



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

DEC 16 2009

MEMORANDUM FOR COMMANDER UNITED STATES SPECIAL OPERATIONS
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COMMANDER UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
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DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Guidance on Reviewing Contractor Reports Required by the American
Recovery and Reinvestment Act Of 2009

- References:
- (a) DPAP Memorandum issued March 13, 2009, entitled "Posting Pre-Solicitation and Award Notices; Reporting Contract Actions; and Reporting Performance Assessments for Actions Funded by the American Recovery and Re-Investment Act of 2009"
 - (b) DPAP Memorandum issued April 21, 2009, entitled "Updated Instructions for Posting Pre-Solicitation and Award Notices; Reporting Contract Actions; and Reporting Performance Assessments for Actions Funded by the American Recovery and Re-Investment Act of 2009"
 - (c) DPAP Memorandum issued July 06, 2009, entitled "Use of the Purchase Card – American Recovery and Reinvestment Act (ARRA)"
 - (d) DPAP Memorandum issued July 10, 2009, entitled "Class Deviation - Federal Acquisition Regulation (FAR) Clause 52.204-11, American Recovery and Reinvestment Act – Reporting Requirements"
 - (e) DPAP Memorandum issued July 10, 2009, entitled "Revised Posting and Reporting Requirements for the American Recovery and Reinvestment Act of 2009"
 - (f) OFPP Memorandum issued September 30, 2009, entitled "Interim Guidance on Reviewing Contractor Reports on the Use of Recovery Act Funds in Accordance with FAR Clause 52.204-11"

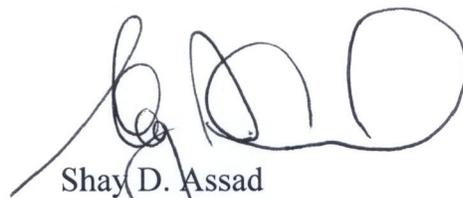
The Federal Acquisition Regulatory (FAR) Council issued interim rules on March 31, 2009, to implement the American Recovery and Reinvestment Act of 2009 (“Recovery Act”). FAR case 2009-009 implemented the public reporting requirements for federal contractors under Section 1512 of the Recovery Act.

This rule requires contracting officers to include FAR clause 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements, in all solicitations and contracts, funded in whole or in part by the Recovery Act, including orders and modifications to existing contracts or orders. The clause requires contractors to register and report cumulatively, for each calendar quarter, on their use of Recovery Act funds using the web-based tool at www.FederalReporting.gov.

In order to ensure the contractor reports are consistent with contract award documentation, Contracting Officer reviews are required. The attached provides guidance for these reviews.

This guidance is implemented as of the date of this memorandum. Continued Executive and Legislative oversight of Recovery Act funds may necessitate changes to this guidance in the future.

My action officer for this guidance is Ms. Jennifer Martin, jennifer.martin@osd.mil; 703-602-0710. As a reminder, grants and assistance actions awarded with Recovery Act funds are also subject to specific instructions. Contact Dr. Mark Herbst, mark.herbst@osd.mil, 703-588-1377, in OUSD (AT&L)/DDR&E for further guidance on grants and assistance actions. Please see <http://www.defenselink.mil/recovery/> for more information as to DoD’s role in executing the Recovery Act.



Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

ATTACHMENT
(Dated: December 15, 2009)

GUIDANCE FOR
REVIEWING CONTRACTOR REPORTS

AMERICAN RECOVERY AND RE-INVESTMENT ACT OF 2009

Effective immediately, all DoD contracting offices shall implement the following guidance for reviewing contractor reports required by the Recovery Act.

1. Scope of contractor report reviews

The scope of the contractor report reviews is to identify “significant errors” and “material omissions” in these reports. Reviewers are not expected to validate contractor data for which they would not normally have supporting information, such as the executive compensation information required of contractors and first-tier subcontractors. However, an obvious or significant error and a material omission is something reviewers shall identify and promptly communicate to the contractor.

A significant error is defined as a data field that is not reported accurately and where such erroneous reporting results in significant risk that the public will be misled or confused by the contractor’s report. All incorrect data in a report data field constitutes a significant error.

A material omission is defined as data that is not responsive to a specific data element. When reviewing for material omissions, the reviewer should do so with the goals of transparency in mind. For instance, when required to provide a narrative description, the contractor’s input must be sufficiently clear to facilitate understanding by the general public.

2. Delegation of review responsibilities

The Contracting Officer is responsible for ensuring timely reviews occur. A Contracting Officer’s Representative (COR) or Contract Specialist may conduct the review function on behalf of the Contracting Officer, but the Contracting Officer is ultimately responsible for ensuring the review is accurate and complete.

3. Contracting Officer responsibilities

Contracting Officers shall ensure that all contractors are registered prior to the start of the reporting period.

Contracting Officers are not required to approve a contractor’s report. Contracting Officers shall treat a contractor’s failure to report and failure to address reviewer comments as they would other performance issue. For instance, if a Contracting Officer determines that a

problem is becoming chronic or systemic (e.g., non-reporting), they should use already available and appropriate contractual remedies to bring the contractor into compliance with FAR clause 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements. The contractual remedy must be determined on a case-by-case basis depending on the severity and frequency of non-compliance. Because the required reviews must be accomplished within a short timeframe during each reporting period, Contracting Officers should perform reviews early and maintain an open dialogue with the contractor to avoid last minute misunderstandings. In order to minimize contractor reporting mistakes, a Quick Reference Matrix (reference Example 1) and Jobs Worksheet (reference Example 2) will be submitted to each contractor by Contracting Officer memorandum following award or as an attachment to the contract. The Quick Reference Matrix and Jobs Worksheet shall also be submitted to all contractors whose existing contracts contain Recovery Act funds, if final invoice has not yet occurred.

4. Reporting and reviewing timelines

The key activities and timeframes required are provided below in terms of days after the end of the calendar quarter (e.g., Day 10 is the 10th day following the end of the calendar quarter). All due dates are midnight Pacific time.

Day 1-10 – Federal contractors prepare their report for submission. The report must be submitted in order to comply with FAR clause 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements. Each report is due by the 10th day following the end of the calendar quarter (i.e., January 10th, April 10th, July 10th, and October 10th). Data from submitted reports may be publicly posted anytime after the 10th day, therefore contractors should maximize efforts to ensure all reports are complete and accurate.

Contracting Officers may view the contractors’ reports beginning on Day 01, however the system will not allow for reviewer comment capability until Day 22. During days 7 and 8, Contracting Officers shall provide written notice to all non-reporting contractors (reference Example 3). The written notice shall inform the contractor that failure to comply with the FAR clause 52.204-11 will be reflected within the contractor’s Contractor Performance Assessment Report.

Day 11-21 – Contractors may make corrections to any data in their report during this time period. Changes are tracked for version control. All contractor corrections must be completed by Day 21.

Day 22-26 – All Contracting Officers’ reviews of Recovery Act contract actions must be completed during this timeframe. The Contracting Officer shall verify the data contained in the report. Specifically, Contracting Officers are required to verify the accuracy of the following key data elements:

- a.** The obligation is accurate.
- b.** The contract number or task order number is accurate.

- c. The contractor information (DUNS, name, address, etc.) is accurate.
- d. The total reported invoiced amount does not exceed the total obligated.
- e. The total number of jobs reported is reasonable when compared to the amount invoiced.
- f. The total amount of subcontracts (Sub Awards) does not exceed the total obligated.
- g. Contractor entered data fields match the contract award data, as stated in <https://www.fpds.gov>. Reference Example 1 for additional information on these data fields.
- h. For contracts awarded with Recovery Act and non-Recovery Act funds, ensure the contractor limits reporting to the Recovery Act funds. Non-Recovery Act funds shall not be reported.
- i. The project status is reported accurately. Ensure the project is not reported as “Fully Complete” if the project is still in progress.
- j. Final reports are reported accurately. The contractor shall not provide a final report if the final invoices have not been submitted.
- k. The award date and reported jobs created/retained cannot occur after the end of reporting period.

The system will default to status “Not Reviewed” on Day 26; therefore timely review of the reports is essential.

If the review results in no significant errors and/or material omissions the Contracting Officer shall mark the report as “Reviewed with no comments.”

If the review results in significant errors and/or material omissions, the Contracting Officer shall perform the following:

- 1) Mark the report as “Reviewed with Comments” and within the comments field provide a description of the significant error(s) and/or material omission(s). Reports will not be editable by contractors during this time unless the reviewer comments on the report. This notification will unlock the report for editing by the contractor.
- 2) Although the [FederalReporting.gov](https://www.federalreporting.gov) website provides a means to comment on a contractor’s report, it is not a substitute or replacement for normal contract oversight or communication. Contracting Officers shall address a contractor’s failure to provide accurate reporting by written notification (reference Example

4). This notification will provide the description of the significant error(s) and/or material omission(s). This notification shall also inform the contractor that they must make corrections to reports before Day 29. Notify the contractor that if they fail to correct the report by Day 29, when reports are locked down, the noncompliance will be reflected within the contractor’s Contractor Performance Assessment Report.

Day 27-29 – All contractor corrections/revisions must be completed by Day 29. The contractor is unable to update report information after Day 29. If timely notification is received from the contractor that the corrections/revisions are complete, the Contracting Officer shall perform a final review of the report prior to the Day 30 system lock down.

Day 30 – The system posts all reports as final and the system is locked down. By the end of Day 30, submit to OUSD (AT&L), DPAP/SS the following data:

- a. A list of all contractors that failed to correct a report or failed to report. The list of contractors will be submitted as an MS Excel Spreadsheet in the following format. A response of “Unknown” or blank data fields are not allowable.

<i>Insert MILDEP/ODA Name</i>					
List of Non-Compliant Contractors					
American Recovery and Reinvestment Act of 2009 Reporting IAW FAR Clause 52.204-11					
Date of Report: <i>Insert Date</i>					
DUNS #	Contractor Name	Contract Number	Date of Recovery Act Funded Award	Noncompliance Reason <i>(i.e., Failure to Report Or Explanation of Report Correction Required)</i>	Contractor Reason for Failure to Comply and Action Taken by Contracting Officer

- b. An updated status of all previously reported non-compliant contractors (to include lists submitted during 2009). The list of contractors will be submitted as an MS Excel Spreadsheet in the following format. A response of “Unknown” or blank data fields are not allowable.

Insert MILDEP/ODA Name

Status Update of Previous
Listed Non-Compliant Contractors

American Recovery and Reinvestment Act of 2009
Reporting IAW FAR Clause 52.204-11

Date of Report: *Insert Date*

DUNS #	Contractor Name	Contract Number	Date of Recovery Act Funded Award	Noncompliance Reason <i>(i.e., Failure to Report Or Explanation of Report Correction Required)</i>	Date Contractor Was Originally Reported on List of Non-Compliant Contractors	Previously Reported Contractor Reason for Failure to Comply and Action Taken by Contracting Officer	Updated Contractor Reason for Failure to Comply and Action Taken by Contracting Officer
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- c. Within 3 business days of the cover memorandum date for this guidance, submit an updated status of the 2009 non-compliant contractors in the spreadsheet format provided in "b." (above). A response of "Unknown" or blank data fields are not allowable.

Example 1

The following information shall be provided to all contractors receiving Recovery Act funding by Contracting Officer memorandum following award or as an attachment to the contract.

Recovery Act Quarterly Reporting

Quick Reference Matrix

This contract contains Recovery Act Funds. In accordance with Section I, Full Text Clause 52.204-11, AMERICAN RECOVERY AND REINVESTMENT ACT-REPORTING REQUIREMENTS (MAR 2009), your company is required to provide reports on www.FederalReporting.gov. A full description of reportable data is contained within the clause included in your contract. Registration in www.FederalReporting.gov is required. Reports are due no later than the 10th day following the end of the calendar quarter (i.e., January 10th, April 10th, July 10th, October 10th).

Multiple data fields required by www.FederalReporting.gov are publicly available in <https://www.fpds.gov>. The table below provides a list of data fields that align with FPDS. It also clarifies additional key award information.

Data Field in www.FederalReporting.gov	Data Field in https://www.fpds.gov
Report Section: Report Information	
Award Type	Input: Federally Awarded Contract
Award Number	PIID/Reference IDV PIID
Order Number	PIID/Reference IDV PIID
Report Section: Award Recipient Information	
Recipient DUNS Number	DUNS Number
Recipient Congressional District	Congressional District - Contractor
Report Section: Project / Award Information	
Funding Agency Code	Funding Agency ID
Awarding Agency Code	Awarding Agency ID

Program Source (TAS) Code	Program Source Treasury Account Symbol (TAS), as contained in the Description of Requirement
Sub Account Number for Program Source	Leave Blank
Govt Contracting Office Code	Contracting Office Code
Amount of Award	Action Obligation
Award Date	Date Signed
Report Section: Project Information	
Activity Code 1	NAICS Code
Report Section: Primary Place of Performance	
Country	Principal Place of Performance Country
State	Principal Place of Performance State
Congressional District	Congressional District – Place of Performance
Award Description	Recovery Project Title, as contained in the Description of Requirement

Example 2

The following information shall be provided to all contractors receiving Recovery Act funding by Contracting Officer memorandum following award or as an attachment to the contract.

Recovery Act Quarterly Reporting

Jobs Worksheet

STEP 1: Calculate Quarterly Hours in a Full-Time Schedule.

A. Start by determining the standard hours in a full-time work week schedule as illustrated below. This example uses **40** hours, but other standards are possible.

B. Multiply this amount by 52 weeks to determine the annual number of hours for full-time work.

40 Hours in full-time work week X 52 weeks per year = 2080 Total Hours Per Year

C. Divide this amount by 4 to determine the quarterly hours in a full-time schedule:

2080 Total Hours Per Year / 4 Quarters = 520 Total Quarterly Hours

STEP 2: Calculate the FTEs Created or Retained for this Quarter.

A. Determine the number of hours worked in positions created or saved by the Recovery Act within the current quarter. For example, a full-time employee working 40 hours per week during the entire quarter will work 520 hours in the quarterly reporting period.

B. Divide this number by the “ Quarterly Hours in a Full-Time Schedule ” number calculated in STEP 1:

520 Hours Worked and Funded by Recovery Act / 520 Quarterly Hours in a Full-Time Schedule = 1.0 FTEs Created or Retained

STEP 3: If Needed, Adjust to Reflect Partial ARRA Funding.

A. Determine the percentage of hours worked and paid for by Recovery Act funds as a percentage of all funding. In this example, half (50%) of the hours worked were paid for by Recovery Act funds.

B. Multiply this number against the number of hours reported in Step 2:

520 hours worked during the reporting period X 50% of the project paid through Recovery Act funds = 260 Hours Worked and Funded by Recovery Act

Example 3

MEMORANDUM FOR CONTRACTOR NAME
Address
City, State, Zip

FROM: Contracting Office Name
Address
City, State, Zip

SUBJECT: Notification of Failure to Submit Recovery Act Report

1. This Contracting Office is concerned with the performance of your company, as it has not filed the required Recovery Act report. Reporting is a contractual requirement and failure to file the report is considered unacceptable performance.
2. In accordance with contract Section I, Full Text Clause 52.204-11, AMERICAN RECOVERY AND REINVESTMENT ACT-REPORTING REQUIREMENTS (MAR 2009), "Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract." Contractors should report this project information, using the online reporting tool available at www.FederalReporting.gov. A full description of reportable data is contained within the clause included in your contract. Reports shall be submitted no later than the 10th day after the end of each calendar quarter. After the 10th day, the system is locked down and no new reports can be loaded into www.FederalReporting.gov.
3. Request *insert company name* submit your report by Day 10 of this reporting of this reporting cycle. The Contracting Officer will confirm this action by checking the www.FederalReporting.gov database. If you fail to submit your report during this reporting cycle, you are required to report during the next quarterly reporting period and inform the Contracting Officer in writing of your submission. Failure to report will be reflected in our input for your company's Contractor Performance Assessment Report.
4. Please promptly complete the receipt acknowledgment below and return to this office via e-mail or fax. Direct all comments and questions to *insert name, title, e-mail address, fax number, and phone number of POC*.

CONTRACTING OFFICER
SIGNATURE BLOCK

Contractor Receipt Acknowledgment: DATE: _____ PRINTED NAME/TITLE: _____ SIGNATURE: _____
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Example 4

MEMORANDUM FOR CONTRACTOR NAME

Address
City, State, Zip

FROM: Contracting Office Name
Address
City, State, Zip

SUBJECT: Notification of Action Required on Recovery Act Report

1. The Contracting Officer reviewed your Recovery Act report submission on www.FederalReporting.gov. During the review significant error(s) and/or material omission(s) were identified and as a result the report was returned to your company with comments within the Federal Reporting website.
2. The Contracting Officer identified *insert significant error(s) and/or material omission(s)*.
3. Request *insert company name* make corrections to the report no later than the 29th of this month and inform the Contracting Officer by e-mail or fax. The Contracting Officer will confirm this action by checking the website database. After the 29th, the Federal Reporting website will be locked down, prohibiting additional contractor changes and updates.
4. Failure to correct your company's report will be reflected in our input for your company's Contractor Performance Assessment Report.
5. Please promptly complete the receipt acknowledgment below and return to this office via e-mail or fax. Direct all comments and questions to *insert name, title, e-mail address, fax number, and phone number of POC*.

CONTRACTING OFFICER
SIGNATURE BLOCK

Contractor Receipt Acknowledgment:

DATE: _____

PRINTED NAME/TITLE: _____

SIGNATURE: _____