



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

MAR 10 2010



Department of the Interior Acquisition Policy Release (DIAPR) 2010-10, Amendment 1

**Subject: Implementation of American Recovery and Reinvestment Act (ARRA) Contractor Reporting Requirements**

**References:** Public Law 111-5, American Recovery and Reinvestment Act of 2009 (Recovery Act);  
Public Law 109-282, Federal Funding Accountability and Transparency Act of 2006 (Transparency Act), as amended;  
M-10-08, Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-reporting Recipients, and Reporting of Job Estimates, Office of Management and Budget Memorandum, dated December 18, 2009

1. **Purpose:**

The purpose of this DIAPR is to clarify instructions to contracting officials regarding use of FAR clause 52.204-11, American Recovery and Reinvestment Act – Reporting Requirements, and to issue a class deviation to the clause text in order to clarify time frames for reporting and to provide a source of additional information for Department of the Interior (DOI) contractors.

2. **Effective Date:**

Upon signature.

3. **Expiration Date:**

This DIAPR supersedes DIAPR 2010-10, and will remain in effect unless cancelled.

4. **Background and Explanation:**

FAR 4.15 and 52.204-11 became effective March 31, 2009 as an interim rule, and the clause at 52.204-11 outlining ARRA reporting requirements for contractors has been included in DOI ARRA contracts. Recently, OFPP issued memoranda that outlined changes and clarifications of the FAR coverage on ARRA reporting requirements. DOI has a need to issue policy immediately based on the OFPP guidance and the Recovery and Transparency Acts so that contracting officials have time to implement the changes prior to the next ARRA reporting period in April 2010. **The key changes are:**

- **Establishment of a threshold of \$25,000 for ARRA reporting requirements for contractors**
- **Clarification of the requirements to provide an exception to ARRA reporting requirements for contracts with individuals**

- **Establishment of a requirement for awarding officials to discuss the ARRA reporting registration process with contractors, encouraging them to register as soon as possible after award**
- **Clarification of the clause to specify that the ARRA reporting requirement is triggered at award, not after the first invoice**

5. **Action Required:**

In accordance with FAR 1.404, I hereby authorize a class deviation from FAR 52.204-11. Bureaus must ensure contracting activities are notified about the class deviation and the following instructions to contracting officials regarding ARRA contractor reporting requirements. Changes to the FAR coverage are marked in bold on the attachment.

**American Recovery and Reinvestment Act--Reporting Requirements Procedures:**

(a) The contracting officer shall insert the clause at 52.204-11, American Recovery and Reinvestment Act--Reporting Requirements (MAR 2010 DEVIATION) in all solicitations and contracts funded in whole or in part with Recovery Act funds, where the Recovery Act funding is expected to be \$25,000 or more (including all options) except:

- (1) Classified solicitations and contracts; and
- (2) Contract actions with individuals.

(b) Contracting officers shall ensure that the contractor complies with the reporting requirements of the attached 52.204-11, American Recovery and Reinvestment Act--Reporting Requirements (MAR 2010 DEVIATION), which requires contractors to report each calendar quarter on their use of Recovery Act funds using the centralized reporting tool at <http://www.FederalReporting.gov>. Upon award, contracting officers should inform contractors to immediately register at <http://www.FederalReporting.gov> using the instructions available in the user guide. Contracting Officers shall initiate early and frequent dialogue regarding reporting to ensure a smooth reporting process for both the contractor and the agency.

(c) Contracting officers shall modify existing contracts, funded in whole or in part with Recovery Act funds, where the Recovery Act funding is \$25,000 or more (including all options), to include the clause at 52.204-11, American Recovery and Reinvestment Act--Reporting Requirements (MAR 2010 DEVIATION).

(d) Contracting officers shall modify Recovery Act contracts funded in whole or in part with Recovery Act funds, where the Recovery Act funding is less than \$25,000 (including all options), awarded prior to March 2, 2010 to remove FAR clause 52.204-11.

Please disseminate this guidance within your bureau. It will also be available on the web at <http://www.doi.gov/pam/diapr.html>. You may contact Tiffany Schermerhorn of this

office on (202) 513-0747 or [Tiffany\\_Schermerhorn@ios.doi.gov](mailto:Tiffany_Schermerhorn@ios.doi.gov) if you have any questions regarding this policy issuance.



Debra E. Sonderman, Director  
Office of Acquisition and Property Management

Attachment

52.204-11 American Recovery and Reinvestment Act-  
Reporting Requirements (MAR 2010 DEVIATION)

As prescribed in 4.1502, and in accordance with DIAPR 2010-10, Amendment 1, insert the following clause:

AMERICAN RECOVERY AND REINVESTMENT ACT—REPORTING REQUIREMENTS (MAR 2009)

(a) *Definitions.* As used in this clause—

“Contract”, as defined in FAR [2.101](#), means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by [31 U.S.C. 6301](#), *et seq.* For discussion of various types of contracts, see FAR [Part 16](#).

“First-tier subcontract” means a subcontract awarded directly by a Federal Government prime contractor whose contract is funded by the Recovery Act.

“Jobs created” means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR [2.101](#)). The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

“Jobs retained” means an estimate of those previously existing filled positions that are retained as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR [2.101](#)). **Using the definitions above, the contractor must estimate the total number of jobs that were funded in the quarter by the Recovery Act. A funded job is defined as one in which the wages or salaries are either paid for or will be reimbursed with Recovery Act funding. The estimate of the number of jobs created or retained by the Recovery Act should be expressed as “full-time equivalents” (FTE). In calculating an FTE, the number of actual hours worked in funded jobs are divided by the number of hours representing a full work schedule for the kind of job being estimated. The formula for reporting can be represented as:**

$$\frac{\text{Total Number of Hours Worked and Funded by Recovery Act within Reporting Quarter}}{\text{Quarterly Hours in a Full-Time Schedule}} = \text{FTE}$$

Please note that the reporting period quarters are defined as:

1. Quarter 1: January 1 - March 31
2. Quarter 2: April 1 - June 30
3. Quarter 3: July 1 - September 30

#### 4. Quarter 4: October 1 - December 31

For example, assume that the contractor's Recovery Act funds paid for two full-time employees and one part-time employee working half days for the quarter. Also assume that the contractor's full-time schedule for the quarter is 520 hours (2,080 hours in a work-year divided by 4). To convert hours worked to number of FTE for the quarterly report, aggregate all hours worked and divide by the number of hours in a full-time schedule for the quarter. In this example, two full-time employees each worked 520 hours (1,040 hours combined) + one employee worked half-time or 260 hours for a total of 1,300 hours worked. Divide total number of hours worked by the number of hours in a full-time schedule for the quarter:  $1,300 \div 520 = 2.5$  FTE reported for jobs.

"Total compensation" means the cash and noncash dollar value earned by the executive during the contractor's past fiscal year of the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus.*

(2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

(3) *Earnings for services under non-equity incentive plans.* Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified.*

(6) *Other compensation.* For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.

(b) This contract requires the contractor to provide products and/or services, **including construction**, that are funded, **in whole or in part**, by the American Recovery and Reinvestment Act of 2009 (Recovery Act). **The Contractor shall separately identify Recovery Act funded deliverables in invoices from non-Recovery Act funded deliverables.** Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.

(c) **To comply with the reporting requirements of this clause, the Contractor must first register at <http://www.FederalReporting.gov>.** The Contractor shall register immediately after receipt of contract award. For information on registration, go to <http://www.FederalReporting.gov> and review the User Guide.

(d) The Contractor shall review the Interior Recipient Reporting Guidance before each reporting cycle and prior to submitting each quarterly report as the guidance may be updated from time-to-time. The guidance is available at <http://recovery.doi.gov/press/recipient-reporting>. Any questions regarding the guidance may be sent to [InteriorRecoveryReporting@ios.doi.gov](mailto:InteriorRecoveryReporting@ios.doi.gov).

(e) The Agency will review reports to identify inconsistencies with contract information, significant errors, and material omissions to the Contractor, who shall promptly address concerns.

(f) The Contractor's failure to adequately explain or correct concerns regarding significant errors or material omissions will result in those concerns being forwarded to

the Recovery Accountability and Transparency Board, which may publicly post such information to its web site.

(g) **The reporting requirement begins at contract award.** Reports from the Contractor for all work funded, in whole or in part, by the Recovery Act are due **no later than the 10<sup>th</sup> day after the end of each calendar quarter, even if work has not started or invoices have not been submitted.** For example, a contractor receiving an award on March 31, 2010, must report during the April 1 through April 10, 2010 reporting period.

(h) **In addition to basic agency and contract information,** the Contractor shall report the following information using the online reporting tool available at [www.FederalReporting.gov](http://www.FederalReporting.gov).

(1) **The number of jobs and description of employment impact.**

(2) **The names and total compensation of each of the five most highly compensated executives for the Contractor's preceding completed fiscal year if —**

(i) **In the Contractor's preceding fiscal year, the Contractor received—**

(A) **80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and**

(B) **\$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and**

(ii) **The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986. To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.**

(3) **For first-tier subcontracts valued at less than \$25,000 or any first-tier subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.**

(4) **For any first-tier subcontract funded in whole or in part under the Recovery Act, that is expected to be \$25,000 or more (including all options), and not subject to reporting under paragraph 3, the Contractor shall require the first-tier subcontractor to provide the information described in (i), (vii), (viii), and (ix) below to the contractor for the purposes of reporting. The Contractor is not required to verify the total compensation amount provided by its first-tier subcontractors; but, the Contractor shall ensure that its first-tier subcontractors have submitted complete information for their five most highly compensated executives. The Contractor shall advise the first-tier subcontractor that all subcontractor information will be made available to the public as required by the Federal Funding Accountability and Transparency Act, as amended, and section 1512 of the Recovery Act. The Contractor shall provide, at a minimum, detailed information on its first-tier subcontracts as follows:**

(i) **Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.**

(ii) **Name of the subcontractor.**

(iii) **Amount of the subcontract award.**

(iv) **Date of the subcontract award.**

(v) **A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.**

(vi) **Subcontract number (the contract number assigned by the prime contractor).**

(vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(viii) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(ix) Names and total compensation of each of the subcontractor's five most highly compensated **executives**, for the **subcontractor's preceding completed fiscal year** if—

(A) In the subcontractor's preceding fiscal year, the subcontractor received—

(1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986.

(End of clause)