that may be one for us to jointly ask the entire organization headed by the Vice President about whether they intend to have those rules and whether they need any further action from us. And that may be our best joint followup.

Chairman TOWNS. I have no objections to that at all.

Mr. ISSA. OK. I look forward to working something out with our staffs. And for the others, I would appreciate sort of your further belief on that point. Because to me, this oversight which is proactive, which I am very proud the chairman has done on this basis, only is some good if we look for these things that we need to do now before those data bases are created and filled with material that is hard to read. Please?

Mr. HEER. Mr. Chairman, I would agree that the sooner those decisions are made, the better for all of us who are going to be involved in reporting and auditing. We need you to be clear about what you want and communicate that to us. It many involve the need for some further coordination with training or some other type of cooperation.

But the sooner you can identify what you want us to provide, the better. We are used to juggling our systems with Federal systems. We have a separate system for reporting with HUD. We have a separate system for reporting Transportation funding. We find a way to integrate that with our own system so we can be as efficient and accurate as possible. But we need to know what you want.

Mr. ISSA. Mr. Gragan.

Mr. GRAGAN. I would like to add, first of all, that I consider—and I think it is important to register this—the procurement community in the public sector is part of the transparency community. And I want to make sure that we all understand, in my profession

and certainly our partners in the U.S. Congress, that we definitely consider ourselves part of that community.

It is a well intended plan right now, but not yet well executed. And this is what most concerns me. If this does not flow down from the top, what you have, in an attempt to be transparent, is 50 different State Web sites, probably 3,066 county Web sites, and 70,000 city and town Web sites, all of whom somewhere are in that chain of expenditure flowing down from this great act.

But you don't have transparency. What you have is an impenetrable morass. Any of us who have ever tried to even figure out how 50 States do business would find that a challenge because there is no single form in which we would find the data. So I think I could talk forever on it but that would only belabor what we all already know and what we have already said.

Mr. ISSA. Mr. Holland, if you have something in closing?

Mr. HOLLAND. Mr. Gragan is right on. Just the volume of information that is out there is going to make it very important for us to get clear, consistent guidance at the State level to those receiving agencies and those Governors to make sure that they are collecting the exact same information across the board and that it is filtered back up to the Federal level in a consistent manner.

Mr. ISSA. Now, I have just one followup yes or no question, if I could, Mr. Chairman. The interesting thing is we are holding this specifically on nominally \$800 billion worth of special funding. Is there any reason in the world that whatever we do here should not be the model for what we do on a consistent basis with all dollars the Federal Government sends out?

Mr. GRAGAN. I would like to comment on that, if I may. This is challenging for all of us, I think. This is very much challenging for my partners to my left and right here at this table and everyone else involved, including and maybe especially Mr. Devaney and his team.

But there are great opportunities here. And one is that this will force us, this will catalyze, I think, changes that have long needed to be made with respect to automatically posting every contractual transaction in government to the Web. It is public information so why not? Why would we not do that? Why would we wait for a Freedom of Information Act to do that when anyone might be interested in the public?

More importantly for me as a procurement professional is that not all of us have the ability to administer contracts well. We spend all of our time going to the next contract and putting contracts in place. Contract administration, that part where you assure you are being delivered what you ordered whether it is a good or a service, is one of the most important areas where fraud can occur and where money can leak. We need to have contract administration as part of our profession coast to coast.

And on top of that are internal audits. It is wonderful to get annual audits from the Inspector General. It is great to get CAFR audits and other audits. It is even better for me to be ahead, to have an internal audit capability with procurement professionals that I can have help me manage the delegated authority that flows through the agency from the chief executive, the Mayor of Wash-

ington, DC, in my case, through the people that I trust to spend public money.

So I am hoping that this whole thing is really a catalyst for some fundamental and foundational changes, to answer your question, sir.

Mr. ISSA. Thank you, Mr. Chairman. I think we have really, the end has been the best part of the whole hearing. So thank you.

Chairman TOWNS. That is because you were part of that. [Laughter.]

First of all, let me thank all of the witnesses and Members who attended the hearing today. Before we adjourn, let me state that America demands that all stakeholders under the Recovery Act work in good faith to protect the public's interest and safeguard our unprecedented investment in America's future.

I want to make it crystal clear that this committee will be watching and working feverishly to ensure accountability and transparency over these funds.

Let me also thank the ranking member, Mr. Issa, for his leadership in standing up with me to demand the strictest oversight. I understand that the minority and majority staff worked on this hearing in a bipartisan manner and that is the way it should be. And I look forward to continuing in this spirit of cooperation.

Finally, please let the record demonstrate my submission of a binder with documents relating to this hearing. And without objection, I enter this binder into the committee's record.

[The information referred to follows:]

Binder for the Record

**March 19, 2009 Hearing on
“Preventing Stimulus Waste and
Fraud: Who Are the Watchdogs?”**

**Chairman Edolphus Towns
Committee on Oversight & Government Reform
U.S. House of Representatives**

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March 19, 2009

The Honorable Joseph R. Biden
Vice President
1600 Pennsylvania Ave., NW
Washington, D.C. 20501

Dear Mr. Vice President:

I understand the President has asked you to play a leading role in coordinating oversight of stimulus spending under the American Recovery and Reinvestment Act. Accordingly, I would like to bring to your attention an issue that should be resolved as soon as possible to facilitate effective oversight of this important program.

As you know, an unprecedented level of federal funds will flow rapidly to numerous federal agencies and entities which will then channel the funds through existing federal programs to states and institutions. In order for this complicated recovery effort to work, taxpayer money must be spent effectively and efficiently. That means there must be a well-coordinated effort to conduct oversight and implement controls at all levels of government to prevent fraud, waste, and abuse. For my part, I have directed the Committee to aggressively oversee all matters relating to implementation of the Recovery Act.

Although transparency and accountability is a hallmark of the Recovery Act, great emphasis should be placed on openness, flexibility, and innovation. We must tap America's ingenuity and explore ways to better leverage technology in reshaping our economy. While portions of the Recovery Act will be used for various technology initiatives, such as Health Information Technology and Smart Grid Technology, we need to further explore the use of information technology for optimal administration and management of all stimulus-related programs and activities.

In that regard, I have major concerns about the Administration's primary transparency tool, Recovery.gov. At this point, Recovery.gov is not a useable database. I fully recognize the difficulty confronting the Administration in administering the economic stimulus program, including the need to track funding from each federal, state, and local agency involved, and the

The Honorable Joseph R. Biden
Page 2

need to determine how many jobs have been created. In order for this to work there must be uniform standards for the collection and reporting of this information.

Therefore, I request that you convene a high-tech roundtable of federal, state, and private sector leaders in the field of information technology to identify business models, best practices, proposals, and solutions for harnessing the power of technology to meet the goals of the Recovery Act. This group could establish a uniform approach to track and account for Recovery Act funding, including a workable system for determining what information is needed, in what form that information is needed, and how that information should be reported and displayed. The goal should be to develop a centralized, searchable system for storing and tracking accurate stimulus information.

Please be assured that this Committee looks forward to assisting oversight of this critically important program as we go forward.

Sincerely,



Edolphus Towns
Chairman



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 18, 2009

M-09-10

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM: Peter R. Orszag
Director

SUBJECT: Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009

This memorandum transmits the first installment of government-wide guidance for carrying out programs and activities enacted in the American Recovery and Reinvestment Act ("Recovery Act") of 2009. Please bring this memorandum and attachment to the attention of any personnel within your organization who will be involved in these matters.

The Administration is committed to investing Recovery Act dollars with an unprecedented level of transparency and accountability so Americans know where their tax dollars are going and how they are being spent. The guidance issued today contains critical action steps that Federal agencies must take immediately to meet these objectives and to implement the Act effectively. Of particular note, the guidance addresses Federal agency requirements to provide spending and performance data to the "Recovery.gov" website. To deliver a website that allows citizens to hold the government accountable for every dollar spent, the law and guidance require Federal agencies to implement mechanisms to accurately track, monitor, and report on taxpayer funds.

More broadly, the guidance establishes requirements for various aspects of Recovery Act planning and implementation. These requirements are intended to meet crucial accountability objectives:

- Funds are awarded and distributed in a prompt, fair, and reasonable manner;
- The recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner;
- Funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated;
- Projects funded under this Act avoid unnecessary delays and cost overruns; and
- Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

Additional guidance providing further detail and covering a fuller range of items will be issued within 30-60 days of this memorandum. Questions about this memorandum or the guidance generally can be addressed to your organization's OMB counterparts or to recovery@omb.eop.gov.

Thank you for your attention to these matters.

Attachment

**Initial Implementing Guidance for the
American Recovery and Reinvestment Act of 2009**

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Section 1 – General Information

1.1 What is the purpose of this Guidance?

The purpose of this Guidance is to promulgate an initial set of government-wide requirements and guidelines that Federal agencies must immediately implement or prepare for in order to effectively manage activities under the American Recovery and Reinvestment Act (Recovery Act) of 2009.

The Guidance outlines necessary enhancements to standard processes for awarding and overseeing funds to meet accelerated timeframes and other unique challenges posed by the Recovery Act's transparency and accountability framework. More specifically, the Guidance:

- Answers questions and clarifies issues related to the mechanics of implementing the Recovery Act;
- Provides initial clarification on what information will be reported on Recovery.gov and what information will be required to be reported on agency websites;
- Instructs agencies on initial steps which must be taken to meet these reporting requirements, including incorporation of recipient reporting requirements in award documents and communications with funding recipients; and
- Establishes a common framework for agencies to manage the risks associated with implementing Recovery Act requirements.

1.2 What is the goal of this Guidance?

The goal of this Guidance is to establish and clarify the required steps Federal agencies must take to meet the following crucial accountability objectives:

- Funds are awarded and distributed in a prompt, fair, and reasonable manner;
- The recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner;
- Funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated;
- Projects funded under this Act avoid unnecessary delays and cost overruns; and
- Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

1.3 Under what authority is this Guidance being issued?

This Guidance is issued under the authority of 31 U.S.C. 1111; Reorganization Plan No. 2 of 1970; Executive Order 11541; the Chief Financial Officers Act of 1990 (P.L. 101-576); the Office of Federal Procurement Policy Act (41 U.S.C. Chap. 7); and the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282).

1.4 To which agencies does this Guidance apply?

The provisions of this Guidance apply to all Executive Branch departments and agencies involved in or impacted by the Recovery Act or which otherwise perform services for agencies that receive such appropriations.

The Head of the applicable Federal agency is responsible for the requirements in this Guidance and must determine what, if any, specific actions at the bureau or sub-agency level will be required to meet these responsibilities.

1.5 What are the critical requirements or elements of this Guidance for which agencies must begin to immediately implement or prepare?

[Further detail and explanation on each of the areas identified below are provided in Sections 2 through 7 and the Appendices of this Guidance.]

The Recovery Act and this Guidance include several provisions that require agencies to take steps beyond standard practice, including reporting, information collection, budget execution, risk management, and specific actions related to award type.

Transparency and Reporting

- **Major Communications.** Beginning immediately, agencies receiving Recovery Act funds should determine which major communications are appropriate for posting on Recovery.gov. (see Section 2.2 and Appendix 1 for required data fields and reporting instructions)
- **Formula Block Grant Allocation Reports.** As soon as information becomes available, Federal agencies are required to provide details on the allocations made for each formula block grant. (see Section 2.3 and Appendix 1 for required data fields and reporting instructions)
- **Weekly Updates.** Starting March 3rd, agencies must submit weekly reports providing a breakdown of funding, major actions taken to date, and major planned actions. (see Section 2.4 and Appendix 1 for required data fields and reporting instructions)
- **Monthly Financial Reports.** Starting May 8th, agencies must provide monthly financial reports providing obligations, expenditures, and other financial data by Treasury Account, vendor, and award number, as well as information on allocations of mandatory and entitlement programs by State, county, or other appropriate geographical unit. (see Section 2.5)
- **Award Transaction Data Feeds.** Starting on May 5th, agencies must provide all Recovery Act assistance transactions (primarily grants, loans, and loan guarantees) in the standard format currently provided to USASpending.gov. Agencies must also begin planning now for how they would provide this information on a more frequent basis if a decision is made to do so. (see Section 2.6)
- **Agency Recovery Plan.** No later than May 1st, agencies must provide their “Agency Recovery Plan” that describes both broad recovery goals and the agency’s coordinating efforts. Agencies should work with their Office of Management and Budget (OMB) representative to set an appropriate submission date and review process. (see Section 2.7)

- Recovery Program Plans. No later than May 1st, agencies must provide a separate “Recovery Program Plan” for each Recovery Act program named in the legislation. Agencies should work with their OMB representative to set an appropriate submission date and review process. (see Section 2.8)

Information Collection and Dissemination

- Starting immediately, agencies must ensure all funds provided by the Recovery Act are clearly distinguishable from non-Recovery Act funds in all agency financial systems, business systems (i.e., grant and contract writing systems), and reporting systems.
- To support reporting requirements, agencies need to have the appropriate contract/grant/loan number recorded on the obligation, expenditure, and other transactions in their financial system.
- Starting immediately, agencies must have all award documents and related communications include the clauses and provisions necessary to clarify that award recipients are legally obligated and must meet their reporting requirements under the Recovery Act and this Guidance.
- To facilitate transparency and reporting, agencies should establish a page on their existing website dedicated to the Recovery Act (i.e., www.agency.gov/recovery), which will link to Recovery.gov and will provide a single portal for all agency-specific information related to the Act.
- For each government contract or order (or modification to an existing contract or order) over \$500,000, agencies should provide a summary of the contract or order (or modification to an existing contract or order), including a description of the required products and services, which will be made available publicly and linked to Recovery.gov.
- A summary of any contract or order (or modification to an existing contract or order), including a description of the required products and services, using Recovery Act funds shall be posted in a special section of the web site Recovery.gov unless the contract or order is both fixed-price and competitively awarded.
- By March 15th, each agency should begin identifying to OMB’s E-Gov Office current agency systems that collect or will collect significant Recovery Act program information from recipients, but are currently unable to make this information available to the public.
- Within one week of issuing this guidance, agencies must establish a dedicated page on their website for recovery efforts. Appendix 2 describes agency website requirements, guidelines, and best practices.

Budget Execution

- Agencies must establish unique Treasury Appropriation Fund Symbols (TAFSs) in their financial systems for all Recovery Act funding, unless a waiver is granted by the Director of OMB by February 25th.
- Agencies should start planning now to submit apportionment requests to OMB in as expeditious a manner as possible.
- Agencies receiving Recovery Act funds should determine whether they plan to procure goods and services from other agencies in inter-agency agreements so they can inform the performing agencies as soon as possible.

- Agencies in interagency agreements that perform services for other agencies that receive Recovery Act funds should start planning now on fulfilling the reporting requirements resulting from the law.
- Agencies that administer TAFSS that receive non-expenditure transfers or expenditure transfers from TAFSS that receive Recovery Act funds should start planning now on fulfilling the reporting requirements resulting from the law.

Risk Management

- Agencies must immediately review the risk framework provided in Chapter 3 of this Guidance, capture and report against the common government-wide accountability measures, identify any additional agency-specific risks not provided for in Chapter 3, prioritize risk areas, and initiate risk mitigation strategies.
- At a minimum, immediate risk mitigation actions must address:
 - Audits and investigation of Recovery Act funds to identify and prevent wasteful spending and minimize waste, fraud, and abuse;
 - Qualified personnel overseeing Recovery Act funds;
 - Competitive awards maximized;
 - Timely award of dollars;
 - Timely expenditure of dollars;
 - Cost overruns minimized; and
 - Improper payments minimized.
- To assess how well the Federal government and funding recipients are progressing in meeting the items above, agencies should begin preparing to track progress against the above accountability measures.
- To assess risks for individual programs that receive Recovery Act funding, agencies should consider the following when assessing risk (note that the following list is intended to be illustrative):
 - Which programs are receiving (or providing) the most funding;
 - Are program outputs and outcomes clear and measurable and do agencies have tools to measure those outputs and outcomes;
 - Are existing resources sufficient to achieve program objectives;
 - Who is (are) the final recipient(s) of funds (e.g., contractor, sub-contractor, state, locality, educational institution);
 - Are existing internal controls sufficient to mitigate the risk of waste, fraud, and abuse adequately;
 - Are there performance issues with (potential) funding recipients; and
 - Are there leading indicators or lagging indicators (e.g., error measurements) to monitor ongoing program performance.

Actions Specific to Award Type

- For **contract** awards, agencies must:
 - In addition to the Federal Acquisition Regulation (FAR) Part 5 requirements for pre-solicitation and award notices, publish pre-solicitation and award notices of orders under task and delivery order contracts on FedBizOpps;

- Include special formatting for pre-solicitation and award notices in FedBizOpps and award reporting in the Federal Procurement Data System (FPDS) to distinguish Recovery Act actions;
 - Include terms and conditions in contract documents necessary for effective implementation of Recovery Act data collection and accountability requirements;
 - For each government contract or order (or modification to an existing contract or order) over \$500,000, agencies should provide a summary of the contract or order (or modification to an existing contract or order), including a description of the required products and services, which will be made available publicly and linked to Recovery.gov; and
 - A summary of any contract or order (or modification to an existing contract or order), including a description of the required products and services, using such funds shall be posted in a special section of the web site Recovery.gov unless the contract or order is both fixed-price and competitively awarded.
- For **grant and cooperative agreement awards**, agencies must:
 - Request an expedited "Recovery Act" Catalog of Federal Domestic Assistance (CFDA) number for new Recovery Act programs or existing programs for which the Recovery Act provides for compliance requirements that are significantly different for the Recovery Act funding;
 - Provide notification of existing CFDA program descriptions that will be modified during the next CFDA update cycle to reflect Recovery Act authorities, financial information, etc.;
 - Within twenty (20) days after enactment of the Recovery Act, agencies shall post funding opportunity announcements (i.e., "synopses") to Grants.gov;
 - Within thirty (30) days of enactment, the Grants.gov synopsis shall link to the full announcement on the agency website;
 - Include prominent labels and tags in funding opportunity synopses, full funding opportunity announcements, and award notices that clearly distinguish them as "Recovery Act" actions;
 - Begin outreach efforts with potential applicants to create or update their profiles in Dun and Bradstreet Universal Numbering System (DUNS) and Central Contractor Registration (CCR);
 - Provide their Weekly Report allocations for each formula grant award (see section 2.4);
 - Include terms and conditions in award documents necessary for effective implementation of Recovery Act data collection and accountability requirements; and
 - Identify opportunities to streamline data collection to help alleviate reporting burden on funding recipients.
 - For **loans and loan guarantees**, agencies must:
 - Request an expedited "Recovery Act" Catalog of Federal Domestic Assistance (CFDA) number for new Recovery Act programs, or existing programs for which the Recovery Act provides for compliance requirements that are significantly different for the Recovery Act funding; modify existing CFDA program descriptions to reflect Recovery Act authorities, financial information, etc.;

- Publish funding opportunity notices and/or funding allocation information on GovLoans.gov;
- Include prominent labels and tags in funding opportunity synopses, full funding opportunity announcements, and award notices that clearly distinguish them as Recovery Act actions;
- Begin outreach efforts with potential applicants to create or update their profiles in Dun and Bradstreet Universal Numbering System (DUNS) and Central Contractor Registration (CCR);
- Include terms and conditions in loan or loan guarantee award documents necessary for effective implementation of Recovery Act data collection and accountability requirements; and
- Identify opportunities to streamline data collection to help alleviate reporting burden on funding recipients.

Appendices 1 & 2 describe specific immediate transparency and reporting requirements. Additional guidance on other reporting requirements will be forthcoming.

1.6 What additional responsibilities exist for Executive Branch agencies?

The Executive Branch shall distribute Recovery Act funds in accordance with:

- All anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, cooperative agreements, loans, and other forms of Federal assistance. Grant-making agencies shall ensure that their recipients comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any program-specific statutes with anti-discrimination requirements. Generally applicable civil rights laws also continue to apply, including (but not limited to) the Fair Housing Act, the Fair Credit Reporting Act, the Americans With Disabilities Act, Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act, and the Uniform Relocation Act.
- The National Environmental Policy Act, the National Historic Preservation Act, and related statutes, including requirements for plans and projects to be reviewed and documented in accordance with those processes.
- Section 1605 of the Recovery Act, which provides (subject to certain exceptions) that "[n]one of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States."
- Section 1606 of the Recovery Act, which requires the payment of not less than the prevailing wages under the Davis-Bacon Act to "all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act."

1.7 Will additional Guidance be issued?

Yes. This Guidance document is intended to cover items critical to the first phase of Recovery Act implementation. More detailed guidance covering a fuller range of items will be issued 30-60 days after enactment.

In addition, OMB is creating the Recovery Act Architecture Package to support shared understanding of technical requirements and solution approaches across all stakeholders. Drafts of this document will be issued for review and comment on an accelerated schedule shortly after issuance of this guidance.

1.8 Are there specific instructions for transmitting required reporting to OMB or to other appropriate recipients?

Throughout this Guidance, there are numerous instances where Federal agencies are required to submit information to OMB or to other locations. Specific reporting instructions are provided in Appendices 1 and 2 of this Guidance or will otherwise be provided in future guidance.

1.9 Does this Guidance automatically provide Federal agencies with a waiver of existing legislative or administrative requirements?

No. If an agency believes it is appropriate to seek a waiver of an existing requirement in order to facilitate effective implementation of the Recovery Act, the agency shall pursue such waiver consistent with existing processes.

Section 2 – Agency Plans and Public Reporting

2.1 What reporting is required under the Recovery Act?

There are eight different levels of reporting necessary to meet accountability and transparency objectives of the Recovery Act and this Guidance. The reporting requirements in this Guidance apply at the department or agency level, except those reporting requirements in Section 2.8.

Note: Each reporting requirement below should be considered a part of the agency-wide and program-specific plans required in Sections 2.7 and 2.8. Thus, the planning process begins immediately and certain aspects of the plan will be made available on Recovery.gov and agency websites as they are ready for publication. The completed plans required by May 1st in Sections 2.7 and 2.8 will build off these earlier planning documents and fill in the remaining required elements.

Section	Reporting Requirement	Period
2.2	Major communications	Immediate/Ongoing
2.3	Formula block grant allocation reports	Immediate/Ongoing
2.4	Initial weekly reports to help populate early phases of Recovery.gov	3/3/09 – 5/12/09
2.5	Monthly financial reports	Starting 5/8/09
2.6	Award-level reporting consistent with what is currently required for USAspending.gov	Starting 5/5/09
2.7	Agency-wide Recovery Act plans	NLT 5/1/09
2.8	Program-specific Recovery Act plans	NLT 5/1/09
2.9	Recipient reporting	Starting 7/10/09

2.2 What communications materials are agencies required for posting to Recovery.gov?

Beginning immediately, all Federal agencies receiving Recovery Act funds should determine which major communications are appropriate for posting to the 'Announcements' section of Recovery.gov. These materials should be in a press release format, and should include a clear heading and short (no more than 5 sentences) overview of the main communications points. Items should be of interest to a broad cross section of the American public, and focus on Presidential priorities and programs with a major impact.

In addition, agencies should provide notification of any major press events or videos produced for the implementation of the Recovery Act. Recovery.gov will feature videos highlighting both major actions being taken by the Federal government as well as the impact the Recovery Act is having for the American people.

These communication materials should be cleared by the senior accountable official at the agency or his/her designee.

Instructions for reporting this information are included in Appendix 1.

2.3 What is required for the formula block grant allocation reports?

As soon as information becomes available, Federal agencies are required to provide details on the allocations made for each formula block grant.

These formula block grant reports should be cleared by the senior accountable official at the agency or his/her designee.

See Appendix 1 for required data fields and reporting instructions.

2.4 What is required for the initial weekly reports?

Starting on Tuesday March 3rd, and on each Tuesday thereafter through May 12th, all agencies receiving Recovery Act funds will submit the following information to OMB for cumulative recovery activity through the preceding Friday. All amounts are cumulative, year-to-date.

- By Treasury Account, total appropriations, total obligations, and total expenditures as recorded in agency financial systems on a cumulative basis; and
- A short bulleted list of the major actions taken to date and major planned actions. “Major” actions include those of likely interest to senior government officials, Congress, and the public.

Please note: Expenditure data is optional on the weekly report until April 6th. Other required amounts should be reported as zero if unknown at the time of reporting.

This information will be made publically available on Recovery.gov, and should be provided according to the format and instructions included in Appendix 1.

These weekly reports should be cleared by the senior accountable official at the agency or his/her designee.

2.5 What is required for the monthly financial reports?

Starting on May 8th, agencies must begin submitting financial data for the population of Recovery.gov. Agencies will submit obligations and expenditures by TAFS, vendor, contract/grant/loan number, program, and other data elements.¹ Agency submissions will take place no later than eight work days after the end of the month. This will allow agencies time to complete their SF 224, FMS 1219/1220, and SF 1218/1221 reporting to FMS. Agency reporting on obligations and expenditures will show cumulative amounts through the fiscal year.

¹ OMB will work with agencies in the immediate future to evaluate the implementation challenges associated with reporting obligations and expenditures by categories beyond TAFS (i.e., vendor, contract/grant/loan number, etc.). OMB will incorporate, as appropriate, the result of these consultations into the next issuance of Recovery Act guidance.

In addition to this reporting, each agency shall submit monthly reports no later than eight work days after the end of the month providing allocations of all mandatory and other entitlement programs by State, county, or other appropriate geographical unit.

Further information, including the format and instructions for monthly reports, will be included in future Guidance.

2.6 What is required for award level transaction data?

Recovery Act award obligations will be reported according to the current procedures for USASpending. To the extent possible, agencies should immediately begin including Recovery Act awards in their USASpending files, using the methodologies described below. Specifically:

For Contracts: Information will be reported to USASpending.gov through FPDS. When entering data in FPDS on any action (including modifications) funded by the Recovery Act, agencies must enter the Treasury Account Symbol (TAS) in the *Description of Requirement* field. The TAS code should be entered with TAS:: preceding the code and ::TAS following the code. The code itself should have spaces between the segments, i.e., Agency code (2 characters) would be entered followed by a space then the Account code (4 characters) followed by a space and then the Subaccount code (3 characters) which is optional and would only be included by those agencies utilizing this segment of the code. The entry would appear as follows:

TAS::XX XXXX XXX::TAS

Agencies should coordinate with their budget/finance offices to identify the applicable TAS codes.

Standard data validation practices currently required by the Office of Federal Procurement Policy (OFPP) assure the accuracy of contracting data, including data on contracts awarded under the Recovery Act.

For All Assistance Transactions (including grants, cooperative agreements, loans, loan guarantees, and other assistance): Agencies will continue to submit information on Federal assistance transactions in the FAADS PLUS file format currently required for reporting on USASpending.gov. For Recovery Act funds there are two modifications to the normal procedures for submitting FAADS PLUS files:

1. If agencies cannot ensure the Program Source/Treasury Account Symbol (TAS) is sufficient to segregate Recovery Act funding from non-Recovery Act funding in their FAADS PLUS submission, agencies must include a 3 digit code at the end of their FAADS PLUS file (following Original Subsidy Cost of the Direct Loan/Loan Guarantee), with the following values:
 - a. NON: Indicates the transaction does not utilize Recovery Act funds.
 - b. REC: Indicates the transaction utilizes Recovery Act funds.

Transactions which utilize both Recovery Act and non-Recovery Act funding must be broken into two separate lines in the FAADS PLUS file.

2. FAADS PLUS submissions will be required 5 days after the close of each month starting on May 5th, instead of the current 20 days. Options are currently being explored for developing the capability to accept this data more frequently in the future, and agencies should begin preparing for a system-to-system interface which would enable this information to be made available with a minimal time-lag after the transaction occurs.

If agencies are not able to meet these requirements for their March 20th and April 20th FAADS PLUS submissions, no later than May 5th agencies must have in place the capability to clearly identify Recovery Act awards in their USASpending files, and must also be able to retroactively identify any awards submitted before May 5th as Recovery or non-Recovery.

For both Assistance and Contracts: Current reporting under the Federal Funding Accountability and Transparency Act only requires information above \$25,000 to be reported to USASpending.gov. The Recovery Act requires reporting on all funding, though it does allow for reporting of aggregates for amounts under \$25,000.

Beginning on May 5th, agencies must be prepared to report all Recovery Act funding through FPDS or in their FAADS PLUS files. Amounts under \$25,000, payments to individuals, administrative funding, and other amounts not currently reported to USASpending.gov can be entered into FPDS or in the FAADS PLUS file using a single vendor name from a list to be provided in future guidance. Purchase card transactions will be addressed in subsequent guidance as well. Agencies unable to report aggregate contract information through FPDS may include these aggregate amounts in their FAADS PLUS file.

For obligations that are funded by both recovery and non-recovery funds, agencies must record each line of accounting in financial systems and in business systems (i.e., grant and contract writing systems) separately. Example: An award is made for \$100,000. The existing Pell Grant program award amount is increased by \$500 of recovery money. The obligation would reflect one line of accounting for the current base Pell Grant amount that is funded by non-recovery money and a second line of accounting for the increase of \$500 funded by recovery money.

Data Quality and Completeness: Given the high priority placed on the accurate display of information related to Recovery Act on Recovery.gov, agencies are responsible for pre-dissemination review of all information that will appear on Recovery.gov. All agencies must ensure all reporting related to Recovery Act funding is complete and accurate and complies with the agency's Information Quality Act guidelines. Each agency on its Recovery.gov page shall provide its point-of-contact for information quality.

2.7 What is required for agency-wide Recovery Act plans?

Agency plans will be due to OMB no later than May 1st. Agencies should work with their OMB representative to set an appropriate submission date and review process. Consistent with sound program management principles, each agency receiving recovery funds must develop formal documented plans for how the recovery funds will be applied and managed.

The Agency Plan should describe both broad Recovery Act goals and how different parts of the agency are coordinating efforts toward successful implementation and monitoring. The agency must provide a summary table that lists each Recovery Act program and the amount of Recovery Act funds covered by the plan broken-out by appropriation title. For example, agencies should describe processes in place for senior managers to regularly review the progress and performance of major programs, including identifying and completing corrective actions. Agency plans should also identify the expected savings (e.g., from energy efficient buildings) and future costs (e.g., having to maintain new facilities) related to implementing the Recovery Act.

Consistent with OMB review process identified above, any component of these plans that are substantially complete prior to May 1st should be posted on agency web pages as soon as available.

2.8 What is required for program-specific Recovery Act plans?

Agency Program plans will be due to OMB no later than May 1st. Agencies should work with their OMB representative to set an appropriate submission date and review process. These separate plans are required for each Recovery Act program specifically named in the legislation and corresponding to new Treasury accounts established. To the extent possible, each agency's Recovery Program Plan should be a summary of the specific Recovery Act projects and activities planned.

Each Recovery Program Plan must minimally include:

- a. Funding Table: agency funding listed by program, project, and activity categories, as possible. Funds returned to the program or any offsetting collections received as a result of carrying out recovery actions are to be specifically identified.
- b. Objectives: a general Recovery Act description of the program's Recovery Act objectives and relationships with corresponding goals and objectives through on-going agency programs/activities. Expected public benefits should demonstrate cost-effectiveness and be clearly stated in concise, clear and plain language targeted to an audience with no in-depth knowledge of the program. To the extent possible, Recovery Act goals should be expressed in the same terms as programs' goals in departmental Government Performance Results Act strategic plans.
- c. Activities: kinds and scope of activities to be performed (e.g. construction, provision of services, conduct of research and development, assistance to governmental units or individuals, etc.)
- d. Characteristics: types of financial awards to be used (with estimated amount of funding for each), targeted type of recipients, beneficiaries and estimated dollar amounts of total Recovery Act funding for Federal in-house activity, non-federal recipients and methodology for award selection.
- e. Delivery Schedule: schedule with milestones for major phases of the program's activities (e.g. the procurement phase, planning phase, project execution phase, etc., or comparable) with planned delivery date(s).
- f. Environmental Review Compliance: description of the status of compliance with National Environmental Policy Act, National Historic Preservation Act, and related statutes.

- g. Savings or costs: expected increases or reductions in future operational costs (e.g., savings due to energy efficient facilities or increased operational costs as a result of having more buildings to manage and maintain).
- h. Measures: expected quantifiable outcomes consistent with the intent and requirements of the legislation and the risk management requirements of Section 3.5, with each outcome supported by a corresponding quantifiable output(s) (in terms of incremental change against present level of performance of related agency programs or projects/activities specified in the plan) – agencies must specify the length of the period between measurements (e.g., monthly, quarterly), the measurement methodology, and how the results will be made readily accessible to the public. The measures currently used to report programs' performance in relationship to these goals (consistent with Administration policy) should be retained. In addition to reducing burden on grant recipients and contractors, use of existing measures will allow the public to see the marginal performance impact of Recovery Act investments.
- i. Monitoring/Evaluation: description of the agency process for periodic review of program's progress to identify areas of high risk, high and low performance, and any plans for longer term impact evaluation.
- j. Transparency: description of agency program plans to organize program cost and performance information available at applicable recipient levels.
- k. Accountability: description of agency program plans for holding managers accountable for achieving Recovery Act program goals and improvement actions identified.
- l. Barriers to Effective Implementation: a list and description of statutory and regulatory requirements, or other known matters, which may impede effective implementation of Recovery Act activities and proposed solutions to resolve by a certain date.
- m. Federal Infrastructure Investments: a description of agency plans to spend funds effectively to comply with energy efficiency and green building requirements and to demonstrate Federal leadership in sustainability, energy efficiency and reducing the agency's environmental impact.

Consistent with the OMB review process identified above, any components of these plans that are substantially complete prior to May 1st should be posted on agency web pages as soon as available.

2.9 What reporting will be collected from recipients of Federal funding for reporting on Recovery.gov?

The Recovery Act and this guidance require extensive reporting from recipients of Federal funding. The Recovery Act defines "recipient" as any entity that receives Recovery Act funds directly from the Federal Government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act funds. See Section 1512 of the Recovery Act.

These requirements apply to:

- Prime recipients. Reporting requirements only apply to the prime non-Federal recipients of Federal funding, and the subawards (i.e., subgrants, subcontracts, etc.) made by these prime recipients. They do not require each subsequent subrecipient to also report. For instance, a grant could be given from the Federal government to State A, which then gives a subgrant to

City B (within State A), which hires a contractor to construct a bridge, which then hires a subcontractor to supply the concrete. In this case, State A is the prime recipient, and would be required to report the subgrant to City B. However, City B does not have any specific reporting obligations, nor does the contractor or subcontractor for the purposes of reporting for the Recovery.gov website. All recipients of Federal funds must continue to comply with existing agency and program reporting requirements.

- Only recipients receiving awards funded through discretionary appropriations. These reporting requirements only apply to non-Federal recipients who receive funding provided through discretionary appropriations. The reporting requirements do not apply to funding received through entitlement or other mandatory programs, except as specifically required by OMB.

As required by Section 1512 of the Recovery Act and this guidance, each recipient, as described above, is required to report the following information to the Federal agency providing the award 10 days after the end of each calendar quarter, starting on July 10th.

These reports will include the following data elements, as prescribed by the Recovery Act:

- (1) The total amount of recovery funds received from that agency;
- (2) The amount of recovery funds received that were obligated and expended to projects or activities. This reporting will also include unobligated Allotment balances to facilitate reconciliations.
- (3) A detailed list of all projects or activities for which recovery funds were obligated and expended, including--
 - (A) The name of the project or activity;
 - (B) A description of the project or activity;
 - (C) An evaluation of the completion status of the project or activity;
 - (D) An estimate of the number of jobs created and the number of jobs retained by the project or activity; and
 - (E) For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of OMB.

The final guidance issued by OMB for the Recovery Act will lay out in more detail specific reporting instructions and how the data collection for this reporting will work government-wide. OMB is actively pursuing options for collecting some of this information centrally, focusing first on the data required in (4) above in the standard formats currently used by Federal agencies to report to USASpending.gov. OMB is also actively considering how to centralize the collection and reporting of the information required in section (3) above, though the current preference is that, to the extent possible, this data should be collected and reported through existing program level systems. Agencies should develop initial contingency plans for collecting and reporting this information directly on the agency recovery website within the 30 days specified by law.

Instructions for reporting this information will be provided in subsequent guidance. Agencies should be cautious before making investments in new system capabilities before further guidance is issued or before consulting with OMB.

Regarding the reporting requirements in 3(d), usual methods for reporting jobs created by a contract do not take into account the time frame over which the jobs are created. As a result, they are likely to be inconsistent with macroeconomic estimates of jobs created at a point in time. For this reason, departments and agencies should use conventional jobs estimates for internal planning purposes only. Uniform reporting requirements for estimates of job creation will be specified at a later time.

Federal agencies must instruct recipients covered by these reporting requirements that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and this Guidance.

For information related to the Recovery Act to be fully transparent to the public, each agency must develop a list of agency systems which will capture significant program-related information related to the use of Recovery Act funds from recipients, either through existing or new reporting requirements. Further, agencies must identify what information each system captures, if it is publicly available in a user-friendly format, and if not, what technological or policy barriers exist to it being made public. For those systems presently unable to make information public in a user-friendly format, agencies should provide an estimate of resources necessary to achieve full transparency. This list need not include core financial and other systems which make information available through existing financial reporting, USASpending.gov, or other government-wide reporting requirements. Each agency should assemble this list and provide it to the E-Gov Administrator no later than March 15th. Reports can be sent to recovery@omb.eop.gov.

2.10 How will agencies implement tribal self-determination contracting authorities with Recovery Act funding?

Section 1610(b) of the Recovery Act allows the Department of the Interior's Bureau of Indian Affairs, the Department of Health and Human Services' Indian Health Service, and the Department of Housing and Urban Development to use existing self-determination contracting authorities with Indian tribes. However, it also requires the appropriate Secretary to "incorporate provisions to conform the agreement with the provisions of this Act regarding the timing for use of funds and transparency, oversight, reporting, and accountability, including review by the Inspectors General, the Accountability and Transparency Board, and Government Accountability Office, consistent with the objectives of this Act."

In their Agency-wide Recovery Act plans, DOI, HHS, and HUD shall identify how they will incorporate these provisions into tribal self-determination contracts that are used for Recovery Act funds. To assist these agencies, OMB will convene a meeting for the agencies to discuss how to incorporate appropriate transparency and accountability provisions into tribal self-determination contracts.

2.11 Will these reports be made available to the public?

Yes. All reporting described above may be used to populate Recovery.gov or agency recovery websites. Agency-wide and program-specific plans will be posted on agency websites, on a dedicated page for Recovery Act activities. See Section 2.12 and Appendix 2 for more information on agency websites.

2.12 What are the requirements for agency websites?

Agencies are not required to develop *new* websites dedicated to recovery efforts. The initiative is designed to create one portal where the public can find and analyze information and report potential fraud, waste and abuse pertaining to the Recovery Act. As such, www.recovery.gov is intended as the single, consolidated portal to that information. Multiple websites will confuse the public.

Each agency should, however, dedicate a section of its primary website to Recovery Act activities within one week of issuance of this guidance. Those pages must be consistently identified with a url that identifies the key entry page to that information with a “/recovery” extension, i.e. www.agency.gov/recovery.

See Appendix 2 for a description of specific requirements and best practices for agency websites.

2.13 What impact do the new data reporting requirements under Recovery Act have on pre-existing data collection requirements?

This Guidance is intended to ensure the government-wide reporting requirements in the Recovery Act are fulfilled and that all necessary data to populate Recovery.gov is available. All other reporting requirements in the Recovery Act and existing law must continue to be fulfilled and should be made transparent on agency recovery websites.

In the short term, agencies should not change standard reporting for awards, unless there is a legal or other compelling justification. However, if the Recovery Act requires modifications or additions, agencies should integrate new and existing procedures to streamline data collection and to minimize funding recipients’ burden. Cases that may require waivers to existing standards to accommodate Recovery Act reporting requirements will be evaluated by the Recovery Act Accountability and Transparency Board (see Section 3.1) and OMB in the context of a government-wide review of data reporting.

2.14 What procedures will agencies follow to comply with relevant requirements of the Paperwork Reduction Act?

The collections of information that will be necessary to comply with Recovery Act disclosure and transparency provisions will be subject to OMB review and approval under the Paperwork Reduction Act of 1995 (PRA). In recognition of the need to act quickly to collect information

from recipients of Recovery Act funds, OMB will allow agencies to request “emergency processing” of information collection requests under OMB’s PRA regulations (5 CFR 1320.13)

Each request for emergency processing needs to be accompanied by a written determination that the information collection is necessary to implement provisions of the Recovery Act. In addition, the agency is to submit information indicating that it has taken all practicable steps to consult with interested agencies and members of the public in order to minimize the burden of the collection of information.

1. Public notice. The agency is to publish in the *Federal Register* a notice that the emergency clearance request has been submitted to OMB for review (unless such notice is waived by OMB). This notice is to include a statement that the agency is requesting emergency processing within a specified time period.

2. Potential OMB Actions. OMB will approve or disapprove an emergency collection of information within a reasonable time period, provided that such time period is consistent with the purposes of the PRA. An inconsistent time period is one that does not permit OMB to evaluate independently whether the proposed collection of information:

- Is necessary for the proper performance of the agency functions;
- Imposes unnecessary or excessive burden;
- Unnecessarily duplicates other available information;
- Maximizes practical utility; and
- Otherwise meets the substantive criteria embodied within the PRA.

Section 3 – Governance and Risk Management

3.1 What is the role of Recovery Act Accountability and Transparency Board (the “Board”) in coordinating government-wide policy on the Recovery Act?

The Board is responsible for coordinating and conducting oversight of Federal spending under the Recovery Act to prevent waste, fraud, and abuse. One way the Board will fulfill these responsibilities is by monitoring the accountability objectives of the law, including the following:

- Funds are awarded and distributed in a prompt, fair, and reasonable manner;
- The recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner;
- Funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated;
- Projects funded under this Act avoid unnecessary delays and cost overruns; and
- Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

3.2 What is the role of OMB in coordinating government-wide policy on the Recovery Act?

OMB will coordinate Recovery Act activities until the Board is in place. Once the Board is fully in place, OMB will support the Board in its oversight of Recovery Act implementation, including working with agencies to meet full performance of the accountability objectives. Additionally, Federal agencies will be expected to continue to work directly with OMB on implementation issues related to the Recovery Act.

3.3 Are agencies required to designate a senior accountable official for Recovery Act activities?

Yes, agencies are required to designate a senior accountable official for Recovery Act activities. This individual should have responsibility and authority to coordinate across agency bureaus, program offices, and programs. It is recommended that the senior accountable official be at the sub-cabinet or Deputy Secretary level, and lead regular reviews of recovery planning, implementation, and performance. The senior accountable official should also designate a person or office for maintaining their agency's Recovery Act content on their website.

3.4 Are there certain risks that all agencies must include as part of their risk mitigation process?

Yes, there are specific risks that all agencies must include as part of their risk mitigation process. These risks can also be thought of as “accountability objectives,” which are outlined in Section 3.1 above. This means that if agencies are not meeting an accountability objective, such as

effectively mitigating the risk of fraud, there may be a risk of not meeting the broader goals of the Recovery Act (e.g., job creation, economic growth).

Figure 1, includes the government-wide accountability measures and organizes them into an accountability risk framework. The framework places the objectives under the phase(s) of the funding lifecycle where, if necessary, those risks will be monitored and mitigated: pre-award, performance-period, post performance.

Figure 1, Recovery Act Accountability Framework and Objectives

Success: Program outcomes and economic outcomes achieved						
Key Accountability Area	Pre-Award		Performance Period			Post-Performance Period
	Audits and investigation of ARRA funds occurring to identify wasteful spending and minimize waste, fraud, and abuse					
	Qualified personnel overseeing Recovery Act funds					
	Competitive awards maximized	Timely award of dollars	Timely expenditure of dollars	Timely completion of planned work	Cost overruns minimized	Improper payments minimized

An additional area of risk is improper implementation of transparency and reporting requirements (i.e., providing timely and accurate data via prescribed technical solution approaches). The appropriate mitigation is to participate in the review and comment on the Recovery Act Architecture Package while it is being developed, and then use it to guide agency Recovery Act transparency and reporting activities.

3.5 What are the reporting requirements for these common risk areas?

There are no specific reporting requirements related to risk management established by this Guidance. However, it is anticipated that the Board may initiate reporting requirements related to risk management at some point in the future. More information on this issue will be available in the next issuance of this Guidance.

In the interim, agencies should begin planning to capture statistics related to the accountability objectives. This information could be available on Recovery.gov and be presented in aggregate as well as by agency and project, when possible. Reporting the information in this manner would allow stakeholders to see government-wide, agency-by-agency, and agency-program and therefore enable visibility in both aggregate and detailed views.

To assess how well the Federal government and funding recipients are progressing in meeting the objectives, the agencies should begin considering how they would track progress against accountability measures, such as the following:

1. Audits and investigation of Recovery Act funds occurring to identify wasteful spending and minimize waste, fraud, and abuse;
2. Qualified personnel overseeing Recovery Act funds;
3. Opportunities to use competitive awards maximized;
4. Timely award of dollars;
5. Timely expenditure of dollars;
6. Timely completion of planned work;

7. Cost overruns minimized; and
8. Improper payments minimized.

3.6 For risks that are common to all agencies, are there specific risk mitigation actions that all agencies must initiate?

Yes, for the risks that are common to all agencies, specific risk mitigation actions are included throughout this Guidance and include, but are not limited to, the following:

- Ultimately, agencies must determine what award method(s) will allow recipients to commence expenditures and activities as quickly as possible consistent with prudent management and statutory requirements. Agencies may consider obligating funds provided under Recovery Act on an existing grant, including, but not limited to, a continuation or renewal grant.
- To enable timeliness of awards, agencies should engage in aggressive outreach to potential applicants to begin application planning activities, including the process for Central Contractor Registration (CCR) and obtaining a Dun and Bradstreet Universal Numbering System (DUNS) number. Outreach can also include efforts to update and validate existing CCR and DUNS registration data.
- Consider weighting selection criteria to favor applicants for assistance with demonstrated ability to deliver programmatic result and accountability objectives included in the Recovery Act.
- Adapt current performance evaluation and review processes to include the ability to report periodically on completion status of the program or activity, and program and economic outcomes, consistent with Recovery Act requirements. Establish procedures to validate the accuracy of information submitted on a statistical basis and/or risk based approach as approved by OMB.
- Using other than fixed-price contracts requires agencies to pay special attention to ensuring that sufficient qualified acquisition personnel are available to perform contract administration to mitigate the government's risk. When riskier contract types are proposed, agencies should provide appropriate oversight so that all alternatives have been considered and that qualified staff is available for monitoring performance to mitigate risks.
- Agencies should review their internal procurement review practices to promote competition to the maximum extent practicable. For instance, agencies might lower the dollar thresholds at which higher level review is required when a non-competitive acquisition strategy is contemplated.
- Agencies must ensure receipt of funds is made contingent on recipients meeting the reporting requirements in Section 1512 of the Act.
- Agencies must structure acquisitions to result in meaningful and measurable outcomes that are consistent with agency plans and that promote the goals of the Recovery Act. The evaluation criteria for award should include those that bear on the measurement and likelihood of achieving these outcomes.
- Consider alternatives to contract financing, including structuring contract line items to allow invoicing and payments based upon interim or partial deliverables, milestones, percent-of-completion, etc. Ensuring consideration of contractor cash flow during acquisition planning

will mitigate schedule and performance risks to the government and reduce costs to the contractor associated with financing in a tight credit market.

- Evaluate workforce needs in order to appoint qualified Contracting Officers, Contracting Officer Technical Representatives (COTRs), and Program Managers with certification levels appropriate to the complexity of Recovery Act projects.

Sections 4 – 7 include additional detail on the items above.

3.7 Should agencies undertake efforts to identify, prioritize, and mitigate implementation risks associated with the Recovery Act that are specific to their agency and programs?

Yes, beyond the “common risks” discussed above, agencies should also be identifying, prioritizing, and mitigating agency / program specific-risks. Whereas the common risks may impact the larger objectives of the Recovery Act (i.e., job creation, economic growth), agency risk management efforts should focus on items that may negatively impact the achievement of programmatic objectives. Whenever possible, agencies should leverage existing practices (e.g., assessments required under OMB Circular A-123) and teams (e.g., senior assessment teams) to manage risk.

For programs that receive Recovery Act funding, agencies should consider the following when assessing risk (note that the following list is intended to be illustrative):

- Which program are receiving the most funding;
- Are program outputs and outcomes clear and measurable;
- Are existing resources sufficient to achieve program objectives and proper award and management in accordance with statutory and regulatory requirements;
- Who is (are) the final recipient(s) of funds (e.g., contractor, sub-contractor, state, locality, educational institution);
- Are existing internal controls sufficient to mitigate the risk of waste, fraud, and abuse adequately;
- Are there performance issues with (potential) funding recipients; and
- Are there leading indicators or lagging indicators (e.g., error measurements) to monitor ongoing program performance?

Agencies should also develop a plan for monitoring and reassessing risk throughout Recovery Act funding availability and project close-out.

3.8 What risk mitigation actions must agencies take for risks specific to their agency and programs?

Depending on the answers to the questions suggested in Question 3.7, agencies should develop mitigation plans that align with specific risks. At a minimum, agencies should focus on those risks with the highest probability of occurrence and the greatest impact if not mitigated. As with the common government-wide risks, agencies are strongly encouraged to identify common agency risks and corresponding accountability objectives.

Agencies should determine whether final action has been taken regarding weaknesses or deficiencies disclosed by prior audits and investigations in program areas under which Recovery Act funds are authorized. If final action has not been completed, agencies should: (1) expedite such action to preclude the continuance of such weaknesses or deficiencies in the administration of Recovery Act funded programs; or (2) provide an explanation of why such corrective actions cannot or should not be taken in the administration of Recovery Act funded programs.

3.9 What are the reporting requirements for these agency-specific risk areas?

Initially, agencies risk assessments, mitigation plans, and reporting for risks specific to an agency or program are for internal agency use. Agencies are also required to include in program-specific planning documents information about how managers will be held accountable for achieving recovery program goals and improvement actions identified.

Per Section 3.5 above, agencies will eventually be required to report on their risk mitigation efforts in these areas to OMB or the Board, including performance measures for the accountability objectives with associated performance ranges. If programs fall outside of what is considered to be an acceptable performance range, those programs should be required to explain why a shortfall exists and / or provide a corrective action or get-well plan.

3.10 Does the Office of Personnel Management offer any tools that my agency can use to match the right talent with the right job and hire as quickly as possible?

Currently, there are many, important hiring flexibilities available to agencies.

The Chief Human Capital Officers Act of 2002 provided new hiring authorities which, coupled with those that already existed, have the potential for dramatically improving agencies' ability to get the right people in the right jobs at the right time.

OPM has a number of tools on its website to help agencies understand and implement human resources flexibilities that may serve their needs under the Recovery Act and the agency Chief Human Capital Officer (CHCO) can provide advice and assistance on using these flexibilities:

- The Human Resources Flexibilities and Authorities in the Federal Government handbook provides detailed information on staffing, benefits, compensation, work/life and other HR flexibilities. The Handbook can be accessed at: http://www.opm.gov/omsoc/hr-flex/HumanResourcesFlexibilities_and_AuthoritiesHandbook.pdf
- The Federal Hiring Flexibilities Resource Center provides guidance on hiring flexibilities and includes an interactive tool to help determine the appropriate flexibility based on particular needs. The Resource Center can be accessed at: http://www.opm.gov/Strategic_Management_of_Human_Capital/fhfr/default.asp
- The Hiring/Recruitment Video Library is a Web-based learning tool featuring vignettes on a number of hiring flexibilities, including direct hire, veterans' appointing authorities, and excepted service hiring. The Video Library can be accessed at: http://www.opm.gov/video_library/Recruitment/Hiring/Index.asp

- The Hiring Toolkit provides strategies, tools and techniques to help agencies improve their hiring processes. The Toolkit can be accessed at: <http://www.opm.gov/hiringtoolkit/>

When deciding which hiring flexibility to use, agencies should assess their needs in relationship to the duration of the funding. Therefore, they should strongly consider temporary or term appointments with durations consistent with the monies.

OPM will continue working closely and directly with agencies impacted by the Recovery Act so they understand the range of currently available human resources flexibilities and will partner with agencies to develop effective human capital strategies aimed at meeting program objectives under the Act.

To support the goals of transparency and accountability for activities carried out under the Act, OPM will also provide oversight so that agencies are exercising human resources flexibilities effectively, efficiently, and in accordance with merit system principles. For additional questions, please contact your agency's OPM Human Capital Officer or for other OPM questions please email generalinquiries@opm.gov.

Section 4 – Budget Execution

4.1 Where is general guidance on budget execution?

OMB publishes general guidance on budget execution in OMB Circular A-11. Sections 120 and 121 address apportionments, and Section 130 addresses budget execution reporting. OMB will publish additional guidance, most likely in an OMB Bulletin, after enactment of the American Recovery and Reinvestment Act of 2009 (Recovery Act).

4.2 Can agencies co-mingle Recovery Act and non-Recovery Act funds?

No. To maximize transparency of Recovery Act spending required by Congress and the Administration, agencies must not co-mingle Recovery Act funds with other funds in apportionment requests they prepare for OMB; SF 133 budget execution reports; or data feeds or reports they provide to Recovery.Gov. Within their financial systems, agencies must separately track apportionments, allotments, obligations, and expenditures related to Recovery Act funding.

Agencies in some cases may need to use Recovery Act funds in conjunction with other funds to complete projects. They may do so, but they must separately track and report the use of Recovery Act funds for these projects.

4.3 Can agencies use Recovery Act funds to pay their own fixed costs?

Sometimes. When an agency receives a supplemental appropriation of Recovery Act funds for a program, project, or activity for which Congress provided appropriations for in a prior Act, the agency should not use Recovery Act funds to pay fixed, administrative support costs, e.g. rent. By contrast, agencies can exercise judgment in using Recovery Act funds provided for a new program, project, or activity to support fixed administrative costs.

4.4 Can agencies request a waiver from OMB to the requirement that they use new TAFSS to record and report Recovery Act financial activity?

Yes. The requirement that new TAFSS be created to record and report Recovery Act financial activity applies to both Division A and Division B of the Recovery Act. If an agency feels that establishing unique TAFSS will impose an extreme burden, will significantly delay funding allocations and awards, AND will negatively impact its ability to fulfill its reporting requirements under the Act, the agency can apply for a waiver from this provision. A request for a waiver must be made in writing by the Agency head and a scanned copy of the letter must be emailed to recovery@omb.eop.gov by close of business on February 20th, 2009. All requests will be considered and waivers issued by COB on February 25th, 2009. Such requests will only be approved when the three conditions above are met. You should include in the letter the email address to which a scanned copy of the response should be sent.

4.5 Will agencies need to do anything beyond standard practice if OMB grants a waiver from establishing a unique TAFS for a program funded by the Act?

Yes. In cases without a unique TAFS for Recovery Act funds, OMB will use Category B projects to facilitate separation of Recovery Act and non-Recovery Act funds in agency financial systems. The apportionment process will provide a basis for agencies to report obligations financed through Recovery Act budget authority in their budget execution reports. The omission of unique TAFSs for Recovery Act funds will complicate the reporting of net outlays in TAFSs that take in offsetting collections for both Recovery Act and non-Recovery Act programs; as a result, OMB will require separate reporting of Recovery Act collections in these TAFSs. Agencies may also have slightly different requirements in reporting some of their data to the Recovery.gov web site.

4.6 How will OMB apportion Recovery Act funds?

OMB in large measure will apportion TAFSs with Recovery Act funds the same way it apportions other TAFSs. In some cases, this will involve apportioning funds by time period (Category A). In other cases this will involve apportioning funds by project (Category B). The next four questions describe exceptions to these standard processes.

4.7 What special treatment is required on apportionment requests if OMB allows a TAFS to have both Recovery Act and non-Recovery Act funding?

If a TAFS has both Recovery Act and non-Recovery Act funding, OMB will establish very strict conventions requiring agencies to use separate Category B projects for all Recovery Act funds in both apportionments and budget execution reports. Agencies must separately track and report on apportioned amounts financed through Recovery Act and non-Recovery Act sources, as well as separately track and report on obligations captured in their financial systems or submitted in SF 133 budget execution reports. Agency apportionment requests and SF 133 reports will show apportioned amounts and obligations, respectively, using Category B project stubs that start with the words "Recovery Act".

In addition, if OMB grants a waiver so a TAFS has both Recovery Act and non-Recovery Act funds, the apportionment requests must use a line split to separately show Recovery Act and non-Recovery Act budget authority. The stub for the line should read "Recovery Act budget authority".

4.8 What special treatment is required on apportionment requests with regard to authority from offsetting collections if a TAFS has both Recovery Act and non-Recovery Act funds.

If a TAFS has both Recovery Act and non-Recovery Act funding, agencies must separately show authority from offsetting collections that comes from recovery funding versus non-recovery funding on their apportionment requests. Agencies will use a line split value of "9" on the apportionment to do this. In addition, they will preface the line stub with the phrase "Recovery Act".

The lines that show BA from offsetting collections are:

<u>Line Number</u>	<u>Description</u>
3D1A	BA: Offsetting Collections - Earned, Collected
3D1B	BA: Offsetting Collections - Earned, Change in receivables from Fed sources
3D3	BA: Offsetting collections - Anticipated
3D4	BA: Offsetting Collections - Previously unavailable

The reason to distinguish authority from offsetting collections that come from recovery funds is to accumulate sufficient information on offsetting collections to calculate net outlays. While FACTS II data that underlie the SF 133 reports identify the obligations and disbursements associated with recovery funds, the FACTS II data do not provide sufficient detail to determine the collections associated with Recovery Act funding in a TAFS that has both Recovery Act and non-Recovery Act funding. To compute or cross-check net outlays, OMB will compile obligations and disbursements from FACTS II as well as authority from collections – as a proxy for actual collections – in the apportionments.

4.9 What special treatment is required on apportionment requests for a TAFS that is an ordering account in an interagency agreement?

As background, Section 130.9 in Circular A-11 uses the words “ordering agency \ ordering account” and “performing agency \ performing accounts” to describe the parties involved in interagency agreements. This guidance follows A-11 by also using the words ordering and performing.

OMB will issue a bulletin that provides automatic apportionment authority for ordering TAFSs. The bulletin will provide agencies with flexibility to incur new obligations within the parameters of their existing apportionments. The purpose of these Category B projects is to provide a mechanism for the ordering TAFS to explicitly report the obligations it uses for interagency work on SF 133 reports. In addition, ordering TAFSs must also use the stub “Recovery Act Interagency Agreement” on their SF 133 reports. The purpose of this requirement is to acquire sufficient information to facilitate reconciliation between ordering agency obligations and performing agency obligations. For example, the Revcovery.gov site will check that obligations from performing agencies do not exceed obligations from ordering agencies.

4.10 What special treatment is required on apportionment requests when a TAFS uses a non-expenditure transfer to shift funds to a different TAFS?

There are no additional requirements for TAFSs that use non-expenditure transfers to shift Recovery Act funds to other TAFSs. The reason is that the Treasury Department Financial Management Service (FMS) processes all requests for non-expenditure transfers using its NET system, and provides this information to OMB on a weekly basis. OMB will forward the

information to Recovery.gov. OMB also publishes reports on the Budget Community that show non-expenditure transfers; the URL is: <https://max.omb.gov/community/x/pwCwBQ>.

4.11 What are the reporting requirements for performing TAFSs when the ordering TAFS uses recovery funding?

To the degree practical, agencies should flag the use of Recovery Act funds in making new inter-agency agreements. OMB will also issue a request that asks agencies to identify the ordering TAFSs they anticipate will use inter-agency agreements, and post this report on the Budget Community web site.

Performing agencies must take necessary steps to provide detailed information on their obligations and disbursements to Recovery.gov. To help establish a framework to facilitate accurate reporting from performing agencies to Recovery.gov, OMB will issue a bulletin that provides automatic apportionment authority for performing TAFSs. The bulletin will provide performing agencies with flexibility to incur new obligations within the parameters of their existing apportionments. However, performing agencies will need to use Category B projects to highlight obligations generated from Recovery Act funds. The stubs for these Category B projects used in budget execution reports must start with the phrase "Recovery Act". The requirements in this paragraph are not needed for budget execution, per se, but are attempting to leverage the budget execution framework to respond to the needs of Recovery.gov.

Performing agencies in their financial system and budget execution reports will separately show obligations incurred against reimbursable income from ordering TAFSs that hired it to perform work using Recovery Act funds. Performing agencies will also submit detailed spending reports to the Recovery.gov web site showing, among other things, how much funding each vendor received. Section 2.5 provides guidance for handling inter-agency agreements, and data submissions by performing agencies to Recovery.gov.

Performing agencies will report obligations and disbursements in their budget execution reports and to Recovery.gov. They may report back to ordering agencies as part of normal inter-agency processes. However, ordering agencies will not provide this information back to Recovery.gov.

GSA and other performing agencies should begin to plan how to handle these requirements and modify inter-agency agreements or processing Interagency Payment and Collection (IPAC) transactions to help them fulfill these requirements.

4.12 What are the reporting requirements for TAFSs that receive non-expenditure transfers of Recovery Act funds?

TAFSs receiving non-expenditure transfers of Recovery Act funds have the same reporting requirements as performing TAFS in interagency agreements. See section 4.12 for additional information.

4.13 Will agencies that receive Recovery Act funds need to take any special actions to report spending in FACTS II \ SF 133 budget execution reports?

No. Agencies will submit FACTS II data the same way they do now. If a TAFS receives Recovery Act and non-Recovery Act funds, its FACTS II reporting must use Category B projects to show obligations incurred from Recovery Act funds. The stubs for the Category B projects must start with the words "Recovery Act".

4.14 How will agency budget execution reporting fit with agency reporting to the Recovery.gov site?

In general, agencies will report much more detailed information on obligations and expenditures to the Recovery.gov site than they do in normal budget execution reporting. While agencies may report Recovery Act obligations in a given TAFS using a single Category B project, they may submit many lines to Recovery.gov that, in total, agree with the Category B project obligations. For example, a single Category B project may show \$100 million in grants to states, but the underlying detail agencies report to Recovery.gov will show separately the 20 states that receive the funds.

Section 2.5 describes the Recovery.gov reporting requirements.

4.15 Some provisions of the Recovery Act provide supplemental budget authority for existing programs, projects, and activities. Will agencies have new or different reporting requirements for these existing programs?

It is unclear at this time what additional reporting requirements will be levied on non-recovery funds used for recovery programs. Agencies should use Recovery Act budget execution page in the budget community web site to describe and share ideas on how to handle such potential additional requirements.

4.16 Are agencies required to obligate recovery funds prior to obligating non-recovery funds?

No. This question only applies in cases when Congress appropriates Recovery Act funds to programs where Congress has previously appropriated funds. In those cases, agencies should determine the most appropriate sequence of obligation to maximize program efficiency. In making this determination, agencies need to explore ways to effectively expedite recovery expenditures in a manner that does not compromise program objectives or increase the risk of unintended consequences (e.g., accounting and/or payment errors, waste, fraud, etc.)

4.17 Do Inspectors' General need to follow special rules in reporting their own Recovery Act spending?

Yes. Inspectors' General (IGs) will be required to separately report obligations associated with oversight of Recovery Act programs. The Recovery Act includes provisions that provide supplemental funding to some IGs to carry out additional oversight of activities funded by the Act. IGs will report these funds separately in their budget execution reports and submissions to Recovery.gov. IGs will also report other funds not provided through the Recovery Act that they otherwise use to monitor Recovery Act programs in their agencies. The purpose of these requirements is to provide the Administration with a basis to inform Congress and the public how much money IGs are obligating on oversight of Recovery Act funded activities.

OMB will issue a bulletin that provides automatic apportionment authority for IGs to carry out Recovery Act oversight activities. The bulletin will provide IGs with the flexibility to incur new obligations for Recovery Act oversight activities within the parameters of their existing apportionments.

4.18 Will OMB issue a Budget Data Request (BDR) to collect information relating to the Recovery Act?

Yes. In the near future, OMB will issue a BDR asking agencies to, among other things:

- Identify existing programs and TAFSS that the Recovery Act will add funds to.
- Identify Recovery Act TAFSS that will likely use inter-agency agreements.
- Identify Recovery Act TAFSS that will likely bring in offsetting collections.
- Identify sub-functions for each Recovery Act TAFS.

4.19 Will FMS use expedited processes to establish TAFSS and process Recovery Act warrants?

Yes. FMS working with OMB will provide agencies with a list of the majority of new TAFSS on Wednesday, February 18th. Each TAFS will include a new 4-digit account number. OMB will post the list of TAFSS on the Budget Execution and Recovery Funding page of the Budget Community; the URL is <https://max.omb.gov/community/x/-4BeDw>

Agencies should use these TAFSS in their financial systems. OMB will make the new TAFSS available in the apportionment system so that agencies can use the new TAFS to send apportionment requests to OMB.

FMS will do its best to develop a list that is complete. However, agencies finding any omissions will need to work with their normal contacts at FMS to create new TAFSSs.

FMS is identifying the TAFSS that it will create in its central systems – prior to putting the TAFSSs into its systems. FMS is taking this action to help agencies expedite the processes they use to create TAFSSs in their systems, and that they use to submit their apportionment requests to

OMB. Over the next couple of weeks, FMS will put the TAFSs in its systems as well as process warrants.

4.20 Can agencies start preparing apportionment requests for newly established TAFSs prior to FMS creating the TAFSs.

Yes. Agencies should start preparing apportionment requests in anticipation of FMS quickly establishing the new TAFSs.

4.21 Can agencies submit apportionment requests for newly established TAFSs prior to knowing the TAFS identifier that FMS will create?

No. Agencies must wait until Wednesday, February 18th when FMS produces a list of TAFSs it will create in its systems. OMB will post the list of TAFSs on the Budget Execution and Recovery Funding page of the Budget Community; the URL is <https://max.omb.gov/community/x/-4BeDw>

4.22 Can agencies process payment requests prior to FMS creating TAFSs?

No. Most if not all payment systems and IPAC require agencies to use valid TAFSs.

4.23 Do agencies need to follow different processes in handling recoveries, upward adjustments, or downward adjustments of Recovery Act funds?

No. TAFSs funded exclusively from the Recovery Act do not need to follow different processes in handling of recoveries, upward adjustments, or downward adjustments. After processing requests and identifying the TAFSs that will have both Recovery Act and non-Recovery Act funds, OMB may issue additional guidance on this topic. The expectation is that very few TAFSs will include Recovery Act and non-Recovery Act funds.

Section 5 – Grants and Cooperative Agreements

5.1 Are there actions, beyond standard practice, that agencies must take while planning for competitive and formula grant awards under Recovery Act?

Yes.

(1) Determining Grant Objectives and Evaluation Criteria for Award

Agencies should structure grants to result in meaningful and measurable outcomes that are consistent with agency plans and that promote the goals of the Recovery Act. The evaluation criteria for award should include those that bear on the measurement and likelihood of achieving these outcomes, such as, jobs creation and preservation.

(2) Competition

Although the Recovery Act calls on agencies to commence expenditures and activities as quickly as possible consistent with prudent management, this statement, by itself, does not constitute a sufficient justification to support award of a federal grant on a non-competitive basis. Agencies are expected to follow the same laws, principles, procedures, and practices in awarding discretionary grants with Recovery Act funds as they do with other funds. Agencies should review their internal policies with a goal towards promoting competition to the maximum extent practicable. In conducting this review, agencies may want to consider the appropriateness of limited competitions among existing high-performing projects versus full and open competitions and formula allocations.

(3) Existing Grants

Ultimately, agencies must determine what award method(s) will allow recipients to commence expenditures and activities as quickly as possible consistent with prudent management and statutory requirements. Agencies may consider obligating funds provided under the Recovery Act on an existing grant, including, but not limited to, a continuation or renewal grant. Because Recovery Act funds must be tracked and accounted for separately, supplements to existing agreements are not recommended as there is a greater risk that the grant recipient will be unable to track and report Recovery Act funds separately. Also, agreements must spell out the assignment of agency roles and responsibilities to fulfill the unique requirements of the Recovery Act. These include, but are not limited to, report development and submission, accurate and timely data reporting, and special posting requirements to agency web sites and Recovery.gov.

(4) Timeliness of Awards

Agencies need to assess existing processes for awarding formula allocations and announcing, evaluating and awarding discretionary grant opportunities to comport with the objective to make awards timely.

To enable timeliness of awards, agencies should engage in aggressive outreach to potential applicants to begin application planning activities, including the process for Central Contractor Registration (CCR) and obtaining a Dun and Bradstreet Universal Numbering System (DUNS) number. Outreach can also include efforts to update and validate existing CCR and DUNS registration data.

(5) Other Planning Activities

The following activities should also be part of the planning process for Recovery Act grants:

- Request an expedited “Recovery Act” Catalog of Federal Domestic Assistance (CFDA) number for new Recovery Act programs or existing programs for which the Recovery Act provides for compliance requirements that are significantly different for the Recovery Act funding;
- Provide notification of existing CFDA program descriptions that will be modified during the next CFDA update cycle to reflect Recovery Act authorities, financial information, etc.;
- Work with managers and staff at all levels of the agency so that they can plan and secure the resources needed to implement the Recovery Act requirements;
- Coordinate with agencies with similar grant programs to determine if there are ways to consolidate resources and efforts during the planning, award, and post-award stages of the grant cycle; and
- Review reporting responsibilities outlined in Section 2 of this Guidance and initiate necessary planning and implementation.

5.2 Are there actions, beyond standard practice, that agencies must take related to solicitation and evaluation of competitive grants awarded under Recovery Act?

Yes. Federal agencies must:

- Provide information in funding opportunity announcements and award notifications on Recovery Act-specific reporting requirements.
- Within twenty (20) days after enactment of the Recovery Act, agencies shall post funding opportunity announcements (i.e., “synopses”) to Grants.gov. Information about specific requirements (e.g., use of funds, certification, data reporting, performance measures, etc.) under the Recovery Act should be in the full funding announcement. The Grants.gov synopsis shall link to the full announcement on the agency website within thirty (30) days of enactment. In the interim, the synopsis should link to an agency instruction on when the full announcement is expected to become available.
- Consider weighting selection criteria to favor applicants for assistance with demonstrated ability to deliver programmatic result and accountability objectives included in Recovery Act.

5.3 What are the requirements for use of Grants.gov?

- For “find,” agencies are required to post synopses to Grants.gov, consistent with the requirements in section 5.2 above.
- For “apply,” agencies should generally use the “apply” feature of Grants.gov, but may, in limited circumstances, link from Grants.gov to an on-line application on the agency website.

Agencies who currently use the “apply” function for Grants.gov must consult with OMB prior to initiating a separate solution for Recovery Act awards.

5.4 Are Federal agencies expected to initiate additional oversight requirements for grants, such as mandatory field visits or additional case examinations for error measurements, to comply with grant rules and regulations?

Yes. Agencies must take steps, beyond standard practice, to initiate additional oversight mechanisms in order to mitigate the unique implementation risks of the Recovery Act. At a minimum, agencies should be prepared to evaluate and demonstrate the effectiveness of standard monitoring and oversight practices.

(1) Performance Management and Accountability

Agencies must adapt current performance evaluation and review processes to include the ability to report periodically on completion status of the program or activity, and program and economic outcomes, consistent with Recovery Act requirements.

Agencies in consultation with the Inspectors General, shall establish procedures to validate the accuracy of information submitted on a statistical basis and/or risk based approach as approved by OMB.

(2) Internal Controls Assessment

Consistent with normal practices, agencies must use appropriate internal control assessments to assess the risk of program waste, fraud, and/or abuse. Using the aforementioned risk assessments, agencies must have defined strategies, developed with input from the Inspector General for the agency, to prevent or timely detect waste, fraud, or abuse.

Also, consistent with Section 3 of this Guidance, agencies should initiate additional measures, as appropriate, to address higher risk areas.

5.5 Are agencies expected to comply with existing administrative grants requirements?

Yes. Agencies are expected to follow administrative requirements as directed OMB Circular A-102, Grants and Cooperative Agreements with States and Local Governments, the agency’s adoption of the grants management common rule; and OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Learning, Hospitals, and other Non-profit Organizations. (see 2 CFR part 215)

5.6 What audit tools will be used to drive accountability for Federal awards under the Recovery Act?

- Non-Federal entities (States, local governments, tribes, and non-profit organizations) are required by the Single Audit Act Amendments of 1996 (Single Audit) and OMB Circular A-133 to have an annual audit of their Federal awards (e.g., grant programs).²
- Consistent with Section 3 of this Guidance, Federal agencies will perform a risk analysis of Recovery Act programs and request OMB to designate any high risk programs as Single Audit major programs, i.e., programs which must be tested in a particular year.³
- In addition to single audits, OIGs will use risk assessment techniques where data is available to identify high risk programs and non-Federal entities to be targeted for priority audits, inspections, and investigations with faster turnaround reporting.⁴
- OIGs will perform audits and inspections of their respective agencies awarding, disbursing, and monitoring of Recovery Act funds to determine whether safeguards exist to for funds to be used for their intended purposes.

5.7 What steps will be taken to make Single Audits effective in promoting accountability of Recovery Act grants.

- OMB will use the OMB Circular A-133 Compliance Supplement to notify auditors of compliance requirements which should be tested for Recovery Act awards. OMB will issue interim updates as necessary to keep Recovery Act requirements current.⁵
- Offices of Inspectors General (OIGs) will reach out to the auditing profession and provide technical assistance and training as well as perform quality control reviews to ensure single audits are properly performed and improper payments and other non-compliance is fully reported. OIGs will perform follow-up reviews of Single Audit quality with emphasis on Recovery Act funds and report the results on Recovery.gov.⁶

² Entities expending less than \$500,000 a year are exempt from Single Audit and a few non-Federal entities are permitted to have biennial audits under a grandfathering clause.

³ Circular A-133 § 520(c) (2) allows OMB to designate selected Type A programs as major programs. Notice is required to be given to the recipient and the auditor 180 days prior to the end of the fiscal year to be audited. This information can be provided in the A-133 Compliance Supplement, OMB's website, and Recovery.gov.

⁴ Single audits normally are not received until at least 9 months after the end of the non-Federal entity's fiscal year. OIG audits can be completed and reported on more of a real time basis.

⁵ The OMB Circular A-133 Compliance Supplement is issued annually to guide the auditor on what compliance requirements should be tested under Single Audit. OMB will use issue interim updates as necessary to ensure auditors have adequate guidance on testing Recovery Act funds. Notice will be provided in the April 2009 Compliance Supplement of the interim update process, including where the update will be available.

⁶ It is anticipated that this review will be performed for fiscal years ending between June 30, 2010 and 2011 which will cover the majority of the Recovery Act awards.

5.8 How will transparency be provided for the results of Single Audits?

- For fiscal years ending September 30, 2009 and later, all Single Audit reports filed with the Federal Audit Clearinghouse (FAC) will be made publicly available on the internet. A link will be provided from Recovery.gov.⁷
- Federal agencies will review Single Audits of Recovery Act funding and provide a synopsis of audit findings relating to obligations and expenditures of Recovery Act funding.

5.9 Are there terms and conditions, beyond standard practice, that must be included in competitive and formula grant agreements under Recovery Act?

Agencies must:

- Use the agency's standard award terms and conditions on award notices, where applicable, unless they conflict with the requirements of the Recovery Act.
- Agencies must ensure receipt of funds is made contingent on recipients meeting the reporting requirements in Section 1512 of the Act.⁸
- Ensure that there is an award term or condition requiring first tier subawardees to begin planning activities, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).⁹ Prime recipients and Federal agencies must establish mechanisms to meet Recovery Act data collection requirements. Agencies should work with prime recipients to ensure that DUNS and CCR requirements for first tier subawardees are met no later than the first time Recovery Act data requirements are due.

⁷ The Single Audit Act (31 U.S.C. § 7502(h)) and OMB Circular A-133 § 320(a) and (d) require non-Federal entities to file Single Audit reports with the Federal Audit Clearinghouse (FAC). Entities are also required to make the reports available for public inspection. So in effect, Single Audit reports are public reports. The law does not require (or prohibit) the FAC from making the reports publicly available. Public access to these reports is a logical outgrowth to promote transparency since the FAC is a central repository of all reports and beginning in 2008 reports are filed in an electronic format. A current concern with the FAC making the reports publicly available on-line is a report may inadvertently include personally identifiable information (PII). While the reports are currently subject to the Freedom of Information Act, the FAC sends all FOI requests to the Federal Cognizant agency who is responsible to review, redact as necessary, and send to the requestor. Currently the FAC has an on-line system for Federal agencies to access Single Audit reports. There is no current plan as to how the FAC would respond to a FOI request for the whole data base of reports and ensure PII is not disclosed. The OMB can direct the FAC to take proactive steps to ensure Single Audit reports do not include PII. FAC steps can include: (1) notifying non-Federal entities, auditors, and Federal agencies that beginning with reports for fiscal years ending 9/30/09 the FAC will make the reports publicly available and that they should take steps to ensure the reports do not include PII; (2) include appropriate notices on the FAC website that reports will be made publicly available and therefore non-Federal entities and their auditors are responsible to ensure the reports do not include PII; and (3) use computer assisted techniques to screen reports for PII.

⁸ OMB will work with the relevant personnel from the Federal community to define a standard term and condition for all awards related to section 1512 reporting requirements that can be implemented in the short-term. OMB will also work with agencies to develop a standard term and condition that aligns to additional accountability requirements (e.g., prevention of misuse of funds).

⁹ A final decision on the extent to which subawardees will be required to register in CCR will be included in the final guidance.

- In the case where the Recovery Act requirement conflicts with an agency's standard award term or condition, the agency's award term or condition should be modified, as necessary, to ensure compliance with the Recovery Act requirement. A modification may not be necessary if the award term and condition is sufficiently rigorous to meet Recovery Act requirements.
- Make clear that any funding provided through the Recovery Act that is supplemental to an existing grant is one-time funding.
- Include the requirement that each grantee or sub-grantee awarded funds made available under the Recovery Act shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

Section 6 – Contracts

6.1 Are there actions, beyond standard practice, that agencies must take while planning for contract awards under the Recovery Act?

The critical importance of the Recovery Act, and the funds it will make available to stimulate the American economy, require heightened management attention on acquisition planning in order to:

- Mitigate schedule, cost, and performance risk;
- Define contract requirements that deliver meaningful and measurable outcomes consistent with agency plans and the goals of Recovery Act;
- Obtain maximum practicable competition;
- Maximize opportunities for small businesses to compete for agency contracts and to participate as subcontractors;
- Use supplies and services provided by nonprofit agencies employing people who are blind or severely disabled as provided in FAR Subpart 8.7;
- Expeditiously award contracts using available streamlining flexibilities;
- Apply sufficient and adequately trained workforce to responsibly plan, evaluate, award, and monitor contracts (see Section 6.6 below for further workforce guidance);
- Ensure an adequate number of qualified government personnel are available to perform inherently governmental functions during the acquisition life-cycle; and
- Provide appropriate agency oversight at critical decision points.

Key considerations during the acquisition planning process include the following:

(1) Contract Type Selection

FAR Part 16 addresses contract types. The objective of contract type selection and negotiation is to ensure reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance. Agencies should emphasize the importance of selecting a contract type that supports requirements for meaningful and measurable outcomes consistent with agency plans for, and the goals of, the Recovery Act. Fixed-price contracts (FAR Subpart 16.2) provide maximum incentive for the contractor to control costs and perform effectively and impose a minimum burden upon the contracting parties. These contracts expose the government to the least risk. Fixed-price contracts can also accommodate market fluctuations or other contingencies, when appropriate, using economic price adjustments. Using other than a fixed-price contract may be appropriate but requires agencies to pay special attention to ensuring that sufficient qualified acquisition personnel are available to perform contract administration to mitigate the government's risk. When riskier contract types are proposed, agencies should provide appropriate oversight to ensure that all alternatives have been considered and that qualified staff is available for monitoring performance to mitigate risks. See requirements for posting summary information on contracts and orders that are not both fixed-price and did not use competitive procedures in (2) below.

(2) Competition

Although the law calls on agencies to commence expenditures and activities as quickly as possible consistent with prudent management, this statement, by itself, does not constitute a sufficient justification to support award of a federal contract on a non-competitive basis. Agencies are expected to follow the same laws, principles, procedures, and practices in awarding non-competitive contracts with Recovery Act funds as they do with other funds. Competition is the cornerstone of our acquisition system. The benefits of competition are well established. Competition saves money for the taxpayer, improves contractor performance, curbs fraud, and promotes accountability for results. Agencies should review their internal procurement review practices to ensure they promote competition to the maximum extent practicable. For instance, agencies might lower the dollar thresholds at which higher level review is required when a non-competitive acquisition strategy is contemplated.

To the maximum extent practicable, contracts using Recovery Act funds shall be awarded as fixed-price contracts (See FAR Subpart 16.2) using competitive procedures. These procedures include those identified under FAR Subparts 6.1, 6.2, and 16.505(b)(1) and Subsections 8.405-1 and 8.405-2. Existing fixed-price contracts that were competitively awarded may be used to obligate funds expeditiously.

A summary of any contract or order (or modification to an existing contract or order), including a description of the required products and services, using such funds shall be posted in a special section of the web site Recovery.gov unless the contract or order is both fixed-price and competitively awarded (see Section 6.2(5) below).

(3) Determining Acquisition Objectives and Evaluation Criteria for Award

Agencies should structure acquisitions to result in meaningful and measurable outcomes that are consistent with agency plans and that promote the goals of the Recovery Act. The evaluation criteria for award should include those that bear on the measurement and likelihood of achieving these outcomes.

(4) Existing Contracts

If agencies obligate funds provided under the Recovery Act on an existing order or contract, including but not limited to a Governmentwide Acquisition Contract (GWAC), multi-agency contract, General Services Administration (GSA) Federal Supply Schedule contract, or agency indefinite-delivery/indefinite-quantity (ID/IQ) contract, they must be reported as "Recovery" actions per Section 6.2(3) and comply with Sections 6.2(4) and (5) below.

(5) Interagency Agreements

When using assisted acquisitions, Interagency Agreements must spell out the assignment of agency roles and responsibilities to fulfill the unique requirements of the Recovery Act. These include, but are not limited to, report development and submission, accurate and timely data reporting, and special posting requirements to agency web sites and Recovery.gov.

(6) Small Business Participation

Small businesses play a critical role in stimulating economic growth and creating jobs. They are the engine of our economy, and provide creativity, innovation and technical expertise to support our agencies. Agencies must provide maximum practicable opportunities for small businesses to compete for agency contracts and to participate as subcontractors in contracts awarded by agencies. Agencies may take advantage of any authorized small business contracting program. If, in making an award to a small business, a non-competitive procedure is used, such as a non-competitive set-aside under section 8(a) of the Small Business Act, then a summary of any such contract, including a description of the supplies and services, shall be posted in a special section of Recovery.gov (see Section 6.2(5)).

(7) Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) - AbilityOne

To maximize participation of Americans who are blind or severely disabled in our economic recovery, agencies must continue to purchase required goods and services on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled, which are produced or provided by qualified nonprofit agencies employing such individuals. Agencies are encouraged to pursue additional opportunities to award contracts to AbilityOne sources as authorized by the Javits-Wagner-O'Day Act. See FAR Subpart 8.7 and www.abilityone.gov.

(8) Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace

Agencies must continue to comply with the requirements of FAR Part 23 when acquiring supplies and services using Recovery Act funds.

(9) Contract Financing and Structuring Contract Deliverables

Agencies should give special attention to structuring contract deliverables to promote the economic stimulus goals (including expenditure timeframes) of the Recovery Act.

Contract financing is not a normal practice in commercial item fixed-price contracting. However, tight credit markets may make it difficult for some contractors to secure the cash flow they need to fund their operations. Increased management and oversight must be provided if government financing is provided to ensure accountability for these taxpayer funds.

Alternatives to contract financing include structuring contract line items to allow invoicing and payments based upon interim or partial deliverables, milestones, percent-of-completion, etc. Ensuring consideration of contractor cash flow during acquisition planning will mitigate schedule and performance risks to the government and reduce costs to the contractor associated with financing in a tight credit market.

(10) Tribal Self-Determination Contracts

See Chapter 2 regarding tribal self-determination contracts.

6.2 Are there actions, beyond standard practice, that agencies must take related to solicitation of offers and award of contracts under the Recovery Act?

Yes. While the FAR generally provides the necessary policy and procedure for solicitation of offers and award of contracts, the Recovery Act imposes unique transparency requirements that change the pre-solicitation and award notice process, beyond standard practice, as described in (1) – (5) below:

(1) Unique Requirements for Posting of Presolicitation Notices

Presolicitation notices must be posted on FedBizOpps (FBO) in accordance with FAR Part 5, including applicable dollar thresholds. Under the Recovery Act, presolicitation notices are required for any order, meeting the FAR Part 5 dollar thresholds, under a task or delivery order contract, including GWACs, multi-agency contracts, GSA Federal Supply Schedule contracts. These notices will be posted in FBO for information purposes only (i.e., the requirements of FAR Subpart 5.203 do not apply). Contracting officers should continue to also use their usual solicitation practice (e.g., e-Buy).

To facilitate transparency and ensure consistency in tracking notices for Recovery Act funds, agencies must use the following special formatting requirements:

- All presolicitation notices must include the word “Recovery” as the first word in the *Title* field in FBO preceding the actual title.
- Presolicitation notices for delivery and task orders must also include the following statement in the *Description* field preceding the actual description:

“THIS NOTICE IS PROVIDED FOR INFORMATION PURPOSES ONLY. THIS OPPORTUNITY IS AVAILABLE ONLY TO CONTRACTORS UNDER [contracting officer insert program name. For example: GSA Schedule 03FAC, COMMITS, Navy's SEAPORT-E.]

(2) Unique Requirements for Announcing Contract Awards

Contract award notices must also be posted at FBO in accordance with FAR Part 5, including all task and delivery orders as described in (1) above. To facilitate transparency and ensure

consistency in tracking award announcements for Recovery Act funds, agencies must use the following special formatting requirement:

- All award announcements must include the word “Recovery” as the first word in the *Title* field in FBO preceding the remaining title.

(3) Unique Requirements for Entering Awards into the Federal Procurement Data System (FPDS)

When entering data in FPDS on any action (including modifications) funded by the Recovery Act, agencies must enter the Treasury Account Symbol (TAS) in the *Description of Requirement* field. The TAS code should be entered with TAS:: preceding the code and ::TAS following the code. The code itself should have spaces between the segments, i.e., Agency code (2 characters) would be entered followed by a space then the Account code (4 characters) followed by a space and then the Subaccount code (3 characters) which is optional and would only be included by those agencies utilizing this segment of the code. The entry would appear as follows:

TAS::XX XXXX XXX::TAS

Agencies should coordinate with their budget/finance offices to identify the applicable TAS codes.

Standard data validation practices currently required by the Office of Federal Procurement Policy (OFPP) assure the accuracy of contracting data, including data on contracts awarded under the Recovery Act.

(4) Unique Requirements for Contracts, Orders, and Modifications Exceeding \$500,000.

For each government contract or order (or modification to an existing contract or order) over \$500,000, agencies shall provide a summary of the contract or order (or modification to an existing contract or order), including a description of the required products and services, which will be made available publicly and linked to Recovery.gov. Subsequent guidance will provide additional details.

(5) Unique Requirements for Actions that are not Fixed-Price or Competitive

A summary of any contract or order (or modification to an existing contract or order), including a description of the required products and services, using such funds shall be posted in a special section of the web site Recovery.gov unless the contract or order is both fixed-price and competitively awarded. (See table below).

Posting of Notice/Summary on Special Section

	Description of Contract Action	Posting on Special Section of Recovery.Gov
(1)	A contract is competitively awarded and is fixed price	Not Required
(2)	A contract is awarded that is not fixed-price	Required
(3)	A contract is awarded without competition	Required
(4)	An order is issued under a new or existing single award IDIQ contract	Required if order is made under a contract described in (2) or (3)
(5)	An order is issued under a new or existing multiple award IDIQ contract	Required if one or both of the following conditions exist: <ul style="list-style-type: none"> i. the order is not fixed-price ii. the order is awarded pursuant to an exception to the competition requirements applicable to the underlying vehicle (e.g., award is made pursuant to an exception to the fair opportunity process)
(6)	A modification is issued	Required if modification is made: <ul style="list-style-type: none"> i. to a contract described in (2) or (3) above; or ii. to an order requiring posting as described in (4) or (5) above
(7)	A contract or order is awarded pursuant to a small business contracting authority (e.g., SBA's section 8(a) program)	Required if one or both of the following conditions exist: <ul style="list-style-type: none"> i. the contract or order is not fixed-price ii. the contract or order was not awarded using competition (e.g., a non-competitive 8(a) award)

Subsequent guidance will provide additional details.

In general, if a question arises about whether to provide public disclosure of information, agencies should promote transparency to the maximum extent practicable when consistent with national security interests.

Agencies should also give special attention to the following:

(6) Responsibility Determinations

FAR Part 9 addresses contractor qualifications. Agencies should place special emphasis on responsibility determinations and pre-award surveys. The award of a contract based solely on lowest evaluated price can produce a false economy, increasing performance, cost, and schedule risk. FAR Subpart 9.103 states that a prospective contractor must affirmatively demonstrate its responsibility, including, when necessary, the responsibility of its proposed subcontractors. The general standards for responsibility include that the prospective contractor have:

- Adequate financial resources to perform the contract or the ability to obtain them;
- The ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- A satisfactory record of past performance, integrity, and business ethics;
- The necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them; and
- The necessary production, construction, and technical equipment and facilities, or the ability to obtain them.

Additionally, the prospective contractor must be otherwise qualified and eligible to receive an award under applicable laws and regulations. Agencies are reminded that they should review the Excluded Parties List System (see FAR Subpart 9.404) before determining that a prospective contractor is responsible. When an acquisition poses unique risks, agencies may also use special responsibility standards to mitigate the risk. If an Agency cannot obtain sufficient information to make a determination of responsibility, a pre-award survey should be requested unless the contract will have a fixed-price at or below the simplified acquisition threshold or will involve the acquisition of commercial items (see FAR Subsection 9.106-1).

(7) Acquisition Flexibilities

Agencies should use authorized acquisition flexibilities as appropriate to avoid unnecessary delays in awarding contracts with Recovery Act funds. See Table below. Agencies are cautioned that the Recovery Act does not independently trigger use of emergency procurement authorities in FAR Part 18. These authorities are triggered in limited, statutorily identified, circumstances, such as in support of a contingency operation or to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack against the United States. See FAR 18.001. Unless one of these circumstances exists, the special emergency authorities in FAR Part 18 shall not be used.

**Generally Available Acquisition Flexibilities
A Quick Reference**

Small Dollar Acquisitions under the Simplified Acquisition Threshold (SAT) (\$3,000 to \$100,000)

- ✓ Various flexibilities are provided in connection with publicizing -- e.g., an oral solicitation may be efficient for actions up to \$30,000 & other actions for which there is an exception to notice; response time may be less than 30 days provided a response time is reasonable (FAR 5.101, 5.202, 5.203, 13.106-1).

Acquisitions under the test program for commercial items (\$100,000 to \$5,500,000)

- ✓ Acquisition generally may be treated like a purchase under the SAT, with certain exceptions (see FAR Part 13.501)

Commercial Item Acquisitions (over \$5,500,000)

- ✓ FAR Part 12 policies & procedures apply, including optional streamlined procedures for evaluation & solicitation.
- ✓ Wait period after notice & before issuance of solicitation may be reduced (FAR 5.203(a)).
- ✓ Based on circumstances, the contracting officer may allow for fewer than 30 day response time for receipt of offers (FAR 12.205, 5.203(b)).

Non-commercial item acquisitions (over \$100,000)

- ✓ Some acquisitions of non-commercial items may qualify to use FAR Part 12 (FAR 12.102(f) & (g)).
- ✓ Offerors may be allowed to give oral presentations (FAR 15.102).

(8) Davis-Bacon Act and Service Contract Act.

The Davis-Bacon Act and Service Contract Act apply to contract actions using Recovery Act funds. Agencies must follow the same laws, principles, procedures, and practices in awarding contracts with Recovery Act funds as they do with other funds.

6.3 Are there actions, beyond standard practice, that agencies must take related to the monitoring of contracts under Recovery Act?

Agencies must provide for appropriate oversight of contracts to ensure outcomes that are consistent with and measurable against agency plans and goals under the Act. It is critical that agencies evaluate their workforce needs so that they are able to appoint qualified Contracting Officers, Contracting Officer Technical Representatives (COTRs), and Program Managers with certification levels appropriate to the complexity of Recovery Act projects. In addition, agencies should actively monitor contracts to ensure that performance, cost, and schedule goals are being met, including:

- Ensuring that incentive and award fees are effectively administered. (For further guidance, see the OFPP memorandum entitled *Appropriate Use of Incentive Contracts*, 12/4/07);
- Implementing quality assurance procedures established for the contract;
- Documenting timely inspection and acceptance of deliverables;
- Promptly using all available tools to identify and remedy deficiencies related to contractor performance, cost, and schedule (e.g., Quality Assurance Surveillance Plans, cure notices, show cause letters); and
- Completing timely contractor performance evaluations that accurately reflect the contractor's actual performance, supported by appropriate documentation.

6.4 Are there terms and conditions, beyond standard practice, that must be included in contract agreements under the Recovery Act?

The Recovery Act establishes several special contract requirements. For example, the Recovery Act requires reporting on first-tier subcontractor awards. A FAR case is in process that will accommodate this requirement. Other Recovery Act matters under consideration for FAR coverage or other governmentwide guidance include:

- Special Buy American Act requirements;
- Additional requirements for contractor reporting; and
- Expanded GAO/OIG access to contractor records.

Agencies must ensure receipt of funds is made contingent on recipients meeting the reporting requirements in Section 1512 of the Act.¹¹

6.5 Are there actions, beyond standard practices, that agencies must take related to oversight and audit of contracts awarded under Recovery Act?

Agencies already have in place processes and procedures to continuously monitor and improve the effectiveness of internal control associated with their programs. In light of the Administration's commitment to high levels of accountability and transparency, special attention should be given to maintaining strong internal controls over Recovery Act program funds. High risk associated with the award and expenditure of Recovery Act program funds, merit increased oversight by the Agency. In addition, the Recovery Accountability and Transparency Board, established by the Act, Congress and the Office of Management and Budget will oversee and monitor implementation of the Recovery Act through periodic reporting on the use and expenditure of funds. Reporting will be in a variety of areas including:

- Progress against program schedule and performance objectives;
- Qualification and number of acquisition, grants and program management staff
- Use of competition;
- Timeliness of awards; and
- Dollars obligated and expended

¹¹ OMB will work with the relevant personnel from the Federal community to define a standard term and condition for all awards related to section 1512 reporting requirements that can be implemented in the short-term. OMB will also work with agencies to develop a standard term and condition that aligns to additional accountability requirements (e.g., prevention of misuse of funds).

Agencies should identify any special reporting requirements required by the Act and take action to ensure the information will be available for timely reporting.

Agencies are reminded that proper documentation must be maintained for each contract award. FAR Part 4 prescribes policies and procedures related to the proper documentation of contract files.

6.6 We know we will need more acquisition people to carry out our agency's responsibilities under Recovery Act. How do we meet this need?

Once you've determined your workforce needs, determine if there are agency resources that can be reallocated. If there are immediate, temporary needs that cannot be filled from within your agency, OFPP and the Federal Acquisition Institute can assist in identifying human capital and other resources. Assistance could be in a variety of forms, such as interagency collaboration, details, or teaming.

If you identify a need for short-term supplemental acquisition personnel, please consult with your agency Chief Human Capital Officer (CHCO) when planning how to meet your agency human capital needs. Also consult with your OMB representative. Below is guidance that might be helpful in hiring additional temporary or term employees quickly.

- Re-hiring Federal retirees – The GSA Modernization Act (P.L. 109-313) amended the OFPP Act with provisions relating to reemployment of retired acquisition-related professionals (defines as those in the GS-1102 and GS-1105 series and other series with significant acquisition-related duties). The OFPP memorandum of Sept 4, 2007, *Plans for hiring reemployed annuitants to fill acquisition-related positions* http://www.whitehouse.gov/omb/procurement/workforce/090407_reemployed.pdf provides details on how to use this authority to re-hire retired Federal professionals without impacting their annuity. The authority includes special provisions for temporary emergency need and provided your agency has documentation for each annuitant, your agency head can approve multiple people for hiring at a time. If your agency has not already developed a plan for this authority, consult with your CHCO on building the plan, obtaining approval, and implementation.

- Direct Hire Authority – The Services Acquisition Reform Act (P.L. 108-136) authorized direct hire authority for civilian agencies. Once an agency head determines there is a shortage of acquisition professionals (which includes personnel in the GS-1102, GS-1105, and other series with significant acquisition-related duties), the agency can announce jobs, rate applications, hold a large-scale event with agency personnel to conduct interviews and make offers the same day as interviews. If your agency has not already developed a plan for this authority, consult with your CHCO on building the plan, obtaining approval, and implementation.

- Hiring Veterans – based on the Veterans' Recruitment Appointment (VRA) Authority (P.L. 107-288) and 5 CFR 307, agencies may also identify and rapidly hire qualified professionals (through the GS-11 or equivalent grade). This is a non-competitive appointment authority that your CHCO can help you use.

- Hiring Persons with Disabilities - using Schedule A appointments as outlined in 5 CFR 213, agencies may identify and rapidly hire qualified professionals with disabilities. This is a non-competitive appointment authority that your CHCO can help you use.

For more comprehensive guidance on hiring flexibilities, please consult with your CHCO who can guide you through OPM's Human Resources Flexibilities and Authorities in the Federal Government handbook at: http://www.opm.gov/omsoe/hr-flex/HumanResourcesFlexibilities_and_AuthoritiesHandbook.pdf

If multiple agencies are interested in hiring a substantial number of professionals under any of these authorities, OFPP and the CAOC may consider facilitating a large-scale recruitment initiative to identify interested candidates. OFPP will reach out to agencies shortly to determine the interest and need for a coordinated activity.

Section 7 – Loans and Loan Guarantees

7.1 What actions, beyond standard practice, must agencies take while planning for awarding loans and loan guarantees under Recovery Act?

Consistent with standard agency practices, Federal credit policies under OMB Circular A-129, and the Administration's commitment to accountability and transparency, planning for loan and loan guarantee awards under the Recovery Act is critical to:

- Mitigate performance and credit risk;
- Define program requirements that deliver meaningful and measurable outcomes consistent with agency plans and the goals of Recovery Act;
- Obtain maximum practicable competition consistent with program authorizing legislation;
- Expeditiously award financial assistance using available streamlining flexibilities;
- Apply sufficient and adequately trained workforce to responsibly evaluate, award and monitor loans and loan guarantees;
- Ensure adequate government personnel is available to perform inherently governmental functions during the loan award and credit management cycles;
- Provide appropriate agency oversight at critical decision points; and
- Make information available to the public, consistent with the Recovery Act.

In addition to the transparency provisions, consistent with statutory and regulatory requirements, standard agency practices, and Federal credit policies under OMB Circular A-129, key considerations during the planning process include the following areas:

(1) Compliance with Statutory Provisions

Agencies should evaluate specific program provisions, and incorporate necessary information collection and other requirements into opportunity notices, applications, award agreements, and processes to ensure adequate oversight and management, and compliance with any unique provisions under the Recovery Act.

(2) Competition

Although the law calls on agencies to commence expenditures and activities as quickly as possible consistent with prudent management, this statement, by itself, does not constitute a sufficient justification to support award of federal assistance on a non-competitive basis. Program authorizing language, (with possible clarification provided by the Recovery Act), agency regulations, and other documentation specify the competition requirements for awards. Agencies shall enforce competition requirements consistent with the provisions of all applicable statutory, regulatory, and other requirements.

(3) Financial Assistance Objectives and Evaluation Criteria

Agencies should develop specific performance goals and target measures prior to developing a funding opportunity notice. Agencies shall obtain sufficient information from applicants, to evaluate the degree to which the loan or loan guarantee would meet the desired program outcomes.

Where competition is permitted by program authorization, agencies shall publish in the opportunity notice, criteria for determining the best use of funds for each opportunity notice and formalize the procedures to evaluate applications.

(4) Performance Measure, Accountability, and Reporting

Agencies should also establish systems or other processes using existing systems to capture, validate, report, and evaluate information regarding the loan and loan guarantee award, from the borrowers, the lenders or other relevant sources, to periodically assess and report performance against expected results consistent with Recovery Act reporting requirements. Such systems or processes include development of a standard format for award recipients to report summary information on the award and use of funds, and making such information available on a public website. Reviews of spending shall be designed to proactively identify and minimize risks.

7.2 What are the requirements related to loan and loan guarantee announcements under the Recovery Act?

Agencies shall use the GovLoans.gov web portal in conjunction with agency websites and existing agency marketing and outreach initiatives to assure public awareness of loan availability under the Recovery Act.

(1) Requirements for Opportunity Notices

Current GovLoans.gov opportunity announcements include sections for eligibility determination, terms and conditions, application process, and contact information. Opportunity notices posted on GovLoans.gov must include the following sections:

- Performance Measurement;
- Data Collection; and
- Loan and Loan Guarantee Award Selection and Evaluation Criteria

(2) Requirements for Loan and Loan Guarantee Award Notices

The loan and loan guarantee award notice shall address the following topics:

- Statement of Expected Benefit/Outcome;
- Face Value of Loan or Loan Guarantee;
- Subsidy cost to Government of the Loan or Loan Guarantee;

- Congressional District;
- Key Performance Measures;
- Competitive Award Process Determination; and
- Justification of Non-Competitive Selection Process, if appropriate.

7.3 Are Federal agencies expected to initiate additional requirements related to the implementation and monitoring of loans and loan guarantees under Recovery Act?

Yes. Agencies must take steps, beyond standard practice, to mitigate the unique implementation risks of the Recovery Act. At a minimum, agencies should be prepared to evaluate and demonstrate the effectiveness of standard monitoring and oversight practices.

(1) Performance Management and Accountability

Agencies must adapt current performance evaluation and review processes to include the ability to report periodically on completion status of the program or activity, and program and economic outcomes, consistent with Recovery Act requirements.

Agencies in consultation with the Inspectors General, shall establish procedures to validate the accuracy of information submitted on a statistical basis and/or risk based approach as approved by the Office of Management and Budget (OMB).

(2) Internal Controls Assessment

Consistent with normal practices, agencies must use appropriate internal control assessments to assess the risk of program waste, fraud, and/or abuse. Using the aforementioned risk assessments, agencies must have defined strategies to prevent or timely detect waste, fraud, or abuse, developed with input from the Inspector General for the agency.

Also, consistent with Section 3 of this Guidance, agencies should initiate additional measures, as appropriate, to address higher risk areas.

7.4 Are there terms and conditions, beyond standard practice, that must be included in loan and loan guarantee agreements under Recovery Act?

Agencies must ensure receipt of funds is made contingent on recipients meeting the reporting requirements in Section 1512 of the Act.¹²

Include the requirement that each grantee or sub-grantee awarded funds made available under the Recovery Act shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation

¹² OMB will work with the relevant personnel from the Federal community to define a standard term and condition for all awards related to section 1512 reporting requirements that can be implemented in the short-term. OMB will also work with agencies to develop a standard term and condition that aligns to additional accountability requirements (e.g., prevention of misuse of funds).

of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

7.5 Are there actions, beyond standard practices, that agencies must take related to oversight and audit of loan and loan guarantees awarded under Recovery Act?

While Recovery Act does not mandate specific requirements, the law does envision that additional steps, beyond standard practice, will be taken to mitigate the unique implementation risks. At a minimum, agencies should be prepared to evaluate and demonstrate the effectiveness of standard monitoring and oversight practices. Also, consistent with Section 3 of this Guidance, agencies should initiate additional measures, as appropriate, to address higher risk areas.

7.6 What audit tools will be used to ensure accountability for Federal loans and loan guarantees under the Recovery Act?

- Non-Federal entities (States, local governments, tribes, and non-profit organizations) are required by the Single Audit Act Amendments of 1996 (Single Audit) and OMB Circular A-133 to have an annual audit of their Federal awards (e.g., loan programs).¹³
- Consistent with Section 3 of this Guidance, Federal agencies will perform a risk analysis of Recovery Act programs and request OMB to designate any high risk programs as Single Audit major programs, i.e., programs which must be tested in a particular year.¹⁴
- In addition to single audits, OIGs will use risk assessment techniques where data is available to identify high risk programs and non-Federal entities to be targeted for priority audits, inspections, and investigations with faster turnaround reporting.¹⁵
- OIGs will perform audits and inspections of their respective agencies awarding, disbursing, and monitoring of Recovery Act funds to determine whether safeguards exist to ensure the funds are used for their intended purposes.

7.7 How will transparency be provided for the results of Single Audits?

- For fiscal years ending September 30, 2009 and later, all Single Audit reports filed with the Federal Audit Clearinghouse (FAC) will be made publicly available on the internet. A link will be provided from Recovery.gov.¹⁶

¹³ Technical Single Audit exceptions applicable to a very small percentage of funding are entities expending less than \$500,000 a year are exempt from Single Audit and a few non-Federal entities are permitted to have biennial audits under a grandfathering clause.

¹⁴ A-133 § 520(c) (2) allows OMB to designate selected Type A programs as major programs. Notice is required to be given to the recipient and the auditor 180 days prior to the end of the fiscal year to be audited. This information can be provided in the A-133 Compliance Supplement, OMB's website, and Recovery.gov.

¹⁵ Single audits normally are not received until at least 9 months after the end of the non-Federal entity's fiscal year. OIG audits can be completed and reported on more of a real time basis.

¹⁶ § 7502(h) of the SAA and OMB Circular A-133 § 320(a) and (d) require non-Federal entities to file Single Audit reports with the Federal Audit Clearinghouse (FAC). Entities are also required to make the reports available for public inspection. So in effect, Single Audit reports are public reports. The law does not require (or prohibit) the FAC from making the reports publicly available. Public access to these reports is a logical outgrowth to promote transparency since the FAC is a central repository of all reports and beginning in 2008 reports are filed in an electronic format. A current concern with the FAC making the reports publicly available on-line is a report may inadvertently include personally identifiable information (PII). While the reports are currently subject to the

- Federal agencies will review Single Audits of Recovery Act funding and provide a synopsis of audit findings and required corrective action taken on Recovery.gov.

Freedom of Information Act, the FAC sends all FOI requests to the Federal Cognizant agency who is responsible to review, redact as necessary, and send to the requestor. Currently the FAC has an on-line system for Federal agencies to access Single Audit reports. There is no current plan as to how the FAC would respond to a FOI request for the whole data base of reports and ensure PII is not disclosed. The OMB can direct the FAC to take proactive steps to ensure Single Audit reports do not include PII. FAC steps can include: (1) notifying non-Federal entities, auditors, and Federal agencies that beginning with reports for fiscal years ending 9/30/09 the FAC will make the reports publicly available and that they should take steps to ensure the reports do not include PII; (2) include appropriate notices on the FAC website that reports will be made publicly available and therefore non-Federal entities and their auditors are responsible to ensure the reports do not include PII; and (3) use computer assisted techniques to screen reports for PII.

Appendix 1 – Detailed Instructions on Transmitting Materials

This appendix currently includes transmission instructions for the following information flows: Major Communications (Section 2.2), Formula Block Grant Allocations (Section 2.3), and Weekly Reports (Section 2.4). Future guidance will include instructions for the submission of the reports required in sections 2.5 through 2.9.

For each of the near term reporting requirements (major communications, formula block grant allocations, weekly reports) agencies are required to provide a feed (preferred: Atom 1.0, acceptable: RSS) of the information so that content can be delivered via subscription. Note that the required information can be supplied in the feed or the feed can point to a file at the agency using the convention noted below. If an agency is immediately unable to publish feeds, the agency should post each near term information flow (major communications, formula block grant allocations, weekly reports) to a URL directory convention suggested below: www.agency.gov/recovery/year/month/date/reporttype. It is expected that the information files will be posted at the following URLs:

- Major Communications: www.HUD.gov/recovery/2009/02/16/comms
- Formula Block Grant Allocation: www.HUD.gov/recovery/2009/02/16/fbga
- Weekly Report: www.HUD.gov/recovery/2009/03/01/weekly

In addition to posting the files either via feed or the URL structure, agencies are also required to email the files to the following email address: recoveryupdates@gsa.gov. Emails should have a subject in the following format: Official Agency Abbreviation, Report Type. For example:

- HUD, Major Communications
- HUD, Formula Block Grant Allocation
- HUD, Weekly Report #X

Note that the body of the email should include the appropriate completed template as an attachment and should include the name, title, and contact information for the submitter. Templates for these files can be found at <https://max.omb.gov/community/x/doC2Dw>.

Major Communications: Agencies are asked to send major announcements for potential use on Recovery.gov. The announcements should be written in the normal agency press release format, and include a short paragraph in the following format:

PRESIDENT OBAMA ANNOUNCES ECONOMIC ADVISORY BOARD

Washington (February 17, 2009) – President Barack Obama today signed an executive order establishing the new Economic Recovery Advisory Board. Modeled on the Foreign Intelligence Advisory Board created by President Dwight D. Eisenhower the Board will provide an independent voice on economic issues and will be charged with offering independent advice to the President as he formulates and implements his plans for economic recovery.

Data elements for the major communications feed should include:

Major Communications Data: (Based on Recovery Act Guidance)			
Data Elements	Field Type	Source of Requirement	Source of Record
Title (Clear Heading)	varchar(45)	OMB Guidance	Agency
Link to Communications Item	varchar(250)	OMB Guidance	Agency
Type of Major Communication (Press Release, Video, Press Event, Other)	varchar(45)	OMB Guidance	Agency
Short (no more than 5 sentences) overview of the main communications points	Up to 65535 characters	OMB Guidance	Agency
Date and time of communication	MMDDYYYY HH:MM	OMB Guidance	Agency
Additional citizen friendly tags that can be used on Recovery.gov to help present the news items	varchar(45)	OMB Guidance	Agency

Formula Block Grant Allocation Reports: Agencies are asked to provide Formula Block Grant Allocation information as soon as it becomes available. Data elements for the formula block grant allocation feed should include:

Formula Block Grant Allocation Data: (Based on Recovery Act Guidance, Recovery Act, and FFATA.)				
Data Elements	Description	Field Type	Source of Requirement	Source of Record
Recipient Name	The name of the recipient of the award.	varchar(45)	OMB Guidance	Agency
Federal Funding Amount	Amount of federal government's obligation or contingent liability, in dollars. A negative number represents a decrease in funding.	Int(11)	OMB Guidance	Agency
Recipient DUNS	Unique nine-digit number issued by Dun &	char(1)	OMB Guidance	Agency

Number	Bradstreet to the agency. Followed by optional DUNS Plus 4 which allows an agency to submit different bank account data for a single DUNS (Assigned by Dun & Bradstreet)	3)		
CFDA Program Number	The numeric code that indicates the program under which this award was funded within the Catalog of Federal Domestic Assistance (CFDA). Numbers that contain AAA, AAB etc. are pseudo-codes and are not in CFDA.	varchar(7)	OMB Guidance	Agency
CFDA Program Title	The title of the program under which the award was funded, taken from the Catalog of Federal Domestic Assistance (CFDA).	varchar(74)	OMB Guidance	Agency
Recipient Address Line 1	Recipient's Full address Line 1	char(35)	OMB Guidance	Agency
Recipient Address Line 2	Recipient's Full address Line 2	char(35)	OMB Guidance	Agency
Recipient Address Line 3	Recipient's Full address Line 3	char(35)	OMB Guidance	Agency
Recipient City Code	The five-digit FIPS city code for the city in the address of the recipient of the award.	varchar(5)	OMB Guidance	Agency
Recipient City Name	The city in which the address of the recipient of the award is located.	varchar(21)	OMB Guidance	Agency
Recipient County Code	The three-digit FIPS county code for the county in which the address for the recipient of the award is located.	char(3)	OMB Guidance	Agency
Recipient County Name	The county in which the address for the recipient of the award is located.	varchar(21)	OMB Guidance	Agency
Recipient State Code	The two-digit FIPS state code for the state or territory in which the address for the recipient of the award is located.	char(2)	OMB Guidance	Agency
Recipient State Name	The name of the state or territory in which the address for the recipient of the award is located.	varchar(25)	OMB Guidance	Agency
Recipient Zip Code	The Zip code in the address of the recipient of the award.	varchar(9)	OMB Guidance	Agency
Program Source/Treasury Account Symbol: Agency Code	Agency Code part (First 2 characters) of Treasury Account Symbol (9 characters) assigned by U.S. Department of Treasury	varchar(2)	OMB Guidance	Agency
Program Source/Treasury Account Symbol: Account Code	Account Code part (3 rd to 6th characters) of Treasury Account Symbol (9 characters) assigned by U.S. Department of Treasury	varchar(4)	OMB Guidance	Agency
Program Source/Treasury Account Symbol: Sub-Account Code (OPTIONAL)	Sub-Account Code part (7th to 9th characters) of Treasury Account Symbol (9 characters) assigned by U.S. Department of Treasury	varchar(3)	OMB Guidance	Agency

Weekly Update Reports: Starting 3/3/2009, agencies will be required to submit a weekly update report on a cumulative, year-to-date basis for Recovery.gov. Expenditure data is optional on the weekly report until April 6th. Other required amounts should be reported as zero if unknown at the time of reporting. Data elements for the weekly update report feed should include:

Weekly Update Report Data: (Based on Recovery Act Guidance)				
Data Elements	Description	Field Type	Source of Requirement	Source of Record
Week Start Date	The date for the first day in the week covered in the weekly update report.	MMDD YYYY	OMB Guidance	Agency
Program Source/ Treasury Account Symbol: Agency Code	Agency Code part (First 2 characters) of Treasury Account Symbol (9 characters) assigned by U.S. Department of Treasury	varchar(2)	OMB Guidance	Agency
Program Source/Treasury Account Symbol: Account Code	Account Code part (3rd to 6th characters) of Treasury Account Symbol (9 characters) assigned by U.S. Department of Treasury	varchar(4)	OMB Guidance	Agency
Program Source/Treasury Account Symbol; Sub-Account Code (OPTIONAL)	Sub-Account Code part (7th to 9th characters) of Treasury Account Symbol (9 characters) assigned by U.S. Department of Treasury	varchar(3)	OMB Guidance	Agency
Total Appropriation	Total Allocations - actual dollar amount, rounded to the nearest whole dollar	int(12)	OMB Guidance	Agency
Total Obligations	Total Obligations - actual dollar amount, rounded to the nearest whole dollar	int(12)	OMB Guidance	Agency
Total Expenditures	Total Expenditures - actual dollar amount, rounded to the nearest whole dollar	int(12)	OMB Guidance	Agency
Major Completed Actions	Short bulleted list of the major actions taken to date	Up to 65535 characters	OMB Guidance	Agency
Major Planned Actions	Short bulleted list of the major planned actions	Up to 65535 characters	OMB Guidance	Agency

Note on Federal Solicitation Data: The Recovery Act requires that Recovery.gov include links to contract and financial assistance solicitations. Contract solicitations will be published through the Federal Business Opportunities website (www.fbo.gov) and Federal financial assistance solicitations will be published through Grants.gov. The legislation does not state any specific data field requirements for contract or financial assistance solicitations to be presented on Recovery.gov.

Appendix 2 — Agency Recovery Related Web Pages

As discussed in Section 2.12 of this guidance, agencies are not required to develop *new* websites dedicated to American Recovery and Reinvestment Act (Recovery Act) efforts. Each agency should dedicate a page of its primary website to Recovery Act activities (entitled “[Insert Agency Name] Information Related to the American Recovery and Reinvestment Act of 2009”). Those pages must be consistently identified with a URL that identifies the key entry page to that information with a “recovery” standard extension, i.e. www.agency.gov/recovery. Agencies must create their recovery related page within one week of the issuance of this guidance.

This section outlines specific requirements and best practices for agency recovery related web pages.

Requirements

In order to facilitate transparency to the public, agencies must follow some minimum common formats for their Recovery Act pages. These include:

- Page titles. To help the public find the information via commercial and government search engines, agencies should use a consistent page title for their main Recovery Act page (“Agency X Information Related to the American Recovery and Reinvestment Act of 2009”).
- Main headings. Each agency’s Recovery Act key entry page should include the following main headings:
 - “Overview of the American Recovery and Reinvestment Act of 2009 (Recovery Act). The American Recovery and Reinvestment Act of 2009 (Recovery Act) was signed into law by President Obama on February 17th, 2009. It is an unprecedented effort to jumpstart our economy, create or save millions of jobs, and put a down payment on addressing long-neglected challenges so our country can thrive in the 21st century. The Act is an extraordinary response to a crisis unlike any since the Great Depression, and includes measures to modernize our nation’s infrastructure, enhance energy independence, expand educational opportunities, preserve and improve affordable health care, provide tax relief, and protect those in greatest need.”
 - “Implementing the American Recovery and Reinvestment Act of 2009 (Recovery Act).” Agencies should include a short paragraph or bullets giving an overview of implementation of the Recovery Act for your agency.
 - “Agency Plans and Reports”. This section should include agency plans and reports as required by this guidance, the Recovery Act, or as determined by the agency. This includes agency and program specific reports required by the Recovery Act.

- **“Learn more about our programs”**. Agencies should use this section to highlight program plans and other programmatic activities. There are no specific formatting requirements for this section.
- **Prominent link to Recovery.gov**. Agencies should include the “Recovery.gov” graphic prominently on their Recovery pages, linked to www.recovery.gov. Agencies can find the recovery graphic at <https://max.omb.gov/community/x/7QCtDw>.
- **Legislation**. Agencies should include a link to the final legislation on their main Recovery page.
- **How to Apply**. Agencies should have prominent links to Grants.gov and FBO.gov so that people and entities that want to apply or bid for grants, contracts, loans or loan guarantees have a clear and consistent avenue to learn more and act.
- **Link to agency Inspector General (IG) website**. Include a link to the IG's websites to allow for fraud reporting and easy access to IG reports.
- **Transparency & reporting**. Agencies will also be using the web for transparency and reporting that is required for compliance with the Recovery Act. Please see Appendix 1 for more information.

Best practices

Agencies should have a prominent link to their Recovery Act key entry page from their home page and from other relevant sections of their site where visitors are likely to look for this information. For example, agencies should link to their Recovery Act section from their “Performance and Budget” page and their “Grants” page, where applicable. Agencies should also link to their Recovery Act page from relevant program areas that are receiving funding from Recovery Act.

- Content should be written in plain language and follow government-wide best practices for plain language (see: http://www.usa.gov/webcontent/managing_content/writing_and_editing.shtml).
- Agencies should ensure that all content, including printable reports, is accessible to people with disabilities and meets requirements of Section 508 of the Rehabilitation Act of 1973 as well as any agency specific Section 508 procedures. Agencies should ensure that large documents are presented in a way for users to easily scan their contents and download them.
- To ensure maximum transparency and accountability, agencies should provide contact information for the person or office responsible for maintaining their agency’s Recovery Act content. Agencies should also provide contact information for the office of the senior accountable agency official responsible for Recovery Act activities.

- As they develop their web content, agencies should follow general government-wide web best practices developed by the Federal Web Managers Council, published on WebContent.gov: http://www.usa.gov/webcontent/reqs_bestpractices/best_practices.shtml

February 17, 2009

Getting to \$787 Billion

After a month of wrangling, 246 House Democrats and three Senate Democrats and three Senate Republicans voted late last week to pass a compromise economic recovery package of spending provisions, tax cuts and aid to laid-off workers and their families. The 1,073-page bill, signed into law Monday by President Obama, contains hundreds of provisions. This is how they add up. **Click the columns to sort by amount or type of spending, and see a summary table below.**

Classification	Keyword	Description	Cost (\$M)
Loading...			
Spending	Farming	Repairs, security improvements and rental payments at Department of Agriculture	\$24
Spending	Farming	Repairs and security improvements at Agricultural Research Service	\$176
Spending	Farming	Salaries for staff to modernize IT system at Farm Service Agency	\$60
Spending	Farming	Funding for watershed and flood prevention projects	\$239
Spending	Farming	Funding for watershed rehabilitation	\$50
Spending	Farming	Loans to rural homeowners	\$200
Spending	Farming	Guaranteed loans for rural community facility building	\$130
Spending	Farming	Guaranteed loans for rural businesses	\$150
Spending	Farming	Grants for rural waste and waste disposal	\$1,360
Spending	Farming	Broadband grants to rural communities	\$2,500
Spending	Farming	Oversight of Department of Agriculture spending	\$23
Aid	Food	Extra money for women, infants and children (WIC) special nutrition program	\$500
Aid	Food	Extra commodities for food banks	\$150
Aid	Food	Adult and child day care meals and snacks	\$100
Aid	Food	Crop insurance reinsurance for farmers who failed to keep up with payments, emergency loans and grants to farmers	\$749
Aid	Food	13% increase in food stamp payments	\$19,981
Spending	Commerce	Urban industrial core and rural economic recovery programs	\$150
Spending	Commerce	Extra money for Census	\$1,000

What's in "the S"	Bill - A Breakdown - The Wall Street Journal Online		
Spending	Commerce	Salaries and expenses for program to create broadband inventory map of the country	\$350
Spending	Commerce	Grants to provide wireless and broadband infrastructure to communities, including public computer centers and sustainable adoption of broadband service	\$4,350
Spending	Commerce	Coupons, education and consumer support for digital to analogue converter box program	\$650
Spending	Commerce	Oversight of Commerce Department spending	\$8
Spending	Science	National Institute of Standards and Technology work, including research into technology with high-growth potential and technology grants to small and mid-size manufacturers	\$220
Spending	Science	NIST facilities construction and maintenance backlog	\$360
Spending	Science	Extra money for National Oceanic and Atmospheric Administration facilities and research	\$230
Spending	Science	Extra money for NOAA satellite development including climate data sensors and modeling	\$600
Spending	Justice	Grants to state and local law enforcement	\$2,225
Spending	Justice	Grants to rural law enforcement	\$125
Spending	Justice	Grants to law enforcement on southwest border	\$40
Spending	Justice	Grants for victims compensation programs	\$100
Spending	Justice	Grants for tribal law enforcement	\$225
Spending	Justice	Grants for state and local law enforcement to pursue internet sex offenders	\$50
Spending	Justice	Grants to state and local law enforcement to hire extra police officers	\$1,000
Spending	Justice	Grants for violence against women prevention and prosecution programs	\$225
Spending	Justice	Costs of administering extra grant money	\$10
Spending	Science	NASA shuttle construction	\$400
Spending	Science	NASA climate research	\$400
Spending	Science	NASA aeronautics research	\$150
Spending	Science	NASA rebuilding of facilities damaged in 2008 floods	\$50
Spending	Science	NASA spending oversight	\$2
Spending	Science	National Science Foundation research	\$2,500
Spending	Science	Construction of new research equipment and facilities for NSF	\$400
Spending	Science	NSF education activities	\$100
Spending	Science	NSF spending oversight	\$2
Spending	Defense	Restoration and modernization of Defense facilities in U.S. and territories	\$3,840
Spending	Defense	Research and development of renewable energy generation for military	\$300
Spending	Defense	Improvements and repairs to military medical facilities in U.S. and territories	\$400

http://online.wsj.com/public/resources/documents/STIMULUS_FINAL_0217.html (2 of 12) [3/11/2009 12:30:13 PM]

What's

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Spending	Defense	Department of Defense spending oversight	\$15
Spending	Outdoors	Flood control and water management construction, regulation and investigations	\$4,125
Spending	Outdoors	Mississippi River and tributary construction	\$375
Spending	Outdoors	Clean-up of brownfield former industrial sites	\$100
Spending	Outdoors	Water reclamation and reuse projects	\$1,000
Spending	Energy	Home weatherization grants to low and middle-income families	\$5,000
Spending	Energy	Funding for Energy Star program offering tax credits to consumers purchasing new, efficient appliances	\$300
Spending	Energy	Advanced batteries manufacturing grants	\$2,000
Spending	Energy	Energy efficiency grants to states and local governments	\$6,300
Spending	Energy	Transport electrification grants	\$400
Spending	Energy	Funding for states and local governments to buy efficient alternative fuel buses and trucks	\$300
Spending	Energy	Research and development of renewable and efficient energy technology	\$2,500
Spending	Energy	Loan guarantees for standard renewables	\$4,000
Spending	Energy	Transmission loan guarantees	\$2,000
Spending	Energy	Fossil energy research and development	\$1,000
Spending	Energy	Research into low-emission coal plants	\$800
Spending	Energy	Grants for industrial carbon capture and energy efficiency improvement projects	\$1,500
Spending	Energy	Grants for identifying sites to store carbon dioxide emissions	\$50
Spending	Energy	Grants for training and research on safe storage of carbon emission	\$20
Spending	Energy	Administration of funding program	\$10
Spending	Energy	Physics research including high-energy physics, nuclear physics and fusion energy sciences	\$1,600
Spending	Energy	High-risk research into energy sources and energy efficiency	\$400
Spending	Energy	Cleanup of former nuclear sites	\$485
Spending	Energy	Uranium enrichment decontamination and decommissioning	\$380
Spending	Energy	Cleanup of former nuclear defense sites	\$5,127
Spending	Energy	Money for federal power marketing administrations in electric power transmission systems	\$6,500
Spending	Energy	Construction and repairs for federal marketing administration	\$10
Spending	Energy	Modernization of the electric grid	\$4,400
Spending	Energy	Training of electric grid workers	\$100

http://online.wsj.com/public/resources/documents/STPMALLUS_FINAL_0217.html (3 of 12) [3/11/2009 12:30:13 PM]

e S'	381	A Breakdown - The Wall Street Journal Online	
Spending	Energy	Oversight of Energy Department spending	\$15
Spending	Government	Oversight of payroll tax credit and economic recovery payments	\$7
Spending	Government	Treasury grants to community financial services and economic development groups	\$100
Spending	Government	Construction, repair and energy alterations to federal buildings and facilities	\$5,550
Spending	Government	Purchase of fuel efficient vehicles for federal fleet	\$300
Spending	Government	Oversight of General Services Administration spending	\$7
Aid	Government	Costs to Internal Revenue Service of providing health coverage help to workers laid off because of outsourcing overseas	\$80
Spending	Government	Funding for Recovery and Accountability Transparency Board	\$84
Spending	Government	Small Business Administration loans to businesses	\$851
Spending	Government	Extra money for Small Business Administration disbursement of loans	\$69
Spending	Government	Oversight of Small Business Administration spending	\$10
Spending	Homeland security	Funding for departmental site security, IT infrastructure, furniture, fixtures and other costs for headquarters	\$200
Spending	Homeland security	Oversight of Homeland Security spending	\$5
Spending	Homeland security	Construction, repairs and equipment for ports of entry to the U.S.	\$420
Spending	Homeland security	Purchase and deployment of non-intrusive inspection systems for Customs and Border Protection	\$100
Spending	Homeland security	Tactical communications equipment for Customs and Border Protection	\$60
Spending	Homeland security	Border security fencing and technology	\$160
Spending	Homeland security	Immigrations and Customs Enforcement information-sharing technology	\$20
Spending	Homeland security	Explosive detection systems for airports	\$1,000
Spending	Homeland security	Funding for Coast Guard acquisitions and construction	\$98
Spending	Homeland security	Repairing and removing bridges hazardous to marine navigation	\$142
Spending	Homeland security	Grants for security upgrades to mass transit	\$150
Spending	Homeland security	Grants for security upgrades to ports	\$150
Spending	Homeland security	Competitive grants to upgrade state and local fire stations	\$210
Spending	Homeland security	Extra emergency food and shelter funding for homeless	\$100
Aid	Homeland security	Deferred maintenance on federal lands	\$125
Spending	Outdoors	Priority road, bridge and trail repairs	\$180
Spending	Outdoors	Wildland fire management	\$15
Spending	Outdoors	Wildlife refuge and fish hatchery construction, deferred maintenance, road maintenance and energy efficient visitors centers	\$280

What? "A Breakdown - The Wall Street Journal Online

Spending	Outdoors	National Park Service deferred maintenance	\$735
Spending	Outdoors	Preservation grants for historically black colleges and universities	\$15
Spending	Outdoors	Repeating facilities and equipment for U.S. Geological Survey seismic, volcano, monitoring and stream gages	\$140
Spending	Outdoors	Repair of schools, detention centers, roads, bridges, housing, irrigation and dams on Indian reservations	\$480
Spending	Indian reservations	Indian guaranteed loans	\$10
Spending	Outdoors	Interior spending oversight	\$15
Spending	Outdoors	Cleanup of hazardous and toxic waste sites	\$600
Spending	Outdoors	Cleanup of petroleum leaks from underground storage tanks	\$280
Spending	Outdoors	Loans for communities to upgrade wastewater treatment systems and drinking water infrastructure	\$6,400
Spending	Outdoors	Environmental Protection Agency spending oversight	\$20
Spending	Outdoors	Renovation of forest roads, bridges and trails, remediation of abandoned mines, removal of barriers to fish and other critical habitat	\$650
Spending	Outdoors	Fire hazard reduction on federal and state lands	\$500
Spending	Indian reservations	Indian Health Facilities construction, maintenance and equipment	\$347
Spending	Indian reservations	Indian Health Facilities sanitation construction	\$88
Spending	Indian reservations	Indian Health Services IT development and deployment	\$85
Spending	Arts	Smithsonian Institution	\$25
Spending	Arts	Grants to fund arts projects in non-profit sector	\$50
Spending	Labor	Grants to states for adult employment and training activities	\$500
Spending	Labor	Grants to states for youth training, including summer jobs	\$1,200
Spending	Labor	Grants to states for dislocated worker employment and training activities	\$1,250
Spending	Labor	Grants to states with highest unemployment numbers for employment and training	\$200
Spending	Labor	Funds to national reserve assistance for dislocated workers	\$750
Spending	Labor	Training high-risk youth in construction job skills	\$50
Spending	Labor	Community service program for low-income over 55s	\$120
Spending	Labor	Funding for states' unemployment insurance and employment service agencies	\$400
Spending	Labor	Extra funds for department to manage enforcement of labor laws	\$90
Spending	Labor	Office of Job Corps construction and modernization of residential facilities for at-risk youth	\$250
Spending	Labor	Department of Labor spending oversight	\$6
Spending	Health and Services	Renovation and health IT purchases for community health centers	\$2,000

http://online.wsj.com/public/resources/documents/STIMULUS_FINAL_0217.html (5 of 12) [3/11/2009 12:20:13 PM]

What's	the Story	Bill - A Breakdown - The Wall Street Journal Online	Training of nurses, primary care physicians, dentists to practice in underserved communities in the National Health Service Corps	\$500
Spending	Health and Services		National Institutes of Health biomedical research	\$9,500
Spending	Health and Services		National Institutes of Health buildings and facilities repairs and renovations	\$500
Spending	Health and Services		Funding for research comparing effectiveness of treatments funded by Medicare, Medicaid and SCHIP	\$1,100
Spending	Health and Services		Grants to states for childcare services for low-income working parents	\$2,000
Spending	Health and Services		"Head Start" programs for low-income preschoolers	\$1,000
Spending	Health and Services		"Early Head Start" programs for low-income infants	\$1,100
Spending	Health and Services		Grants for community employment, food, housing and healthcare projects	\$1,000
Spending	Health and Services		Grants to faith-based and community organizations	\$50
Spending	Health and Services		Grants for elderly nutrition services including Meals on Wheels	\$100
Spending	Health and Services		Extra money for Office of the National Coordinator for Health Information Technology	\$2,000
Spending	Health and Services		Funding for community preventative health campaigns, vaccination programs, healthcare-associated infection reduction strategies	\$1,000
Spending	Health and Services		Funding to improve IT security at the Department of Health and Human Services	\$50
Spending	Health and Services		Oversight of Department of Health and Human Services spending	\$17
Spending	Education		Funding for "Title I" education programs for disadvantaged children	\$13,000
Spending	Education		Construction funding for school districts without a local property-tax base	\$100
Spending	Education		Funding for school computer and science laboratories and technology training for teachers	\$550
Spending	Education		Funding for services to homeless children including meals and transportation	\$70
Spending	Education		Grants for states to address teacher shortages	\$200
Spending	Education		Grants for special education programs	\$12,200
Spending	Education		Grants to states for vocational rehabilitation for disabled people	\$540
Spending	Education		Grants to states for independent living centers and services for elderly blind people	\$140
Ad	Education		Increase in Pell Grant to \$5,350 in 2009 and to \$5,550 in 2010, and other increases to student aid	\$17,114
Ad	Education		Money to increase size of colleges' student aid funds	\$50
Spending	Education		Money for colleges' work-study programs	\$200
Spending	Education		Grants for teacher training and professional development	\$100
Spending	Education		Funding for grants for states to create systems tracking individual student data	\$250
Spending	Education		Department of Education spending oversight	\$14
Spending	Volunteering		Extra money for AmeriCorps volunteer programs	\$160

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What?	Bill - A Breakdown - The Wall Street Journal Online		
Spending	Volunteering	Extra money for National Service Trust volunteer programs	\$40
Spending	Volunteering	Corporation for National and Community Service spending oversight	\$1
Spending	Social Security	Construction of new National Computer Center for Social Security Administration	\$500
Spending	Social Security	Extra money for Social Security Administration to process disability and retirement claim backlogs	\$500
Spending	Social Security	Oversight of SSA spending	\$2
Spending	Oversight	Oversight of economic recovery package	\$25
Spending	Military	Army child development centers	\$80
Spending	Military	Army "warrior transition complexes"	\$100
Spending	Military	Navy and Marine Corps troop housing	\$100
Spending	Military	Navy and Marine Corps child development centers	\$80
Spending	Military	Navy and Marine Corps energy conservation and alternative energy projects	\$100
Spending	Military	Air Force troop housing	\$100
Spending	Military	Air Force child development centers	\$80
Spending	Military	Defense hospital construction	\$1,330
Spending	Military	Defense energy conservation investments	\$120
Spending	Military	Army National Guard construction	\$50
Spending	Military	Air National Guard construction	\$80
Spending	Military	Army family housing construction and repairs	\$38
Spending	Military	Air Force family housing construction	\$97
Spending	Military	Programs for military homeowners facing mortgage problems	\$555
Spending	Veterans	Improvements to Veterans Affairs benefits administration, IT and claims processing	\$200
Spending	Veterans	Renovations and energy efficiency improvements to veterans medical facilities	\$1,000
Spending	Veterans	Grants for construction of state extended care facilities for veterans	\$150
Spending	Veterans	National Cemetery renovations and repairs	\$50
Spending	Veterans	Oversight of Veterans Affairs and military spending	\$1
Spending	State	Passport and training funding for State Department	\$90
Spending	State	Creation of information management backup facility for State Department, funding for participation in cybersecurity program	\$290
Spending	State	State Department spending oversight	\$2
Spending	State	Repair and rehabilitation of flood control levees on Rio Grande, with remainder of money for IT investments at U.S. Agency for International Development	\$220

What:	301 - A Breakdown - The Wall Street Journal Online		
Tax provisions	Individual tax cuts	\$2400 of unemployment benefits will not be subject to federal income tax	\$4,740
Tax provisions	Individual tax cuts	Middle-income taxpayers get an exemption from the alternative minimum tax of \$48,700 for an individual and \$70,950 for a married couple	\$68,769
Tax provisions	Business tax cuts	Businesses will be able to more quickly deduct the cost of investments in plant and equipment from their taxable income	\$5,074
Tax provisions	Business tax cuts	Businesses will be allowed to recover alternative minimum tax and research and development credits faster	\$805
Tax provisions	Business tax cuts	Small businesses will be allowed to write-off up to \$250,000 of capital expenditures in the year of acquisition	\$41
Tax provisions	Business tax cuts	Unprofitable small businesses with annual receipts of less than \$15 million can recoup taxes paid in the past five years, up from two	\$947
Tax provisions	Business tax cuts	Companies will be allowed to defer taxes for five years on several transactions aimed at restructuring balance sheets, and repay the taxes over the following five years	\$1,622
Tax provisions	Business tax cuts	Businesses will be able to claim a tax credit for 40% of the first \$6000 of wages paid to unemployed veterans or 16-25-year-olds hired	\$231
Tax provisions	Business tax cuts	Small businesses will be able to exclude 75% of the gain from the sale of some stock held more than five years	\$929
Tax provisions	Business tax cuts	Trouble corporations converting into S corporations will have a 7-year holding period for assets subject to built-in gains tax, from 10 years	\$415
Tax provisions	Business tax cuts	Restoring tougher rules on taxpayers claiming losses incurred by a company before they bought it is projected to raise money	-85,877
Tax provisions	Business tax cuts	Some companies restructuring may not be subject to those tougher rules	\$3,169
Tax provisions	Business tax cuts	Manufacturing facilities producing "intangible property" such as patents can qualify for industrial development bonds	\$203
Tax provisions	Business tax cuts	Facilities making advanced energy property may be able to claim a new 30% investment tax credit	\$1,647
Tax provisions	Business tax cuts	\$10 billion "new markets tax credits" will be available for 2008 and 2009	\$915
Tax provisions	Infrastructure tax cuts	\$25 billion of bonds for investment in economic recovery zones will be created	\$5,371
Tax provisions	Infrastructure tax cuts	Tribal governments will have fewer requirements on their ability to issue tax-exempt bonds	\$315
Tax provisions	Infrastructure tax cuts	High-speed rail facilities for trains capable of going at 150 miles per hour will qualify for facility bonds	\$288
Tax provisions	Infrastructure tax cuts	Rules affecting state and local government bonds will be changed to improve marketability	\$3,789
Tax provisions	Infrastructure tax cuts	A 3% withholding on payments to government contractors will be delayed for one year	\$291
Tax provisions	Infrastructure tax cuts	\$22 billion in new tax credit bonds for construction or repair of public schools	\$9,877
Tax provisions	Infrastructure tax cuts	\$2.8 billion of bonds for schools working with businesses	\$1,045
Tax provisions	Infrastructure tax cuts	35% credit to bondholders for infrastructure bonds, 35% refundable credit to issuers of bonds	\$4,348
Tax provisions	Energy tax cuts	Extending by three years the phased-in-services debt for renewable energy investments	\$13,143
Tax provisions	Energy tax cuts	Investment credits in lieu of production credits for renewable energy purchases	\$285
Tax provisions	Energy tax cuts	Removal of cap on tax credits for purchase of small wind systems	\$604
Tax provisions	Energy tax cuts	\$1.6 billion extra allocation of clean energy bonds	\$578
Tax provisions	Energy tax cuts	\$2.4 billion extra qualified energy conservation bonds	\$803
Tax provisions	Energy tax cuts	30% cap on tax credit for energy efficiency purchases by homeowners, up to \$1500 per residence	\$2,034

http://online.wsj.com/public/resources/documents/STIMULUS_FINAL_017.html (6 of 13) [1/1/2009 12:30:13 PM]

Tax provisions	Energy tax cuts	Credit for purchase of residential solar, geothermal, wind and fuel cells	\$268
Tax provisions	Energy tax cuts	50% tax credit for purchase of alternative refueling stations	\$54
Tax provisions	Energy tax cuts	Tax credit for plug-in electric vehicle conversion	\$2,002
Tax provisions	Energy tax cuts	Equalization of parking and transit tax-free employer benefits at \$200 for 2009	\$192
Tax provisions	Energy tax cuts	Grants to states for low-income housing projects in lieu of credits	\$5
Tax provisions	Energy tax cuts	Grants to states for energy projects in lieu of credits	\$89
Aid	Other tax cuts	U.S. lumber, steel and other companies can keep money they were given from Canadian and Mexican import duties	\$90
Tax provisions	Individual tax cuts	One-time payment of \$250 for retirees, disabled people, SSI recipients, railroad retirees and disabled veterans	\$14,225
Tax provisions	Individual tax cuts	One-time refundable tax credit of \$250 for some government retirees not eligible for social security benefits	\$218
Aid	Individual aid	Two-year extension of program providing income support and training benefits for workers who lose their jobs because of outsourcing overseas	\$1,000
Aid	Individual aid	Extension of jobless benefits for up to 33 weeks	\$26,990
Aid	Individual aid	Increase in weekly unemployment benefits by \$25	\$8,800
Aid	Individual aid	Grants for states modernizing unemployment compensation coverage among low-wage, part-time and other workers	\$2,975
Aid	Individual aid	Waiver on interest payments and accrual on loans held by state unemployment trust funds	\$1,100
Aid	Individual aid	Extension of unemployment compensation by 13 weeks for railroad workers	\$21
Aid	Individual aid	Aid to states to administer extended benefits	\$138
Aid	Individual aid	Aid to states for temporary assistance to needy families payments (TANF)	\$2,418
Aid	Individual aid	Extra aid to states with high population group or increased poverty for TANF payments	\$319
Aid	Individual aid	Extra funding for child support enforcement	\$1,000
Aid	Individual aid	Costs of providing health coverage help to workers laid off because of outsourcing overseas	\$457
Aid	Individual aid	65% subsidy for laid-off workers to continue paying premiums for former employer's health plan for nine months	\$24,749
Aid	Healthcare	Incentive payments to hospitals and physicians who computerize medical-records systems	\$17,559
Aid	Healthcare	Federal aid to states for Medicaid spending	\$90,044

Totals

The Congressional Budget Office estimates that the cost of carrying out the programs and tax cuts in the economic stimulus package is likely to be slightly less than the amount of money authorized by the bill.

Description	Funds allocated	Estimated cost
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Why? : Bill - A Breakdown - The Wall Street Journal Online

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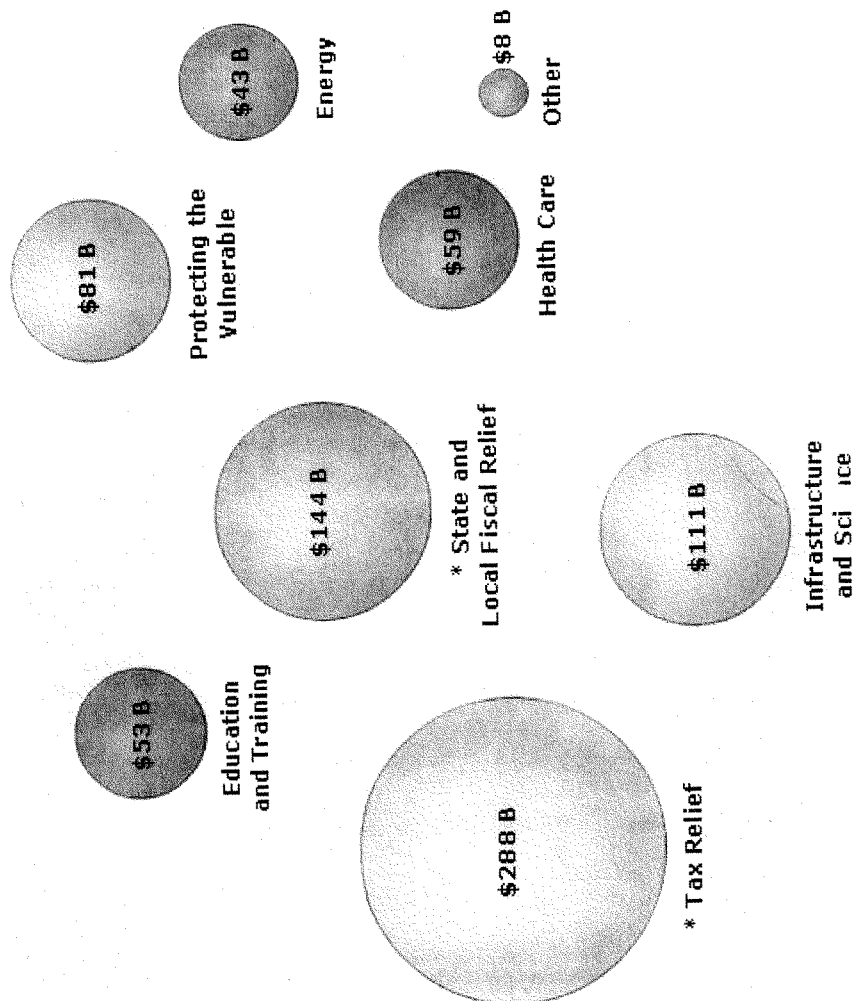
Food and farming	\$26,466	\$26,431
Commerce, justice and science	\$15,920	\$15,810
Defense	\$4,555	\$4,531
Energy and the environment	\$50,825	\$50,775
Government	\$6,858	\$6,707
Homeland security	\$2,755	\$2,744
Outdoors, Indian reservations and the arts	\$10,950	\$10,545
Labor and volunteering, healthcare and social services, education, social security	\$72,564	\$71,271
Oversight*	\$25	\$25
Military and veterans	\$4,281	\$4,246
Foreign relations	\$602	\$602
Transportation and housing	\$61,795	\$61,051
Aid to states	\$53,600	\$53,600
Tax cuts	\$361,278	\$368,482
Individual aid	\$45,788	\$58,143
Individual healthcare aid	\$24,749	\$24,677
Health IT	\$17,559	\$17,559
Aid to states for Medicaid	\$90,044	\$90,042
	\$790,614	\$787,241

*Additional oversight costs are incorporated into individual spending categories

Sources: House Committee on Rules, Joint Committee on Taxation, Congressional Budget Office

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State Oversight of Federal Stimulus Funds

At least 47 states and the Virgin Islands have created or proposed ways to track, provide oversight, and distribute information relating to federal stimulus funds. Governors have created new entities, state agencies are documenting projects, and legislatures are forming commissions or committees to oversee the American Recovery and Reinvestment Act (ARRA). The following provides a brief summary of actions that states are proposing or taking to provide oversight and transparency of ARRA. Also included are state websites that will provide information on implementation and spending of funds from ARRA.

Updated March 16, 2009

State	Stimulus Oversight Plans
Alabama	The governor has launched a new website that will track how funds from ARRA are spent in Alabama. http://stimulus.alabama.gov/
Alaska	The Office of Management and Budget website is detailing Alaska's plans for ARRA funds. http://omb.alaska.gov/10_omb/budget/IndexEconomicStimulus.htm In addition the Dept. of Transportation and Public Facilities has created a website that list economic stimulus package projects. http://www.dot.state.ak.us/econstim/
Arkansas	Gov. Beebe has formed the Governors Recovery Cabinet. Comprised of various state agencies this group will help implement the stimulus package in the state. The governor has also set up http://recovery.arkansas.gov/ to track and provide information on the ARRA in the state.

California	The California Assembly has formed the Stimulus, Economic Recovery and Jobs Task Force (SERJ). SERJ will work with local governments on developing strategies to implement ARRA in the state. Assembly member V. Manuel Perez will head the task force, which will be made up of chairs of relevant standing committees. Also, Gov. Schwarzenegger has launched http://www.recovery.ca.gov/ to provide information on the state's implementation of ARRA.
Colorado	Gov. Ritter has created the Colorado Economic Recovery and Accountability Board to provide oversight of ARRA funds. Information on the board can be found on the state's implementation of ARRA at: http://www.colorado.gov/recovery/
Connecticut	Gov. Rell has started http://www.ct.gov/recovery/site/default.asp to provide information on ARRA projects in the state. Gov. Rell has also formed Connecticut Recovery Working Group that will identify and prioritize ARRA projects. The working group is comprised of agency leaders, staff of the governor's office, and members of the General Assembly. Information on the Connecticut Recovery Working Group can be found here: http://www.ct.gov/recovery/cwp/view.asp?a=3704&q=434916
Delaware	The governor has stated that he will create an accountability group to track stimulus funds and provide transparency. The state has also launched a website that will track funds and measure progress. http://recovery.delaware.gov/
Florida	Gov. Christ has formed the Federal Stimulus Working Group. The group will identify critical programs and infrastructure projects and implement a plan for the distribution of ARRA funds.
Georgia	The governor has created the state's recovery website to ensure that public is fully aware of Georgia's plans with ARRA funds.

Idaho	Gov. Otter has issued executive order 2009-06, which creates the Stimulus Executive Committee. The committee will make recommendations, receive proposals, and prepare analysis on how the state can best use ARRA funds. The Division of Financial Management has created a site for stimulus requests at http://dfm.idaho.gov/fed_stimulus.html .
Illinois	Illinois Gov. Pat Quinn launched a website created to share information about the American Recovery and Reinvestment Act of 2009, so that Illinois can capture and use its fair share of federal stimulus funds. Recovery.Illinois.gov
Indiana	Gov. Daniels has launched http://www.in.gov/gov/INvest.htm to keep the people of Indiana informed about the progress of the implementation of ARRA in the state.
Iowa	Gov. Culver is currently preparing the state's recovery website, which will go live soon. In addition the state's Dept. of Transportation has launched a site focused on the transportation aspects of ARRA. http://www.iowadot.gov/recovery/index.htm
Kansas	The governor has created the American Recovery and Reinvestment Act Advisory Group to oversee implementation of ARRA in the state. A new website created by the Lt. Governor's office, who heads the advisory group, will help Kansans tap into the opportunities of the stimulus act - like tax credits, construction jobs and unemployment benefits. http://www.governor.ks.gov/recovery/
Kentucky	Gov. Beshear has started the Kentucky at Work Initiative, which is a detailed plan by the governor of where ARRA funds will be invested in the state. The governor will also launch a site soon detailing the initiatives plans.
Louisiana	The state's Dept. of Transportation has a new website that list approved ARRA transportation projects. http://www.dotd.louisiana.gov/highways/letswstop/arra.aspx

Maine	<p>The governor has issued an executive order to ensure accountability, transparency and legislative oversight of federal funds during the implementation of the American Recovery and Reinvestment Act of 2009. The commissioner for the Department of Administrative and Financial Services will act as state coordinator for the stimulus funds. Information regarding the stimulus package will be presented on a State of Maine American Recovery and Reinvestment Act website, which can be found at http://www.maine.gov/governor/baldacci/policy/Recovery2009.shtml</p>
Maryland	<p>The governor has launched a new website: http://statestat.maryland.gov/recovery.asp that will track the state's progress in implementing ARRA.</p>
Massachusetts	<p>The governor is launching a new website, www.mass.gov/recovery, which will detail the governor's plans for using federal funds from the American Recovery and Reinvestment Act. The legislature also has created a temporary Joint Committee on Federal Stimulus Oversight. The committee will have the ability to hold hearings and audit expenditures of federal stimulus funds.</p>
Michigan	<p>Gov. Jennifer Granholm's office has created a website that will explain how much money Michigan will get from ARRA. http://www.michigan.gov/gov/0,1607,7-168-46485_52682---,00.html</p> <p>In addition the Michigan Senate voted to create a special committee to provide oversight of stimulus funds.</p>
Minnesota	<p>The governor has appointed the commissioner of the Minnesota Management and Budget office to be the federal stimulus coordinator for the state. The Minnesota Management and Budget website http://www.mmb.state.mn.us/stimulus will provide information on the federal stimulus funds in the state.</p>
Mississippi	<p>The states auditor will be in charge of tracking any ARRA funds that come into the state.</p>

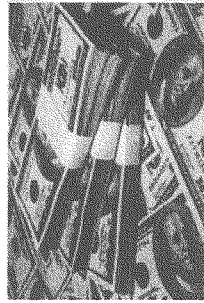
Missouri	Missouri has formed the Senate Select Committee on Oversight of Stimulus Funds, which will be charged with studying and analyzing strategies for securing the maximum amount of federal dollars for Missouri and Missourians that will come from the anticipated federal economic stimulus plan of 2009. The committee shall issue recommendations in a report to the Senate by Mar. 12, 2009. The governor of Missouri has created a website, http://transform.mo.gov/ to solicit ideas of stimulus package funds and to rejuvenate Missouri's economy. The site will also provide transparency of ARRA funds by listing the appropriation of funds in detail.
Montana	Senate President Bob Story has introduced a bill (Senate Bill 460) that will create a commission that will include legislators, congressional staff and private citizens to oversee how the federal stimulus money will be spent by state government. Additionally, Montana's governor has launched http://www.recovery.mt.gov/ which will provide Montanans with the ability to check how the state implements ARRA.
Nebraska	The state has established a new website http://www.recovery.nebraska.gov/ that will provide accountability and transparency of how stimulus funds are used in Nebraska.
Nevada	Gov. Gibbons has announced the formation a working group comprised of various state agencies to help coordinate the spending of federal stimulus funds. More information can be found at http://nevada.gov/recovery/ .
New Hampshire	The governor has established the Office of Economic Stimulus to oversee ARRA funds and to provide transparency and accountability. The office has a website at the following location: http://www.nh.gov/recovery/
New Jersey	The governor has appointed his chief of staff and comptroller to oversee how ARRA funds will be spent. In addition, the governor's office has created a website to provide transparency and accountability. http://www.recovery.nj.gov/

New Mexico	<p>Gov. Richardson has created the New Mexico Office of Recovery and Reinvestment which will oversee ARRA funds and provide transparency. The website to the office and plans for ARRA are located at http://www.recovery.state.nm.us/.</p> <p>The state's Energy Conservation and Management Division has created a website that will detail information and guidance for programs of ARRA through their department. http://www.emnrd.state.nm.us/ECMD/FederalStimulusPackage.htm</p>
New York	<p>The governor has created the State Economic Recovery and Reinvestment Cabinet. This cabinet will manage the development and of state and local projects financed through ARRA. Information regarding the cabinet and ARRA for New York can be accessed via: http://www.economicrecovery.ny.gov/index.htm</p> <p>Additionally the New York State Senate is planning a series of town hall sessions throughout the state in late March and early April. The Senate will work with the governor, congressional delegation, and other elected officials on implementing ARRA.</p>
North Carolina	<p>Gov. Perdue has created the Office of Economic Recovery and Investment. The mission of the office is to ensure transparency, accountability and efficiency of federal stimulus funds. The new office has a website http://www.ncrecovery.gov/default.aspx that will allow the people of North Carolina to track stimulus funds as well as learn about opportunities created by ARRA.</p>
North Dakota	<p>Lawmakers on the appropriation committees in the legislature have been meeting to discuss plans with the state's ARRA funds.</p>
Ohio	<p>Ohio has created an interactive portal for entities to submit expressions of interest in federal stimulus dollars and to view general information about the federal stimulus. http://www.recovery.ohio.gov/</p>
Oklahoma	<p>House Speaker Chris Benge has asked the House Appropriations and Budget Committee to conduct oversight of spending and transparency of stimulus funds as part of its legislative duties. Gov. Henry has launched http://oklahoma.gov/recovery/ to track Oklahoma's progress with ARRA.</p>

Oregon	<p>The governor has formed "The Oregon Way," a public/private partnership. This partnership has been formed to compete for ARRA grant dollars that promote the governor's green initiative.</p> <p>http://governor.oregon.gov/Gov/STIMULUS/index.shtml</p>
Pennsylvania	<p>Gov. Rendell will oversee implementation of ARRA in Pennsylvania and has created http://www.recovery.pa.gov/portal/server.pt? to track the states progress with ARRA . Additionally, the state senate has proposed introducing legislation that would create a bipartisan commission to monitor any stimulus funds.</p>
Rhode Island	<p>The governor has created the Office of Economic Recovery and Reinvestment, which will be under the governor's direct control. However, there is current legislation (Joint Resolution H5717) to create a special joint commission to provide oversight of federal stimulus funds. Information on the governor's plan can be located at: http://www.governor.ri.gov/recovery/</p>
South Carolina	<p>South Carolina Comptroller General Richard Eckstrom has been chosen by the governor to lead a stimulus transparency group. Eckstrom plans a unique coding system to match up and track the stimulus money to ensure it is used for its intended purpose. The oversight group is also developing a website to let citizens monitor these funds</p>
Tennessee	<p>Gov. Bredesen has started http://tnrecovery.gov/ to provide oversight of ARRA in the state and provide links to agencies implementing the stimulus package. The state's Dept. of Transportation has a recovery website which details projects that qualify for ARRA. http://www.tdot.state.tn.us/recovery/default.htm</p>
Texas	<p>The Texas House of Representatives has formed the Select Committee on Federal Economic Stabilization Funding and have created the website http://www.txstimulusfund.com/ to provide Texans information on the implementation of ARRA.</p> <p>Additionally the Texas Comptrollers Office is tracking ARRA funds and their impact on the state. The Comptrollers Office has a website that provides up-to-date information on ARRA in Texas. http://www.window.state.tx.us/finances/stimulus/</p>

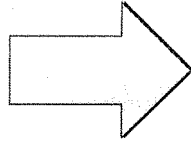
U.S. Virgin Islands	Gov. deJongh has launched http://www.governordejongh.com/recovery/index.html to allow people to track the implementation of ARRA in the U.S. Virgin Islands.
Utah	The state's Dept. of Transportation has a new site that lists ARRA projects. http://www2.udot.utah.gov/main/f?p=100:pg:0:::1:T.V:2288 ,
Vermont	The Speaker of the House has proposed a three-member panel to compile and examine information on how federal stimulus funds are spent. The panel would consist of one member from the House, one member from the Senate and one member from the Governor's administration. Additionally the governor has launched http://recovery.vermont.gov/ where information on the governor's plans with ARRA is available.
Virginia	The governor has created the website http://stimulus.virginia.gov/ to solicit ideas from the public and receive local input of how stimulus funds should be spent.
Washington	The governor has created a website that will provide information on how the state is implementing ARRA. http://www.recovery.wa.gov/
West Virginia	The West Virginia House of Delegates has established a Select Committee on Stimulus Utilization. The committee will review legislation, testimony, evaluate and make recommendations to the Speaker of the House in regards to any relevant stimulus legislation. In addition the governor has a new website to provide project proposals and progress related to ARRA. http://www.wvgov.org/sec.aspx?ID=115
Wisconsin	Gov. Doyle has created the Office of Recovery and Reinvestment. The purpose of the office is to prepare the state to make the best use of federal funds. Information on the office a can be found at: recovery.wisconsin.gov .
Wyoming	Gov. Freudenthal has created http://wyoming.gov/recovery/ which will analyze ARRA, demonstrate how many funds are available to the state, and document the distribution of funds.

Recovery Spending Reporting



Who gets
the money?

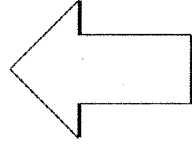
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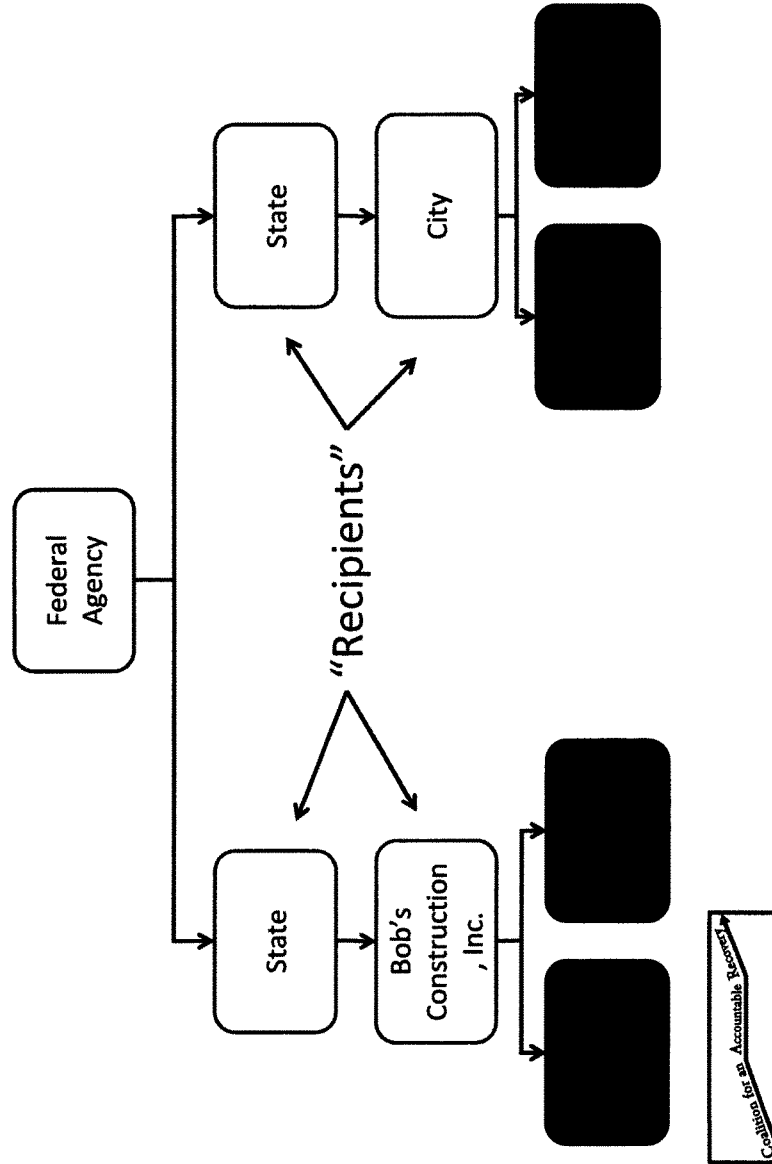
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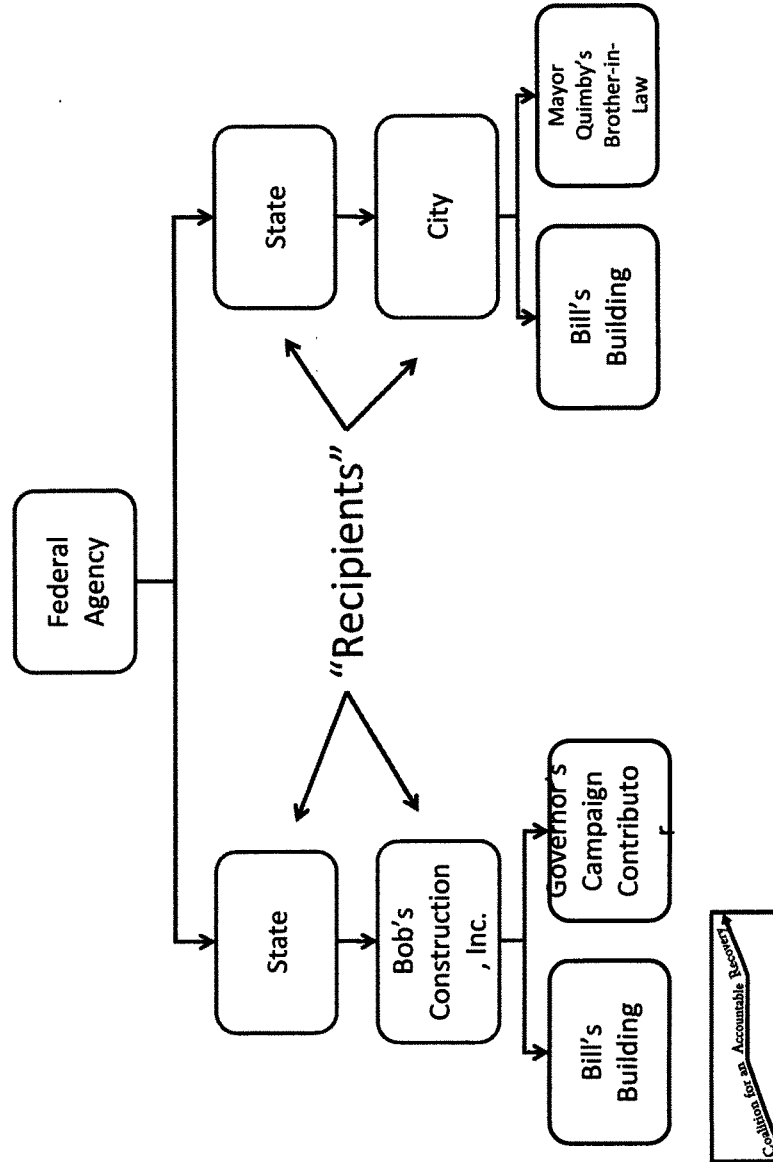
What are they
doing with it?



Who's Getting the Money?



Who's Getting the Money?



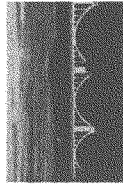
What Are They Doing With It?

Schools



- # Schools Repaired
- # New Schools
- Locations
- Etc.

Transportation



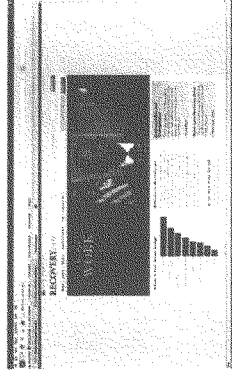
- Miles Repaired
- New Lane Miles
- Locations
- Etc.

Broadband

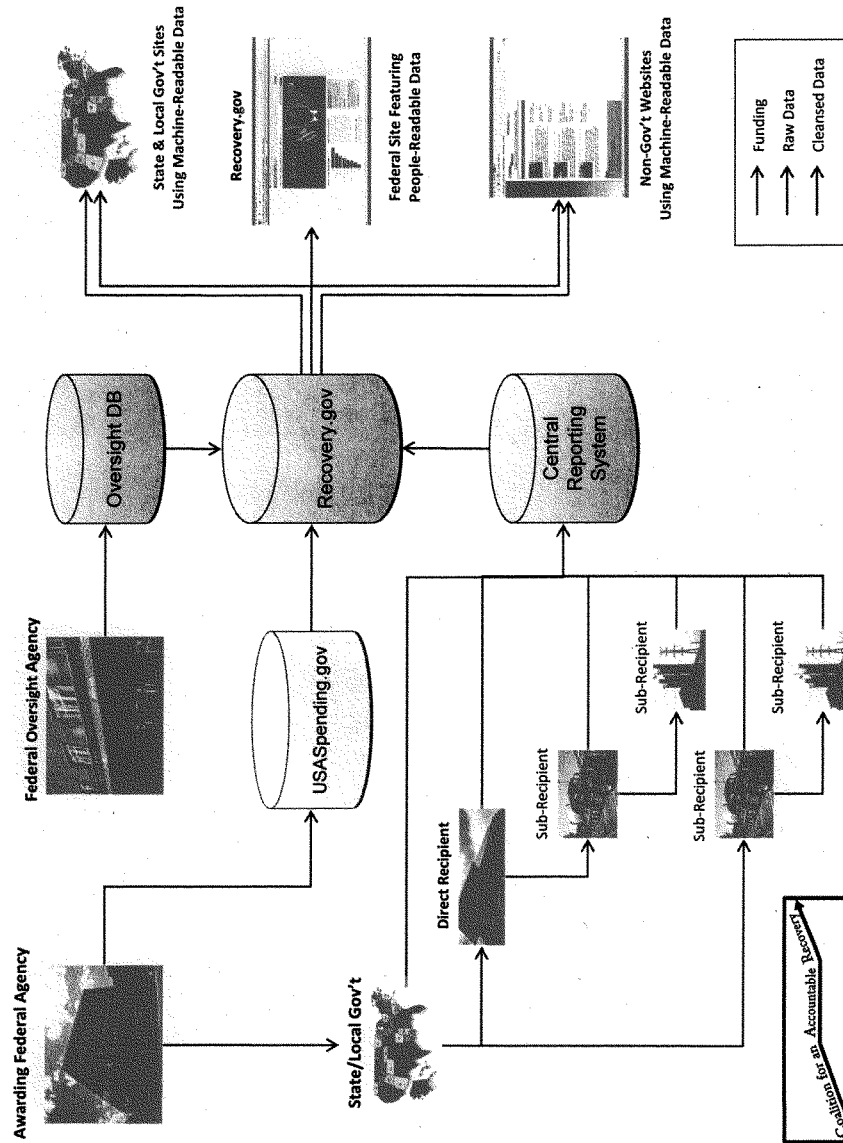


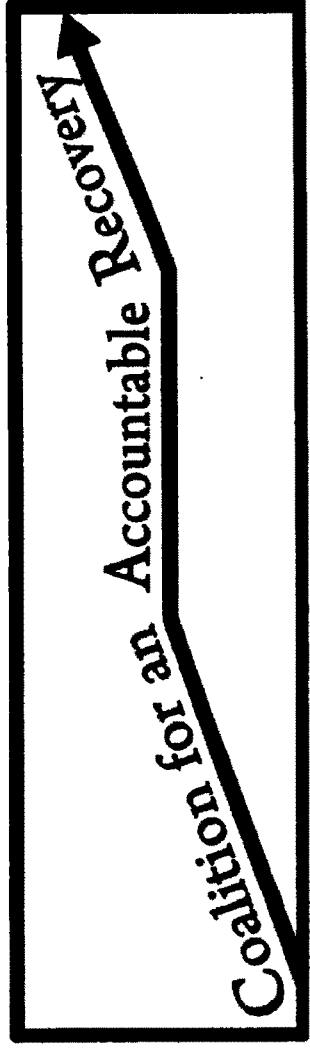
- # New Broadband Users
- Miles of fiber optics
- Locations
- Etc.

Recovery.gov



Condition for an Accountable Recovery





www.OMBWatch.org/CAR

Funding under the American Recovery and Reinvestment Act, by Federal Agency

Agency	Funding by Title	Total Funding
Department of Agriculture	Title I: \$26.465 billion Title VII: \$1.150 billion	\$27.615 billion
Department of Commerce	Title II: \$7.916 billion	\$7.916 billion
Department of Defense	Title III: \$4.555 billion Title IV: \$4.600 billion Title X: \$2.880 billion	\$12.035 billion
Department of Education	Title VIII: \$44.638 billion Title XIII: \$53.600 billion	\$98.238 billion
Department of Energy	Title IV: \$45.225 billion	\$45.225 billion
Department of Health and Human Services	Title VII: \$0.500 billion Title VIII: \$21.917 billion	\$22.417 billion
Department of Homeland Security	Title VI: \$2.755 billion	\$2.755 billion
Department of Housing and Urban Development	Title XII: \$13.675 billion	\$13.675 billion
Department of Interior	Title IV: \$1.000 billion Title VI: \$2.005 billion	\$3.005 billion
Department of Justice	Title II: \$4.002 billion	\$4.002 billion
Department of Labor	Title VIII: \$4.806 billion	\$4.806 billion
Department of State	Title XI: \$0.602 billion	\$0.602 billion
Department of Transportation	Title XII: \$48.120 billion	\$48.120 billion
Department of Treasury	Title V: \$0.187 billion	\$0.187 billion
Department of Veterans Affairs	Title X: \$1.401 billion	\$1.401 billion
Corporation for National and Community Service	Title VIII: \$0.201 billion	\$0.201 billion
Environmental Protection Agency	Title VII: \$7.220 billion	\$7.220 billion
General Services Administration	Title V: \$5.857 billion	\$5.857 billion
Government Accountability Office	Title IX: \$0.025 billion	\$0.025 billion
National Aeronautics and Space Administration	Title II: \$1.002 billion	\$1.002 billion
National Endowment for the Arts	Title VII: \$0.050 billion	\$0.050 billion
National Science Foundation	Title II: \$3.002 billion	\$3.002 billion
Recovery Act Accountability and Transparency Board	Title V: \$0.084 billion	\$0.084 billion
Small Business Administration	Title V: \$0.730 billion	\$0.730 billion
Smithsonian Institution	Title VII: \$0.025 billion	\$0.025 billion
Social Security Administration	Title VIII: \$1.002 billion	\$1.002 billion
TOTAL		\$311.197 billion

Source: Congressional Record, pp. H1540-1553, Feb. 13, 2009.

**Agencies Receiving Appropriations in ARRA, Division A,
Sorted By Appropriations' Size¹**

Agency	Total Funding (in billions)	Rank
Department of Education	98.238	1
Department of Transportation	48.120	2
Department of Energy	45.225	3
Department of Agriculture	27.615	4
Department of Health & Human Services	22.417	5
Department of Housing & Urban Dev.	13.675	6
Department of Defense	12.035	7
Department of Commerce	7.916	8
Environmental Protection Agency	7.220	9
General Services Administration	5.857	10
Department of Labor	4.806	11
Department of Justice	4.002	12
Department of Interior	3.005	13
National Science Foundation	3.002	14
Department of Homeland Security	2.755	15
Department of Veteran Affairs	1.401	16
National Aeronautics & Science Admin.	1.002	17
Social Security Administration	1.002	17
Small Business Administration	0.730	19
Department of State	0.602	20
Corporation for National & Community Services	0.201	21
Department of Treasury	0.187	22
Recovery Act Accountability & Transparency Board	0.084	23
National Endowment for the Arts	0.050	24
Government Accountability Office	0.025	25
Smithsonian Institution	0.025	25
	311.197	Total

¹ Appropriation amounts are based on CRS analysis of Division A of the American Recovery and Reinvestment Act; CRS Memo from Karen Spar to House Oversight and Government Reform Committee, "Funding Under the American Recovery Act," March 13, 2009.

TUESDAY, MARCH 17, 2009

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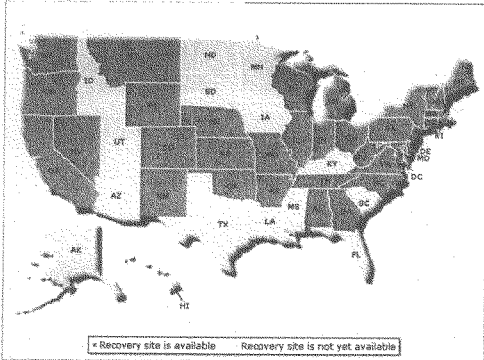
Home > State Recovery Sites

STATE RECOVERY SITES

Many state websites now have their own recovery web pages that help explain how they are spending funds allocated by the Recovery Act.

Use the map below to learn more about the impact of the ARRA in your state. But keep in mind, many more pages will come online - with much more information - in the weeks and months ahead, so check back often for updates.

IN THIS SECTION
State Certifications



View Territory Recovery Sites: American Samoa

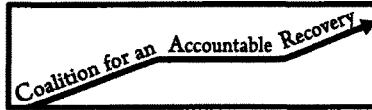
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Accountability and Transparency
This is your money. You have a right to know where it's going and how it's being spent. Learn what steps we're taking to ensure you can track our progress every step of the way.

Share your Recovery Story
Tell us how the Recovery Act is affecting you. What's working? What isn't? We want to hear from you.

State Progress and Resources
Curious about the recovery progress in your state? Learn more about statewide recovery efforts here.

Agency Progress and Resources
We're bringing transparency and accountability to all areas of government. Learn about Recovery investments and grant programs at government agencies and departments.



A NATIONAL SYSTEM FOR COLLECTION AND DISSEMINATION OF GOVERNMENT SPENDING DATA

The need:

A comprehensive data collection and dissemination approach to government spending that helps the public understand how government money was used and whether it produced results.

The approach:

Transparency and accountability of Recovery Act funding are key elements, but not the sole issue. The main objective is to develop a system for transparency that applies to all government spending, starting with the Recovery Act.

As a starting point, USASpending.gov, a mandated federal website that requires disclosure of information about nearly all government spending, including who gets how much money for what purposes, should be the "data house" for Recovery Act (and other government) spending. The government now has experience with that framework and can quickly address any weaknesses in it. Using USASpending.gov as the "data house" will provide consistency for the public.

Government needs to employ Web 2.0 technologies for secure information sharing, collaboration and functionality of the web. At a minimum, government websites must provide:

- a. Access to the underlying raw data;
- b. Open programming interfaces that allow websites and developers to share data; and
- c. Timely, accurate data on how federal funds are spent.

Incorporating these principles, USASpending.gov would not be the sole source of information on spending, but should be the core source of data about who is getting how much money for other sites such as Recovery.gov, state websites, and non-government websites. In this manner, others sites could complement the "official" spending data with other appropriate information, including data about results.

Each recipient of federal funds, including their subcontractors, should be required to report electronically on the funds received from the federal government, including on how the funds were used with the aim of measuring results. The reports should use common standards and data definitions so that the reported information is compatible with the federal USASpending.gov and related websites such as Recovery.gov – and each recipient or sub-recipient should have a unique identifier to make data sharing easier. Websites created by states need to provide comparable data about state spending. An online tool and an automated hotline should be established for citizens and government workers to report any misuse of Recovery Act funds.

Moving Towards the Ultimate Objective:

1. **Make sure USASpending.gov has accurate, timely data.** USASpending.gov has made remarkable progress since its inception. Accordingly, it should be built upon as the platform for housing government spending data, including under the Recovery Act. However, among the improvements USASpending.gov needs to address, these three are top priorities:
 - a. *Ensuring agency spending data is up to date.* It appears some of the work will be placing greater pressure on agencies to report the data on time, and some is achieving faster loading of data obtained from agencies or the Federal Procurement Data System.
 - b. *Improving data quality.* There are a host of issues that must be addressed regarding quality of the spending data, but number one is to improve and make publicly available the parent ownership identifier. Without quality information on parent ownership it will be difficult to analyze the Recovery Act data or any spending data.
 - c. *Improving access to the data.* The Application Programming Interface (API) allows other websites to actively search and pull information from the website, thereby allowing the constantly updating data to be more easily used throughout the internet. However, there are at least two ways the API needs to be improved. First, the 1,000 record limit needs to be lifted so that Recovery.gov, state websites, and other entities can make maximum use of the API. Second, the parent company identifier must be part of the data that can be obtained through the API.

In addition to improving the API, USASpending.gov needs to improve its services for downloading data, either subsets of the data or the full database. The service for downloading data under specific searches is extremely useful, and a similar approach to broader data elements would be useful.
2. **Create the right method for tracking Recovery Act spending.** The funds appropriated under the new Recovery Act should be assigned an additional budget code reflecting their use [or designation] for recovery. In addition to other traditional spending codes and identifiers that designate the program or project the funding is for and the agency that is spending the money. This added code for Recovery Act funds will make it easy to pull the data from USASpending.gov for sites such as Recovery.gov.
3. **Make sure we have the right data.** The success of Recovery.gov rests with marrying the spending data from USASpending.gov with key data that will help the public, news media, analysts, and policymakers see that the money was spent wisely. Some Recovery Act spending is intended to create or preserve jobs, some to build longer-term investments that will help stimulate the economy, and some to create short-term stimulus. Whatever the purpose, there should be metrics that identify results.

For some funds, new disclosures will be necessary to evaluate the expenditures. For instance, because not everyone receives equal benefit from tax relief, it is important to disclose information about such provisions. This might start with disclosure in aggregate

form, but should progress over time to greater detail while never revealing personally identifiable information. Other funds, such as support for Medicaid, food stamps, and unemployment support, already have program-based performance measurement tools. These measures, usually housed in the respective federal agency, should be available through Recovery.gov.

A large portion of the Recovery Act will go to states for infrastructure and other projects that generate jobs. For this type of spending, we need:

- a. The activity/services to be provided under the contract, grant, loan or subsidy, including copies of the contract;
- b. Relevant performance measures (e.g., jobs saved or created, wages and benefits paid for such jobs, demographics of those hired); and
- c. Performance data about the recipient of federal funds (e.g., on-time performance, quality of work).

Strong requirements must be instituted for timely electronic reporting and posting of this data, preferably every 30 days after receiving Recovery Act funds.

Information about contractors lobbying executive branch officials at the state or federal level for money under the Recovery Act should be posted to Recovery.gov. Any communication with an executive branch official by an employee of an entity applying for funding or an individual representing an entity applying for funding must provide information about the communication, the cost of such communications, and the people involved.

4. **Make sure there are strong reporting requirements.** The federal government should explore expanding current reporting mechanisms. If, however, these mechanisms prove too limited, slow or difficult to use, or cannot be quickly improved, then new reporting structures should be established as quickly as possible. Distribution of federal funds should be conditioned on satisfactory reporting by recipients and sub-recipients of federal funds.

More specifically, there should be:

- a. Clear definitions of reporting requirements, including jobs saved and created.
- b. Standards for reporting so that data can be manipulated and used quickly. One common open standard is eXtensible Business Reporting Language (XBRL), which uses XML syntax and related XML technologies to communicate business and financial information.
- c. Requirements for open competition for funds, including money spent by states. Any exceptions to open competition should be identified on the Recovery.gov website accompanied with a justification for why open competition could not be done.
- d. Requirements to electronically report directly to the federal government as well as to the state or local government if a recipient of pass-through funding.

- e. Each entity receiving federal funds, including sub-recipients, should be assigned a unique identifier for award and for entity. Each entity's unique identifier should be correlated with unique identifiers for parent company.

Because states have a critical role in spending the Recovery Act funds as well as other federal funds, it is essential for the head of the Office of E-Government and Information Technology within OMB to meet with states and their representatives to develop common ground on reporting requirements. These reporting requirements should be flexible enough so that states can employ them on their websites and their own state spending. One issue that should be resolved is how to report data about federal spending that is co-mingled with state funds. (While this may not be a major issue for Recovery Act funding, it will be for other federal appropriations.) States should be encouraged to produce their own searchable websites of their spending, ideally pulling the information directly from the federal website through an API or other open programming interfaces.¹

5. **Ensure user friendly services on the website.** There are a variety of services that should be implemented. Three top items include:
 - a. There should be a section on website for whistleblowers and others to identify misuse of funds. The individual posting information should have the option of making the information public or confidential. There needs to be dedicated staff within government reviewing and acting on this information.
 - b. Information on the website needs to be searchable by recipient of federal funds, geography, project type, federal agency, number and type of jobs, and other criteria. The data should be geo-coded for mapping applications.
 - c. Beyond posting data on the website, the Recovery.gov website should have information about oversight reports as required by the law. There should be a section of the website inviting public feedback on site improvement, data mash-ups, and other innovations.
6. **Provide resources for data analysis.** Not only should the federal government be analyzing the data collected about Recovery Act spending, but they should provide resources to states to conduct state-specific reviews.

¹ It may be that a requirement for uniform state posting of stimulus information is the best way to ensure consistent state level reporting.



March 5, 2009

**Steering Committee
(in formation)**

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OMB Watch

Danielle Brian, Oversight Chair
Project on Government
Oversight

Ellen Miller, Technology Issues
Sunlight Foundation

Greg LeRoy, Co-Chair
Good Jobs First

Interim Recovery.gov Data Reporting Architecture

On February 12, the Coalition for an Accountable Recovery (CAR) provided a vision statement¹ for developing a national collection and dissemination system to monitor government spending. This document expands on that vision by providing the first steps in building the architecture for such a system, starting with federal responsibilities in implementing the American Recovery and Reinvestment Act (herein called the Recovery Act).

The architecture in this paper starts from the activities outlined in OMB Director Peter Orszag's memo to agency heads on implementing the Recovery Act (herein called OMB Guidance).² It makes several other assumptions, including:

- The data provided through USASpending.gov will continue to be disclosed, even as the website and the data may be improved.
- That each recipient of Recovery Act funds has an obligation to report on use of those funds. Currently the OMB Guidance only requires the prime recipient and the first sub-recipient to report. It does not require those receiving money from the sub-recipient to report, which we think is a major problem that requires correction. Given the Recovery Act's specific definition of "recipient," this document will refer to all organizations who receive more than \$25,000 in Recovery funds as "ultimate organizational end users."
- Identifying who gets how much money for what purposes will be a major governmental accomplishment. However, we believe such information needs to be combined with information about what the spending achieved, even beyond the number of jobs saved and created as called for in the OMB Guidance. Such information can be used to demonstrate the accomplishments of government funding, just as it can be used to draw attention to waste, fraud and abuse.
- Our hope is that the Obama administration will use this performance data as a learning tool to improve the quality and effectiveness of federal programs. Those involved in the delivery of government services seem to draw public attention only for failures – this "gotcha" approach is manifest in scorecards of programs. Yet a good

¹ http://www.ombwatch.org/files/budget/CAR_Govt_Spending_Disclosure_Model.pdf

² Peter R. Orszag, "Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009," M-09-10, February 18, 2009, available at <http://www.whitehouse.gov/omb/asset.aspx?AssetId=703>

monitoring system doesn't just give out grades, it also uses interim goals so that self-correction and improvement can be undertaken.

- The Recovery Act depends heavily upon state and local governments, as well as corporations and nonprofit organizations, over which the federal government may have little control. The data collected by the federal government will reveal weaknesses (as well as strengths) in the American governance infrastructure that could be valuable on at least two fronts. First, the federal government should use interactive tools to pursue discussion on how the data from this accountability initiative can help improve governance structures. Second, the federal government needs to work collaboratively with state and local governments, as well as corporations and nonprofits, to identify how to improve accountability and transparency for future spending beyond the Recovery Act.
- No single website will serve all the needs of the public. Therefore, Recovery.gov data must be organized in ways that can be redistributed to states and non-governmental organizations in simple, machine-readable formats. We assume that non-governmental organizations will add context to the data that is disseminated to help the government better understand what works.
- The model described herein assumes that federal agencies will continue to report awarded grants and contracts to USASpending.gov and that recipients, sub-recipients, sub-sub-recipients, etc. report to a central reporting system on how Recovery funds were used and what the end results of those expenditures were (see graphic on page 11).

This report is divided into four sections:

1. Data Elements: The data elements that should be collected by the federal government
2. Reporting Architecture: The methods for reporting of the data
3. Data Access: The means by which machines and people will consume the data
4. Changes in Policy: The changes to laws and OMB guidance that may be necessary to enact the model described herein

1. Data Elements

The choice of what data are collected is at the heart of determining whether Recovery.gov will be groundbreaking in building new levels of transparency and accountability. Requesting the right data elements will be critical to ensuring that the recovery website can answer the questions the public will have about the government's actions. A great deal of information will need to be tracked for each transaction/project/ultimate organizational end user, some being information that has never been collected and some being information that has been collected but not linked to this type of accountability endeavor. While we realize that requiring the reporting of numerous data elements can slow down the process, only with sufficient information will the recovery data be useful to taxpayers, combined with other information sources and analyzed by other groups. Accordingly, we have carefully balanced the burden imposed on those who must report with the importance of accurate, accountable information to ensure taxpayer dollars are wisely spent.

We strongly believe that we have found the right balance in the type of data elements that must be collected. At the same time, we understand that there may be ways of automating the

collection of information to minimize the burden on those reporting – and we are very supportive of such approaches.

1.1 Use USASpending.gov data fields

As a starting point we recommend using the data elements tracked in USASpending.gov for contracts, grants, and loans. However, just duplicating the data elements from this database would be insufficient to accomplish the level of transparency called for by the Recovery Act.

1.2 Use of Identifiers

Identifiers will be essential to tracking the flow of money throughout the country. The recovery data will have to include unique identifications (names or numbers) for all ultimate organizational end users (including sub-recipients), projects, geographic regions (cities, counties, congressional districts, street addresses), program areas, etc. Ensuring consistency in the use of these identifiers will be a challenge. Without a methodology such as auto-completion fields, pull down menus, or confirmation fields, simple misspellings and data entry mistakes will make federal funds disappear in the system.

With so many entities reporting data, it will be critical to provide clear guidance and definitions for all fields. Reports must understand what is being asked for and how they should be reporting each field. Logical groupings into basic categories such as entity identification (name, parent company, industry, etc.), expenditure elements (amount, date of payment, etc.), contract specific (competition, contract type, etc.), and grant specific (program area, etc.) will help those reporting better understand what is being sought in each group.

1.3 General Data Elements

- 1.3.1 Geographic Information.* Ultimate organizational end users of Recovery Act funds should report information about where the agency or company is located, as well as the primary service location. It is critical that the public obtains the primary service location for the specific project funded, whether that project be a bridge or a research lab, and not just where the ultimate organizational end user's (public or private) address is. Geographic information should be reported by congressional district, street address, ZIP code, and census tract. Some information, such as census tract, may not be readily known to those who must report. In such cases, software may be able to translate street addresses into census tract automatically, thereby minimizing burden imposed on those who must report.
- 1.3.2 Full Contract Information.* The OMB Guidance calls for contract summaries on all contracts larger than \$500,000 and those awarded without open competition. This is significantly better than nothing, but is not fully satisfactory. The full contract (with redactions, if necessary), and the Request for Proposals should be posted.
- 1.3.3 How Money Is Spent.* The total amount of the individual Recovery Act award that is the subject of the report and the amount spent or committed by the reporter to date, along with information about the number of jobs created or retained, wages paid for those jobs, and other benefits of the award. (More on jobs is provided below in 1.4.)

- 1.3.4 *Meeting Success Metrics.* Whether the award is on track to meet the established metrics for success, and, if not, what needs to change to meet the goals.
- 1.3.5 *Other Benefits of Spending.* There should be reports of other intended benefits of Recovery Act funding, such as energy efficiency improvements, avoided carbon dioxide emissions, and students' academic progress, for example.
- 1.3.6 *Point of Contact.* For each entity that receives or administers Recovery Act funds, the identity and contact information of the individual designated as its primary coordinator for recovery-related efforts.
- 1.3.7 *Labor Agreements.* Any labor agreements or memoranda of understanding regarding labor practices related to work conducted with Recovery Act funds should be made publicly available.
- 1.3.8 *Uniformity for Similar Types of Spending.* There needs to be clear instructions for different types of spending: formula grants, discretionary grants, mandatory spending, contracts, etc. Each similar type of financial award should have similar core reporting requirements.

1.4 Jobs Data

Job creation is one of the primary goals of the Recovery Act. In this section we offer some initial suggestions on how to track the employment impact of the act in the most complete and effective way. Because we believe that job quality is inseparable from job creation, we also offer some suggestions on data collection relating to wages, benefits and hours.

1.4.1 Estimates vs. Reporting

The Recovery Act and the initial OMB Guidance refer to an obligation on the part of recipients to provide *estimates* of jobs created and retained. This needs clarification. We want to be sure the use of that term is not seen as diminishing the obligation of ultimate organizational end users to keep careful records of their activities and to provide reports that feed into Recovery.gov. We trust that all contractors and subcontractors hired with Recovery Act funds will be required to provide actual data based on their payroll records.

We understand that employers may have to resort to estimating when it comes to determining, for example, how many workers can be considered to have been retained as a result of Recovery Act-related business (especially when a firm has both Recovery Act and non-Recovery Act projects). What we want to avoid are situations in which government agencies substitute their own estimates of job creation and retention for actual payroll data from employers.

1.4.2 Who Does the Job Reporting?

The OMB Guidance gives the impression that reporting requirements will extend no farther than the states. Particularly in the case of job data, this is not adequate. An obligation to report jobs data should extend to all final employers receiving Recovery Act funds from a federal agency, from state agencies through

which the federal funds flow, or from a contractor hired by one of those federal or state agencies. This means that all contractors and subcontractors on Recovery Act-funded projects should be reporting their jobs data.

A more complicated question is whether to extend the reporting requirement to firms that serve as suppliers to Recovery Act contractors and subcontractors, which generate what are known as "upstream" ripple effect jobs. Their job creation and retention will be properly seen as an indirect impact of Recovery Act spending, but it may not be practical to expect those companies to report. The same would go for jobs generated by the spending power of workers directly created by Recovery Act funding, known as "downstream" ripple effect jobs. To avoid inflated ripple-effect claims, credible economic input-output models, such as the RIMS-II Series of the Bureau of Economic Analysis, can be employed.

Also to be resolved is where the reporting responsibility lies with employers that have multiple worksites. The Multiple Worksite Reports used by the Bureau of Labor Statistics could serve as a model. The tagging of corporate entities will make it easier to determine relationships among different reporters.

1.4.3 *What Gets Reported?*

- *Hours of work.* Given the lack of a universal definition of a "job," we recommend reporting on the total number of hours of work performed on Recovery Act projects. The number of workers (including both employees and independent contractors) putting in those hours should also be reported. Together, these two figures will allow one to determine both the number of full-time equivalent positions being generated by Recovery Act funding and the average number of hours for each worker (which will indicate whether excessive overtime or excessive use of part-timers is taking place).
- *Creation vs. Retention.* Given that the Recovery Act is concerned with both job creation and retention, employers should be required to divide the work time in two categories: hours of work on new activities that would not be occurring but for the existence of Recovery Act funding, and hours of work on previously occurring activities that would not be continuing but for the existence of Recovery Act funding. Clearly, this is an area in which employers will have to engage in some degree of estimation, but they should be given some guidance. For example, the U.S. Department of Commerce Economic Development Administration states that for a job to be claimed as retained, its loss must be "imminent and demonstrable."
- *Type of work.* If employers are allowed to combine all kinds of jobs into a single number, that will reveal little about the nature of any specific jobs being created or retained by Recovery Act. Employers should be required to break down their work-time reporting into a short list of occupational categories, such as those used in the Equal Employment Opportunity Commission's EEO-1 Survey.
- *Wage levels.* For each of those occupational categories, the employer should be required to report the total payroll and to divide it by the total number of hours to show the average hourly pay for each group. Criteria for calculating the payroll could

follow the procedures used by the Bureau of Labor Statistics in its monthly Establishment Survey.

- *Healthcare coverage.* Given the Obama Administration's emphasis on reducing the number of Americans without medical insurance, employers should be required to report how many hours of work in each group were performed by workers receiving company-provided health insurance.
- *Demographic characteristics.* It is a matter of great concern that Recovery Act funds end up helping all sectors of the population. For this reason, employers need to provide demographic information on the workers they are hiring and retaining. Here, too, the EEO-1 Survey is a long-established model.

1.4.4 Mechanics of Reporting

- *Frequency.* Because both policymakers and the public need current information on the uses of Recovery Act spending, we recommend that Recovery Act employers be required to report on job creation and retention on a monthly basis. This would be consistent, for example, with the Bureau of Labor Statistics Establishment Survey, which covers about 150,000 firms.
- *Certification of Accuracy.* In the same way that corporate executives must now certify the accuracy of financial reports submitted to the Securities and Exchange Commission, we recommend that a certification system be adopted for Recovery Act reporting.
- *Validation and Auditing.* While we recommend that all ultimate organizational end users of Recovery Act funds and contracts report directly to Recovery.gov and that these raw reports be publicly accessible online, we also recommend that state and federal agencies review at least a portion of the submissions to determine whether the information is plausible given the nature and size of the project. We assume that more detailed audits of a portion of ultimate organizational end users will be necessary to safeguard against waste, fraud and abuse.

1.5 Other Program-Specific Data

1.5.1 General State Information

Key baseline data are needed for each state during state fiscal years 08, 09, 10 and 11, including:

- State reserve funds;
- Total general fund expenditures, and expenditures specifically in elementary and secondary education (K-12), higher education, Medicaid/SCHIP, human services, transportation, corrections, and other areas;
- Per-pupil state K-12 expenditures as well as distribution by school districts;
- Changes in Medicaid eligibility and services with 2008 as a baseline;
- Enacted changes in taxes and fees, including impact on annual revenues; and
- Actual revenue collections by quarter, both with and without adjustment for legislated changes.

This baseline information is vitally important to better understand how states are using Recovery Act funds in the context of the state's own resources. Simply measuring jobs saved or created will not capture displacement of state funding.

1.5.2 Surface Transportation Program

For the \$27.5 billion in the Recovery Act devoted to the Surface Transportation Program, states should report the net number of new lane miles, if any, generated by projects. The key is to know whether resources are being used to fix existing roads and bridges before devoting resources to building new capacity. In addition to tracking new highway lane miles, new transit capacity should be tracked via new service mileage for fixed guideways and expanded fleet capacity for all transit modes (in comparison to replacement fleet purchases). Additionally, there should be reporting on whether funds have been "flexed" over to other programs such as public transit, intercity rail, or pedestrian improvements as allowed by law. This type of data will allow better informed debate over transportation policy in terms of whether states are deploying money in ways that will increase or decrease our nation's dependence on foreign oil.

1.5.3 School Construction

It is important to know how much of the discretionary funds in the \$53.6 billion education State Fiscal Stabilization Fund goes to pay for school building improvements, both for elementary and secondary schools and for higher education and where those activities occurred. Thus, funds associated with education construction should be coded as "infrastructure" so it can be monitored. To augment the data from USASpending.gov, the direct reporting needs to include:

- The name of the school district (including school) or college/university, along with the code assigned from the Common Core of Data, which is the Department of Education's primary database on public elementary and secondary education in the United States.
- Project justification such as whether it was to save energy, meet safety and health codes, upgrade building components and systems, enhance education design, reduce crowding, or increase building utilization.
- Expected life of improvement.
- Whether matching funds were involved, how much, and source of the matching funds.
- With regards to any contract, in addition to the original contract, owner-initiated and contractor-initiated change orders, and the ultimate size of the contract.

1.5.4 Agency Goals

The Recovery Act enumerates a set of goals for each agency that is charged with disbursing stimulus funds. For example, the Assistant Secretary of Commerce is tasked with establishing a national broadband service development and expansion program that is to "provide improved access to broadband service to consumers residing in underserved areas of the United State." For every goal specified in the Recovery Act, the responsible agency should report whether that goal has been met, and if not, what the completion status of that achieving that goal is.

1.5.5 Tax expenditures

For entities receiving tax breaks authorized by the Recovery Act, the IRS should require a special code with the clear intention to make such information publicly available. All entities seeking tax relief under the Recovery Act should be informed that the amount of tax reduction will be disclosed. Individuals should be excluded from this disclosure requirement.

2. Reporting Architecture

The current system for reporting of grants and contracts relies on federal agencies reporting such information to the USASpending.gov database. For contracts, the Federal Procurement Data System is used. For financial assistance, such as grants, the Federal Assistance Award Data System is used.³ Thus, USASpending.gov provides information about funds that have been distributed.

2.1 All Ultimate Organizational End Users of Recovery Act Money Must Report

To complement federal agency reporting to USASpending.gov, the government should create a central reporting mechanism to which all ultimate organizational end users of Recovery Act funding must register and report. All recipients and sub-recipients, regardless of how many layers removed from the initial federal dispersal should be required to report to the system for any Recovery Act money over \$25,000. This *de minimis* will eliminate unnecessary reporting by very small subcontractors or suppliers. All reporting should be done through digitally secure communications.

2.2 Create a Centralized Registration System

The OMB Guidance requires direct recipients of federal funds to register under the Central Contractor Registration (CCR). We are supportive of using a central registry. However, three changes need to occur. First, all ultimate organizational end users of federal funds need to register, not just direct recipients of federal funds. All registrants must provide information that CCR already collects, including street address, NAICS, and a host of other data.

Second, there needs to be an improved identification system, particularly for entity ID and parent company ID. Currently, applicants for federal funding must obtain a Data Universal Numbering System (DUNS) number, a nine digit unique number given by Dun & Bradstreet that identifies the organization. A DUNS number of the parent company is also reported on the CCR. The problem is that the DUNS number is a private sector identifying system, which means that the government has little control over how the numbers are assigned or for that matter disclosed. Instead, the federal government should have its own unique identifier that can be made publicly accessible, and recipients of federal funds, whether direct or indirect, must keep their profile up to date in the registry, including changes in parent company identifier (e.g., when

³ Some agencies are participating in FAADS Plus, which expedites the information being sent to USASpending.gov and includes data elements not collected through FAADS. See the OMB memo from Robert Shea, Associate Director, to agency heads, "Guidance on Future Data Submissions under the Federal Funding Accountability and Transparency Act (Transparency Act)," March 6, 2008, M-08-12, at <http://georgewbush-whitehouse.archives.gov/omb/memoranda/fy2008/m08-12.pdf>.

a company is bought out or merges). Accuracy and transparency in the parent identifier is essential for tying together different databases in government.

Third, the federal government should coordinate with states so that the unique identifier is used in tracking state grants and contracts.

2.3 Create a Centralized Reporting System

Direct reporting by ultimate organizational end users into a central system, rather than reporting back up through the chain of funding, will eliminate the possibility that data will be manipulated or delayed by agencies or companies higher in the chain. When data are "cleaned" to identify and correct errors, the raw reported data should also be preserved. A central reporting system ensures the raw data are actually raw and not manipulated before the federal government receives it.

When a financial award is made, a unique award number must be assigned. This is separate and beyond the identifier that is it Recovery Act funding. This unique Award ID must follow the money wherever it goes. If a state receives Award ID 100, and provides a sub-award to the city, the sub-award should be identified as Award ID 100-A. If the city provides three contracts, then each contractor's funds should be identified as part of Award ID 100 (e.g., Award ID 100-B, 100-C, etc.). In this manner, when any ultimate organizational end user reports on their use of the funds, the original source of the award can easily be identified.

There may be systems, such as USASpending.gov, that can be expanded to become this reporting system. But building an entirely new system, though difficult and time consuming, might avoid the many limitations that those systems currently contain. Since the Recovery Act already requires companies receiving stimulus money to register with the federal CCR, it may also serve as an ideal location for a central reporting system. Locating a reporting system for spending, jobs and results at the same place companies register their name, location and other information could create a useful synergy that would make it easier to ensure data quality.

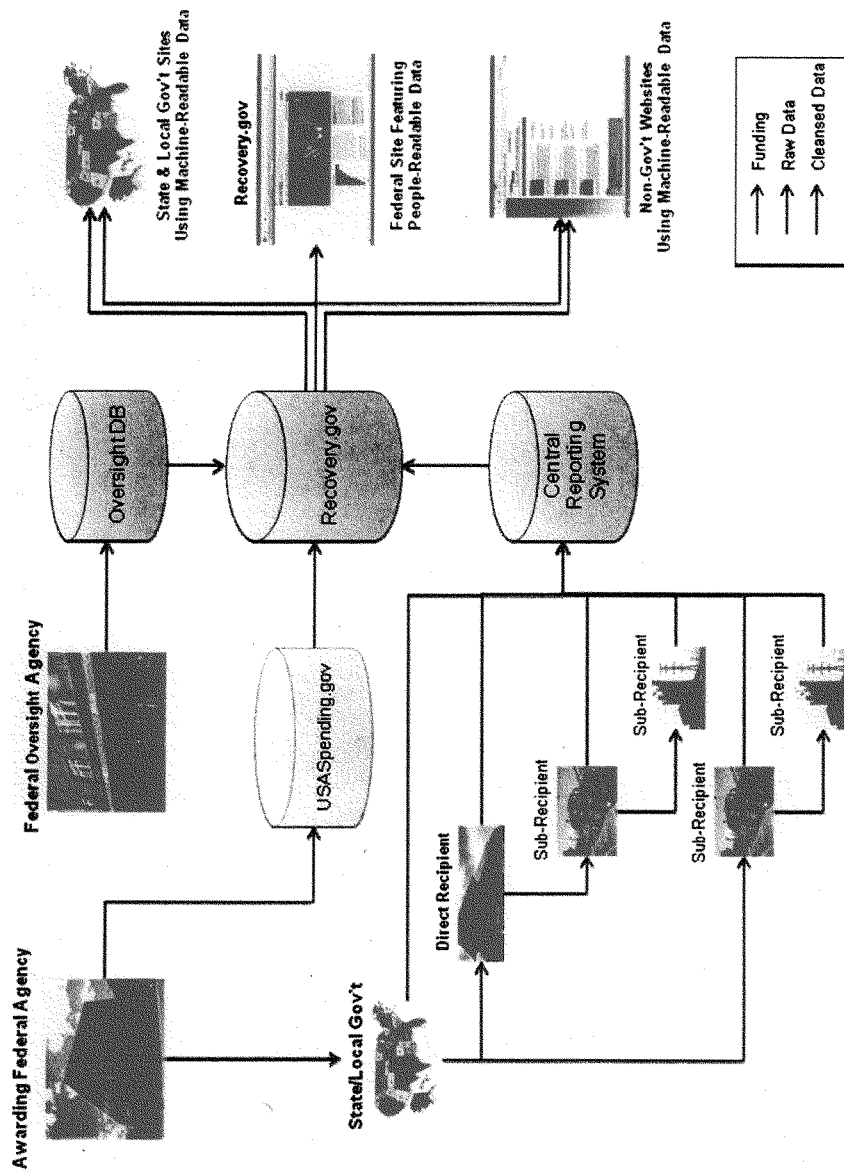
2.4 Reporting Formats

All reporting should be done electronically for maximum speed and accuracy. The federal government must establish clear standards and formatting for the electronic reporting to avoid confusion and misreporting. One standard that is increasingly used – and the SEC has familiarity with using – is eXtensible Business Reporting Language (XBRL). XBRL is based on XML (eXtensible Markup Language), a widely accepted standard, that has the ability to "tag" or code each element of a Recovery Act report with information such as description, amount spent, jobs created or saved, etc., so that it is easy to identify and understand for users of the information. All the elements are grouped together into a collection of reporting terms called a "taxonomy". XBRL is extensible, meaning that the terms available for use can be customized so that companies using XBRL can create their own elements – called "extensions" – to describe a unique reporting situation. XBRL is not an accounting standard and will not change what is reported, only how it's reported. The XML tagging means that the information in a report is computer-readable and can be more easily extracted, searched and analyzed by users of that information. The information can also then be reliably extracted and analyzed across companies with no manual intervention. Developing this standard is essential for data interoperability and can also improve data quality.

Considering the wide variety of formats agencies and companies may be using to track the Recovery Act data, the federal government should not mandate the software used for reporting information. Instead it should focus on the standard. Thus, the issue is not whether Microsoft Word or Excel is used to maintain the data, but rather whether the information is consistently coded in a standard format, such as XBRL. At the same time, the government should establish a webform for reporting directly into the central reporting system. This would allow a variety of vendors, institutions, and open source developers to create new reporting tools for filing information. For example, SAP or Oracle could create a module that allows their systems to file data with the central reporting system.

2.5 Merging Data

With accurate company and parent company identifiers and other identifiers (e.g., award identifier), along with a data standard such as XBRL, it will be possible to merge data from USASpending.gov and the central reporting system. Recovery.gov should be the website where these merged data sets come together. (When moving beyond Recovery Act funding, USASpending.gov should be the site for merged data sets. However, that website will need substantial overhaul to make that happen.)



3. Data Access

3.1 Data Standards

To help with existing and new data fields, we suggest that OMB establish a data dictionary. Multiple agencies, 50 states, hundreds of municipalities, and thousands of contractors will be exchanging information, and under this architecture, it will all converge in one location. Without universally accepted parameters that explicitly define each element of data, computer systems and humans alike will be confused about what information exactly is being exchanged or reported, rendering Recovery.gov virtually unusable.

When a library of required and optional collected data is established, a data dictionary that explicitly defines the parameters of each data field (e.g. "A 'city' is no more than 35 characters and describes a unified, geographically defined, autonomous municipal entity") should be promulgated before agencies, states, localities, and contractors begin implementing reporting systems.

The federal government should encourage states to adopt federal spending reporting data standards to facilitate not only the development of individual state spending data collection systems, but to facilitate the electronic exchange of data between states and the federal government. A universal spending data dictionary would also facilitate the development of third-party data analysis tools. For example, a nonprofit research advocacy organization could produce a website like FedSpending.org that could easily be used for state spending analysis and adapted for multiple states.

3.2 Machine-Readable Data

It is of primary importance that all that data that are collected through the Recovery.gov be available in an electronic format and accessed from Recovery.gov by machines. The underlying details of the implementation of such access methods are better left to a more technical document, but what does get implemented should function as an open programming interface such as an Application Programming Interface (API). An API is a commonly used method by which computers exchange information. Enabling such machine-readable access to Recovery.gov data through an API is essential to allowing outside stakeholders to analyze collected data. In addition to API access, Recovery.gov should also provide bulk access to structured data. Digital copies of contracts as well as CSV or Microsoft Excel files, QuickBooks files or other reporting application files can be easily organized into simple directory structures and made accessible via FTP or HTTP.

But making the data available via APIs or FTP must also be accompanied by clear documentation and help files to assist developers in building applications around Recovery.gov data. Developers should also have access to an address to which they can email questions to a Recovery.gov expert.

3.3 Raw-Data Access

Human-created data will be imperfect even when a standard such as XBRL is employed. Data standards and machine access to data, while decreasing the probability that the data will be corrupted, cannot eliminate inevitable errors in human data entry. Data entered by humans, scanned in from bar codes, or transcribed from paper documents are considered "raw" data.

They will contain trivial (e.g. "Street" instead of "Lane") and substantial errors (e.g. "\$1,000,000" instead of "\$10,000,000"). There are a host of data correction tools that can be built into the central reporting system in order to standardize information. For example, it will not be unusual for someone to abbreviate "association" with "assn" while another filer will use "assoc". The reporting system should normalize these terms to a common standard. Errors in company spelling, such as "Acme" and "Acme Inc." and "Acme Inc" can be addressed through the company and parent identifiers.

Simple data corrections will be necessary to improve the accuracy of the data, but transparency advocates have concerns over the degree to which the data will be "cleaned." On the one hand, "dirty" data may do more to obstruct transparency in that the reported data do not reflect the reality of the world the data are supposed to describe. On the other hand, cleansing of data provides an opportunity for government officials to insert inaccurate information. For example, a project completion date might be altered by a month to create the appearance of timely execution. To elide this problem, both sets of data should be made available, and both sets should be associated with a set of provisos indicating the potential problems associated with each.

3.4 *People Readable Access*

3.4.1 *Searchability*

Once the data are collected from the various data repositories (USASpending.gov, Central Reporting System, and the Oversight database), the data should be displayed on the Recovery.gov website in a manner that allows non-expert users to easily observe the flow of federal funds and the impact those funds are having. Two dimensions should be paramount in making decisions how to display information on Recovery.gov: data knowledge of the user and technology skills of the user. Recovery.gov should serve those at the low end of both dimensions, but not at the expense of the high end for each dimension.

At a minimum, the data should be searchable by:

- Ultimate Organizational End Users of federal funds
- Geography (state, congressional district, street address, ZIP code, census tract)
- Project type
- Federal agency
- Number and type of jobs
- Dollar amount
- Other criteria

3.4.2 *Display*

Federal spending data should be displayed in a format similar, but not necessarily identical to the federal government's USASpending.gov. Although the user interface of the site could be improved, it should serve as the basis for how the data should be displayed. The principle is that the public should be able to search by federal agency, company, state or city, for example, to obtain aggregate information and then drill down on specific transactions.

Recovery.gov initially provided expectations in terms of jobs created or saved in each state that will result from Recovery Act funding. Development of these expectations or interim goals is laudatory (see 1.5.4 above). The aggregate data displayed on Recovery.gov should be juxtaposed against these expectations or goals.

Not only should the federal government be analyzing the data collected about Recovery Act spending, but they should provide resources to states to conduct state-specific reviews.

3.4.3 Upstream Communication

While providing information about federal spending may be the sole purpose of Recovery.gov, we believe more can be achieved. In addition to posting oversight reports and findings by various government offices, as required by law, Recovery.gov should also serve as an avenue by which citizens can send information to the federal government. There are at least three areas for interactivity:

- *Site Improvements.* There should be a section of the website inviting public feedback on site improvement, new “data mash-ups,” and other innovations. There may be issues that need to be solved and inviting the public to offer solutions, data collections, or crowdsourcing fixes would be consistent with President Obama’s memo to agency heads issued on Jan. 21 that said two of three principles guiding his administration will be citizen participation and collaboration.
- *Anonymous Reporting of Misuse of Funds.* Recovery.gov should provide an online form and telephone number for whistleblowers and others to identify waste, fraud, and abuse. Allowing anonymous reporting of such misuse of funds will be critical. Additionally, there should be dedicated staff within government reviewing and acting on this information.
- *Discussion of Government Successes.* Recovery.gov should not become a public relations gloss for Recovery Act spending. But when government has achieved outcomes, there should be an opportunity for public discourse about the success and the lessons learned from that success. A key part of Recovery.gov should be presenting a theme that government needs to learn from both successes and failures in order to make things work better when moving forward.
- *Macro Measures.* Recovery.gov should have a tracking of various key measures of success, including employment statistics.

4. Changes in Policy

Changes in federal contracting regulations, OMB Guidance, and public laws may be required to implement this architecture. This subject deserves further study, but upon superficial examination it appears that several aspects of this architecture would require policy changes.

4.1 Reporting Requirements for Sub-Recipients

The initial OMB Guidance requires that federal award data be collected from the first level sub-recipient only. In the example given in the Guidance, a city that receives federal funds from a state would be the last organizational user to report on the use of federal funds. The architecture outlined herein requires that any organization that receive funds from the city – such as a contractor hired to build a school and that contractor's subcontractors and suppliers – be required to report on their use of federal funds if above a *de minimis* amount of money.

4.2 Timeliness of Reporting

Current law requires that federal award information be uploaded to USASpending.gov no more than 30 days after a contract or grant is awarded. Like the requirements of data uploads to USASpending.gov, uploads to Recovery.gov should be no later than 30 days after receipt of an award. However, the Recovery Act and the initial OMB Guidance, in accord with the law, require that agencies report on Recovery Act fund usage on a quarterly basis.

4.3 Federal Agency Lobbying Disclosure

Current law does not require that the federal government disclose efforts undertaken by potential award recipients or their agents in persuading a federal agency to award a contract or grant to that recipient. The information that is collected by the federal agencies is minimal and is not necessarily stored in an electronic format. President Obama's Executive Order on "Ethics Commitments by Executive Branch Personnel" calls for ramped up disclosure of such lobbying activities. The administration should implement such reporting and disclosure; that information should be on USASpending.gov or Recovery.gov so that it is clear what types of influences may have gone into the award of federal funds.

4.4 Contractor Misconduct Information

The public has a right to know with whom the government does business. Too often contractors are not complying with tax requirements or fail to properly implement federal regulations related to worker safety or environmental protections, for example. With an accurate company and parent company identifier, it is possible to combine databases from various federal agencies to better describe who receives federal funds. Such a database can also help government contract managers who would be well served to have the ability to search a contractor misconduct database to identify potential risks.

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Additional Resources

- Comments/Suggestions
- OCF Website
- Recovery.dc.gov
- Document Library
- Links to Related Sites

Welcome to the website for the District of Columbia (DC) Office of Contracting and Procurement (OCP) Stimulus Contracting Team.

This site shall serve as the central repository and distribution center for the District Government's contracting and procurement activities related to the federal stimulus. OCP is piloting this online initiative to determine its use with future task groups.

OCP's Code of Ethics govern the conduct of every person conducting procurement activities on behalf of the District.

[Procurement Forecasts](#), [Open Solicitations](#), [Contract Awards](#), and [Requests for Information](#).

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- [Congressional Testimony](#) On Thursday, March 19, 2009, the Chief Procurement Officer... To view testimony, click here.
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APPENDIX A



Resolution encouraging state Governors and the U.S. Office of Management & Budget to include state Chief Procurement Officers (CPOs) in the development and implementation of strategies and guidelines for spending stimulus money provided to the states as a result of the American Recovery and Reinvestment Act of 2009.

WHEREAS, the 111th United States Congress has passed the *American Recovery and Reinvestment Act of 2009*; and

WHEREAS, the state Chief Procurement Officer (CPO) has full and practical knowledge of current applicable state procurement legislation, best practices, strategies, and processes within the confines of their own state procurement regulations; and

WHEREAS, state CPOs are uniquely positioned to assist in the development of guidelines regarding use, timelines, and transparency of efforts and purchases compelled by the ARRA; and

WHEREAS, state CPOs will be primarily responsible for developing the contracts states and localities will use in conjunction with spending the money released to the states by the ARRA; and

WHEREAS, the ARRA calls for specific levels of transparency of state spending of the stimulus dollars; and

WHEREAS, states have a variety of reporting and transparency guidelines designed to ensure equity and fairness in awarding contracts which will need to be standardized as a result of the reporting and transparency provisions in the ARRA; and

WHEREAS, state procurement protects public funds from conflicts of interest, anti-trust violations, fraud and abuse; and

WHEREAS, the inclusion of state CPOs will facilitate and set precedent for greater cooperation between state agencies and state procurement offices, creating an environment of collaboration that will continue to serve the states and their taxpayers in the future; and

WHEREAS, the National Association of State Procurement Officials recognizes and asserts that the effectiveness of a state CPO is clearly linked to its location in the government structure, and that placing the office at a high level is critical to ensuring effective direction, coordination, and control over a government's procurement spend; and

WHEREAS, the National Association of State Procurement Officials is uniquely positioned to disseminate information to state CPOs and their staffs, and to gather responses related to legislation and procedures affecting state procurement;

NOW THEREFORE, BE IT RESOLVED, THAT the National Association of State Procurement Officials advocates the inclusion of state Chief Procurement Officers in the development of guidelines for contracting procedures related to the spend of state finances authorized by the American Recovery and Reinvestment Act; and

BE IT FURTHER RESOLVED, THAT state Chief Procurement Officers should also be present in discussions with Governors' offices and state agency leaders in developing projects and strategies for spending state money authorized by the American Recovery and Reinvestment Act; and

BE IT FURTHER RESOLVED, THAT the National Association of State Procurement Officials should be recognized as the chief point of contact to assist in distribution of information to state CPOs and as a collective resource for the development of guidelines related to the American Recovery and Reinvestment Act as they relate to state procurement.

Adopted by
National Association of State Procurement Officials
March 6, 2009

APPENDIX B

NASACT	NASBO	NASCIO	NASPO
<i>National Association of State Auditors, Comptrollers and Treasurers</i>	<i>National Association of State Budget Officers</i>	<i>National Association of State Chief Information Officers</i>	<i>National Association of State Procurement Officials</i>

February 17, 2009

Dr. Peter Orszag
Director
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

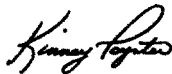
Mr. Gene L. Dodaro
Acting Comptroller General of the United States
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Dr. Orszag and Mr. Dodaro:

The passage of the American Recovery and Reinvestment Act (ARRA) provides significant funds to states across an array of programs with tracking and reporting requirements to ensure accountability. As representatives of the state auditors, comptrollers, and treasurers, the state budget officers, the state chief information officers, and the state procurement officials, we sincerely believe that a coordinated approach is imperative and want to express our strong interest in working with your staff on the reporting and compliance aspects of this important legislation.

States are working on processes to ensure that funds are spent as efficiently as possible while maintaining the appropriate controls and reporting mechanisms to ensure accountability and transparency. Many states have existing accountability and transparency initiatives or are in the planning stages to make investments in the near future. Your guidance to the states on the reporting and accountability requirements will be extremely helpful. We look forward to meeting with your staffs soon to provide information to ensure that these stimulus funds are spent in the most efficient and effective manner. Please do not to hesitate to call upon us when we can provide assistance.

Sincerely,



Kinney Poynter
Executive Director
NASACT
(859) 276-1147



Scott Pattison
Executive Director
NASBO
(202) 624-5382



Doug Robinson
Executive Director
NASCIO
(859) 514-9153



Vern Jones
President
NASPO
(859) 514-9159

APPENDIX C



Issue List for ARRA Implementation Conference (to be held March 12, 2009)

- Federal Acquisition Regulations (FAR)
 - Will they apply to states' use of stimulus funds?
 - Is there a difference between grants from Federal agencies vs. allocations from discretionary accounts?
 - Will FAR be modified?
- Free Trade Agreements (FTAs)
 - What is the impact of reduced notice times on member states' compliance with various Free Trade Agreements and the WTO IGPAC?
 - How does the Buy America provision in the ARRA affect states' compliance with the WTO IGPAC and other FTAs to which they are party?
 - Does the Buy America provision put them in non-compliance with these agreements? What are the implications of noncompliance? Will there be a retaliatory effect that states should anticipate? (I have attached a PDF of states and the various trade agreements to which they have signed on. This data is current as of 2008.)
 - How will the "use it or lose it" provisions and time periods affect states' compliance with posting/reporting requirements under the WTO IGPAC and other FTAs to which they are party? For instance, the WTO IGPAC is quite prescriptive as to publishing/advertising requirements for all open bids, which in some cases are longer than the time period within which states must allocate and/or spend their stimulus money. Has this issue been addressed in the guidelines, and what can states expect as a result of noncompliance with these standards?
- Accountability
 - How will state central procurement officials be made aware of grant or other funding allocations in their state to which they might possibly be responsible for awarding contracts?
 - Will there be detailed guidelines on audit procedures and requirements to promote complete compliance and to protect central procurement from penalties later?
 - Will there be guidance on capturing and qualifying job creation data?
 - How will OMB ensure consistency of data collection methods and strategies across federal agencies to simplify reporting by state agencies?
- Transparency
 - What additional auditing and reporting requirements will there be?
- Other Issues
 - Concerns about staffing state central procurement offices in order to spend the stimulus money

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Majority (202) 225-6061
Minority (202) 225-6074

HEARING NOTICE

To: Members of the Committee on Oversight and Government Reform
From: Edolphus Towns, Chair
Date: March 12, 2009

On Thursday, March 19, 2009, at 10:00 a.m., in room 2154, the Committee will hold an oversight hearing titled, "Preventing Stimulus Waste and Fraud: Who Are the Watchdogs?"

The hearing will review the organizations and officials responsible for oversight of spending under the American Recovery and Reinvestment Act. The lead witness will be Earl Devaney, appointed by President Obama to chair the Recovery Act Transparency and Accountability Board created by the Act. Other witnesses may include state and local government auditors. The hearing will review what proactive steps these officials are taking to prevent wasteful spending, as well as plans for audits and investigations to identify and prosecute fraud in stimulus programs.

For further information regarding this hearing, please contact John Arlington at 5-5051.

* * *

Chairman TOWNS. And without objection, the committee stands adjourned. And thank you again for coming.

[Whereupon, at 1:55 p.m., the committee was adjourned.]

[The prepared statement of Hon. Elijah E. Cummings follows:]

CONGRESSMAN ELIJAH E. CUMMINGS

OPENING STATEMENT

“PREVENTING STIMULUS WASTE AND FRAUD:
WHO ARE THE WATCHDOGS?”

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

March 19, 2009

Mr. Chairman,

Thank you for holding this important hearing to examine the unprecedented oversight measures included in the *American Recovery and Reinvestment Act of 2009*.

As you know, President Obama has made clear that he expects every dollar of the \$787 stimulus package to be spent effectively and efficiently.

We know that whenever an infusion of cash of this magnitude is dispersed to state and local governments, the potential for waste, fraud and abuse is great.

We need look no further than recent headlines about AIG, one of the greatest beneficiaries of the *Trouble Assets Relief Program (TARP)* awarding hundreds of millions of dollars in bonuses and retention payments to the very employees who helped sink the company in the first place.

President Obama was not yet in office when the oversight problems with the TARP program were generated, but he has had the opportunity to ensure that the stimulus package is different.

The *American Recovery and Reinvestment Act* includes comprehensive oversight measures to ensure accountability and transparency.

We passed this legislation to lift up struggling Americans on Main Street, and we are committed to guaranteeing that every taxpayer dollar that is spent goes toward that goal.

President Obama came into office after a historic election that included never before seen levels of public engagement through online networking and the use of other web-based tools.

He is the President of Facebook, Twitter and Blogging. He is the President who simply could not give up his BlackBerry.

This may be the first administration to fully utilize the tools available to it through the Internet, resulting in a far better value for the taxpayer's dollar.

The web site *Recovery.gov* gives everyday citizens the ability to review, analyze and comment on expenditures made with stimulus funds in real time.

This tool has the potential to stop wasteful spending before it starts.

I am extremely optimistic about the potential of such a tool and look forward to hearing more about it from today's witnesses.

Thank you and I yield back.

##