Accountability & Transparency

The $787 billion American Recovery and Reinvestment Act (ARRA) is not only the largest single spending bill in U.S. history; it is also likely to be the most closely scrutinized initiative ever undertaken by the federal government. The legislation itself contains extensive accountability provisions, including the creation of a disclosure website that came to be known as Recovery.gov. Both the Obama Administration and Congress have been acting decisively to implement those provisions. At the same time, a wide range of advocacy groups outside government are pressing for maximum openness in stimulus spending. Here is an overview of the many moving parts in this complicated process.

Legislative Language

The ARRA includes the following accountability provisions:

- Section 901 requires the Government Accountability Office to prepare reports on the way in which selected states make use of recovery funds.
- Section 902 gives the GAO access to the records of all contractors awarded recovery funds.
- Section 1511 requires that state and local officials certify that infrastructure funds received from the federal government are being used in an appropriate way and that they make public cost and other information on the spending.
- Section 1512 requires any recipient of recovery funds to provide a description of the project for which the money was used and an estimate of the number of jobs thereby created or retained. Agencies that award the contracts and grants must report quarterly. A recipient is defined as “any entity that receives recovery funds directly from the Federal Government (including recovery funds received through grant, loan or contract) other than an individual” and “includes a State that receives recovery funds.”
- Section 1513 requires the Council of Economic Advisers to report on the employment and economic impacts of recovery spending.
- Section 1514 requires the inspectors general of federal agencies distributing recovery funds to review “any concerns raised by the public about specific investments.
- Section 1515 gives the inspectors general authority to examine the records of contractors and grantees (as well as subcontractors and subgrantees). Section 1521 creates a Recovery Accountability and Transparency Board “to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.”
- Section 1524 requires the Board to conduct audits and reviews of spending.
- Section 1526 requires the Board to create a website “to foster greater accountability and transparency in the use of covered funds.” Among the kinds of content the website is required to contain are “data on contracts awarded by the Federal Government that expend covered funds, including information about the competitiveness of the contracting process.
- Section 1541 creates a Recovery Independent Advisory Panel to advise the Recovery Accountability and Transparency Board on actions it could take “to prevent fraud, waste, and abuse relating to covered funds.”
- Section 1551 requires the Treasury Department to create separate accounts for recovery funds.
- Section 1553 provides protection for state and local government and contractor whistleblowers.

White House and Office of Management and Budget

The Office of Management and Budget (OMB) assumed responsibility for advising federal agencies
on how to carry out the accountability provisions of ARRA. On February 9, before ARRA was signed, OMB Director Peter Orszag and White House Chief of Staff Rahm Emanuel issued a memorandum to federal agencies emphasizing the need to implement the Act “in a manner that is transparent, effective, and efficient.”

On February 18, Orszag released an initial version of more detailed guidance on the reporting requirements of federal agencies, including the immediate online posting of “major communications,” to be followed in subsequent weeks by the submission of weekly updates, monthly financial reports and award transaction data feeds. It also gave preliminary instructions on what kind of recipient reporting system should be set up, including the requirement that all recipients be required to enroll in the Central Contractor Registry. Advocacy groups such as the Coalition for an Accountable Recovery offered recommendations for refining the details of the reporting system (see below).

On April 3, OMB issued revised guidance for federal agencies in the form of a 175-page memorandum. It eliminated the monthly financial reports and refined the procedures for recipient reporting, indicating that the data will be collected in one central location. It also provided details on what data elements will be used.

The guidance was revised again on June 22 with a 41-page memorandum that refined the reporting system, at least for prime recipients and first-level subrecipients, but still did not allow for following the money through additional levels.

In November OMB issued a memo directing executive departments and agencies to identify ARRA recipients that have not submitted reports and to inform them of the potential consequences of continued non-compliance.

In March 2010 OMB put out new guidance addressing mostly technical issues relating to recipient reporting.

**Recovery Accountability and Transparency Board and Recovery.gov**

Among the responsibilities of the Recovery Accountability and Transparency Board created by ARRA is operation of the Recovery.gov website through which stimulus disclosure is to take place. On February 23, President Obama named Earl Devaney, Inspector General of the Interior Department, to head the Board.

In April the Board conducted an online National Dialogue under the auspices of the National Academy of Public Administration to solicit suggestions from the public on technical and content issues relating to Recovery.gov.

Until October 2009 Recovery.gov did not have any recipient reporting, but it contained regularly updated data on the amounts obligated and disbursed by federal agencies. In mid-May Recovery.gov was expanded to include the recovery plans that have been drawn up by each federal agency handling ARRA funds. Each plan includes a set of broad recovery goals, information on the use of contracts to carry out objectives (and to what extent those contracts are being competitively bid) and details on the accountability policies being put into place. Each agency also has one or more Program Plans for specific funding areas. These plans include Objectives, Schedule and Milestones, Projects and Activities, Review Process, Cost and Performance Plan, Energy Efficiency Spending Plans, and Program Plan Award Types. OMB Watch has done an initial assessment of these plans.

Other key sections of Recovery.gov include a list of reports from agency inspectors general on ARRA issues, links to fraud hotlines at federal agencies, links to federal agency recovery websites, and links to state recovery websites and certification letters.

On October 15 Recovery.gov posted the first wave of recipient data, which covered direct federal
contracts. The Coalition for an Accountable Recovery put out a statement expressing concerns about the initial presentation. On October 30 Recovery.gov posted the remainder of the first round of recipient reporting, covering grants and loans; it also updated the October 15 contract data. See the STAR blog for various posts about the data. In December OMB Watch created a new section of its Fed Spending website that enables easier searching of the ARRA recipient data.

Vice President

In naming Devaney to head the Recovery Accountability and Transparency Board, President Obama also announced that Devaney would report to Vice President Joe Biden, who was assigned to “oversee the Administration’s implementation of the Recovery Act’s provisions.”

On March 23, Biden announced that he had chosen former Clinton Administration official Edward DeSeve to serve as a special advisor to him, the OMB and the President on the implementation of ARRA. In May DeSeve gave an interview to GovernmentExecutive.com in which he expressed satisfaction with the pace of stimulus spending.

On May 13, Biden issued his first quarterly ARRA progress report. Later that month Biden issued Recovery Report: 100 Days 100 Projects, which provides short descriptions of various ARRA projects that are under way. In February 2010 he issued a report assessing the Recovery Act at its first anniversary.

Government Accountability Office

The GAO carried out its mandate under ARRA by deciding to monitor recovery implementation in 16 states (Arizona, California, Colorado, Florida, Georgia, Iowa, Illinois, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas) and the District of Columbia, which together will account for about two-thirds of ARRA spending.

On April 23, GAO issued the first of its bimonthly reports on the sample states and ARRA in general. In testimony before the Senate Committee on Homeland Security and Governmental Affairs, Acting GAO head Gene Dodaro summarized the status of ARRA money flows and urged OMB to clarify how states could use some recovery funds to pay for accountability and oversight measures. A second report was issued in July. A third report was issued in September. A fourth report was issued in December. A fifth report was issued in March 2010. GAO's bimonthly reviews of the sample states can be found here.

In November GAO issued an assessment of the first round of ARRA recipient reporting on jobs.

Congress

The Senate Committee on Homeland Security and Governmental Affairs, chaired by Joe Lieberman of Connecticut, has held several hearings on ARRA issues, including:

September 10: Follow the Money: An Update on Stimulus Spending, Transparency, and Fraud Prevention

April 23: Follow the Money: State and Local Oversight of Stimulus Funding

April 2: Recovery and Reinvestment Spending: Implementing a Bold Oversight Strategy

March 5: Follow the Money: Transparency and Accountability for Recovery and Reinvestment Spending
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(http://www.accountablerecovery.org)

The House Committee on Oversight and Government Reform, chaired by Edolphus Towns of New York, has held the following hearings:

November 19: Tracking the Money: How Recovery Act Recipients Account for Their Use of Stimulus Dollars

July 8: Tracking the Money: Preventing Waste, Fraud and Abuse of Recovery Act Funding


March 19: Preventing Stimulus Waste and Fraud: Who are the Watchdogs?

The Investigations and Oversight Subcommittee of the House Committee on Science and Technology, chaired by Rep. Brad Miller of North Carolina, has held the following hearings:

May 5: Follow the Money Part II: Government and Public Resources for Recovery Act Oversight

March 19: Follow the Money: Accountability and Transparency in Recovery Act Science Funding

The Senate Committee on Energy and Natural Resources, held the following hearing:


Council of Economic Advisers

The Recovery Act assigns the Council of Economic Advisers to carry out studies on the economic and employment impacts of ARRA. In May the Council published a report with projections of job creation and a discussion of procedures for reporting actual job numbers. In September 2009 it issued the first of its quarterly reports; a second report was issued in January 2010; a third in April 2010.

Congressional Budget Office

In February the Congressional Budget Office released estimates of the budget impacts of ARRA spending and tax changes. The CBO has also released estimates of the macroeconomic effects of ARRA. In November it published new estimates of ARRA's economic impacts.

Department of Justice

On May 12, the Department of Justice’s Antitrust Division announced an initiative “aimed at preparing government officials and contractors to recognize and report efforts by parties to unlawfully profit from the stimulus projects that are being awarded as part of The American Recovery and Reinvestment Act of 2009.” The announcement went on to say that DOJ will “help government agencies insulate procurement, grant and program funding processes from collusion and fraud, as well as to ensure that those who abuse those processes are prosecuted to the fullest extent of the law.”

State and Local Governments

Every state has created a Recovery Act website containing varying amounts of information on ARRA implementation and spending. Links to the state sites can be found here. Descriptions and evaluations of the sites can be found elsewhere on the STAR website and in the January 2010 and July 2009 Show Us the Stimulus reports produced by Good Jobs First. Pro Publica also has an
Many cities have put up their own sites. The STAR website has a compilation. The Progressive States Network has a good overview of state transparency issues relating to the Recovery Act as well as an analysis of equity issues relating to ARRA spending.

Advocacy Groups

The Coalition for an Accountable Recovery (CAR), co-chaired by OMB Watch and Good Jobs First, was formed in February 2009 “to promote accountability policies for both government agencies and companies that contract with or benefit from recovery spending.” Members of the coalition include more than 30 organizations that support good government and the public’s right to know.

On March 5, CAR issued comments on the OMB’s initial guidance. Among the recommendations were that the new reporting system use the existing data elements in the federal government’s USA Spending website; that unique identifiers be employed; that all organizational end users of recovery funds receiving at least $25,000 be required to report; that the reporting include data on wages and hours of work as well as the types of jobs created; and that all data collected be made available to the public not only on Recovery.gov but also in machine-readable format.

On April 17, CAR released comments on the revised guidance OMB had issued earlier that month. CAR praised OMB for improvements in the new document, but the coalition expressed concern, for example, that even under the new guidance it was unclear when reporting on subcontractors and subgrantees would occur. The comments urged OMB to clarify how data on state contracts and grants would be collected. CAR also reiterated its recommendation that OMB collect data on job quality as well as quantity. The coalition also proposed that OMB publish all RFPs, contracts, bids and waivers relating to recovery projects.

On May 29, CAR submitted comments on proposed changes to Federal Acquisition Regulation procedures relating to ARRA reporting, and on June 24 CAR commented on the third version of the OMB guidance.

On October 15, when Recovery.gov posted the first wave of recipient data covering direct federal contracts, CAR put out a statement expressing concerns about the initial presentation.

Resources


U.S. Government Accountability Office, Recovery Act: One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability, March 2010; online here.


U.S. Government Accountability Office, Recovery Act: Status of States' and Localities' Use of Funds
Accountability & Transparency
Published on States for a Transparent and Accountable Recovery
(http://www.accountablerecovery.org)

and Efforts to Ensure Accountability, GAO-10-231, December 2009; online here.


U.S. Government Accountability Office, Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed, September 2009; online here.


Rahm Emanuel and Peter Orszag, Preparing for Implementation of the Impending Recovery Legislation, February 9, 2009; online here.


Coalition for an Accountable Recovery, Comments on Interim Recovery.gov Reporting Architecture, March 5, 2009; online here.

Coalition for an Accountable Recovery, Comments on Updated OMB Guidance, April 17, 2009; online here.

OMB Watch, “Agency Plans Add Another Element of Accountability to Recovery Act Spending,” May 19, 2009; online here.


U.S. Department of Commerce Office of Inspector General, NTIA Should Apply Lessons Learned from Public Safety Interoperable Communications Program to Ensure Sound Management and Timely Execution of $4.7 Billion Broadband Technology Opportunities Program, March 2009; online here.

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