

ARRA “Stimulus” Weekly Update, May 7, 2009

I. Reporting

Weekly Submissions to UNC-GA. Campuses have been submitting information on ARRA-related proposals, preliminary notices of award (i.e. JIT submissions) or actual awards for several weeks now. ***Please note weekly reports from this point forward should be cumulative for all proposals, preliminary notices of award (JIT) and actual awards, to-date.*** The reports should be sent to Sarah Smith, with a copy to Courtney Thornton, on a weekly basis by 12:00 p.m. on Thursday. The submission time coincides with the time frame for submitting materials to be discussed at the UNC-GA Council meeting on Monday mornings. This information will be pulled by UNC-GA from RAMSeS and SPARC by June 1st.

State Reporting:

Office of Economic Recovery and Investment (OERI) Directives:

There are four types of ARRA funds flowing into the state of North Carolina: Student Financial Aid, Faculty/Campus Initiated Competitive Grants, State Initiated Competitive Grants and State Allocated ARRA Formula Funds. The Office of Economic Recovery and Investment (OERI) has issued a series of directives regarding reporting requirements for ARRA funds flowing into the state. UNC General Administration is seeking clarification on the applicability of these directives to the ARRA funds received at UNC System institutions resulting from faculty/campus initiated competitive grants. Attached is a copy of a memorandum submitted to OERI seeking clarification on the directives. The directives are located at the following URL for reference: <http://www.ncrecovery.gov/RecoveryPlan/NCPlan.aspx>. Directive #3 was informally released to purchasing officers on May 1st (copy attached). UNC-GA has engaged OERI about Directive #3 and will convene a group comprised of finance, purchasing, construction/facilities, legal affairs and the Historically Underutilized Business (HUB) staff to develop a set of proposed parameters for the UNC System campuses, in particular maintenance of current delegations. The goal is to have the response submitted to OERI by May 15th. If your campus has received an ARRA funded award and are planning procurement actions prior to May 15th, please contact Sarah Smith at smsmith@northcarolina.edu.

The UNC Post-award Working Group will schedule a conference call to discuss the ramification of potentially two levels of reporting for ARRA funds – one to the federal sponsor and the other to the state.

Executive Order #4

Also under discussion is Executive Order #4, issued by the Governor on January 12th. The EO created the website NC OpenBook, a single, searchable site on state spending for grants and contracts. Currently, the site only contains information on grants awarded to non-state entities directly from state appropriations (not award to UNC campuses of related subcontracts issued from UNC campus contract and grant accounts), but will eventually provide information on ARRA funded projects. EO #4 applies directly to agencies that are under the control of the Governor, i.e. those that are statutorily designated as “principle state departments.” The UNC

System is not one of those agencies. The UNC System has been invited to participate and UNC-GA continues to seek ways that information about contract and grant awards can be made available for the purposes of NC OpenBook with a minimum of redundant or low value data collection.

Office of State Budget Management (OSBM) Data Element Survey

The OSBM recently asked state agency Chief Information Officers to complete a survey regarding the proposed OMB reporting elements. Sarah Smith has customized the survey for the UNC System response to specifically identify data elements for prime awards to UNC campuses and subawards (1st Tier) from campus prime awards. The possible responses include RAMSeS, SPARC, RADAR, Banner, FRS, PeopleSoft, other off-line tools such as spreadsheets or Access databases, hardcopy or not captured. The survey was discussed at the SPARC meeting on April 29th. Campuses should review the data elements listed for both prime awards and subawards and confirm the location for the data element in question is represented on the survey. Campuses are to confirm the location for their data elements no later than May 14th. The intent is to coordinate reporting to NC OpenBook and NC Recovery with the required ARRA reporting and to utilize existing applications, to the extent possible, for tracking grants and contracts information. Please contact Sarah Smith at smsmith@northcarolina.edu if you have any questions about the survey.

II. Stimulus Resources

The National Council of University Research Administrator (NCURA) recently released a panel discussion on ARRA in a “pod-cast” format entitled “Preparing Your Institution for Stimulus Funding: Part I. The panel is moderated by David Richardson, Assistant Vice President for Research, The Pennsylvania State University and features panelists Denise Clark, Assistant Vice President for Research Administration and Advancement, University of Maryland College Park, Anthony DeCrappeo, President, COGR, Susan Sedwick, Associate Vice President for Research and Director of Sponsored Programs, University of Texas-Austin, and Richard Seligman, Associate Vice President for Research Administration, California Technical Institute. Please contact an NCURA member on your campus for information about the pod-cast.

III. Agency Activity

The U.S. Department of Energy announced nearly \$800 Million from Recovery Act funds to Accelerate Biofuels Research and Commercialization. As part of the ongoing effort to increase the use of domestic renewable fuels, U.S. Secretary of Energy Steven Chu announced plans to provide \$786.5 million from the American Recovery and Reinvestment Act to accelerate advanced biofuels research and development and to provide additional funding for commercial-scale biorefinery demonstration projects. The DOE biomass program will leverage DOE’s national laboratories, universities, and the private sector to help improve biofuels reliability and overcome key technical challenges, with the goal of creating third-generation biofuels like green gasoline, diesel, and jet fuels. The \$786.5 million in Recovery Act funding is a mix of new funding opportunities and additional funding for existing projects. It will be allocated across four main areas: \$480 million solicitation for integrated pilot- and demonstration-scale biorefineries,

\$176.5 million for commercial-scale biorefinery projects, \$110 million for fundamental research in key program areas, and \$20 million for ethanol research. The full announcement can be found at the following URL: <http://www.energy.gov/news2009/7375.htm>.

The U.S. Department of Energy announced plans to provide \$93 million from the American Recovery and Reinvestment Act to support further development of wind energy in the United States during a visit to the National Renewable Energy Laboratory today. Secretary Chu also announced more than \$100 million in funding from the Recovery Act for NREL facility and infrastructure improvements. Please see the following URL for the full announcement: <http://www.energy.gov/news2009/7358.htm>

The U.S. Department of Education will soon release the Request for Proposals (RFP) for the ARRA funded Teacher Quality Enhancement (TQE) grants. An eligible grant applicant is a partnership that includes, at a minimum: (1) A high-need local educational agency (LEA); (2) A high-need school or a consortium of high-need schools served by the high-need LEA and/or, as applicable, a high-need early childhood education program; (3) A partner institution of higher education; (4) A school, department, or program of education within such partner institution, which may include an existing teacher professional development program with proven outcomes within a four-year institution of higher education that provides intensive and sustained collaboration between faculty and LEAs consistent with the requirements of the law; and (5) A school or department of arts and sciences within such partner institution. The partnership may also include the governor of the state, a business and other types of educational entities, e.g., state board of education, charter school, or teacher organization. Definitions and other more detailed information on eligibility requirements are provided in the Higher Education Opportunity Act, Title II, Part A. The CFDA# is 84.405A. ***Campuses are strongly encouraged to align their applications with the UNC strategic plans for teacher recruitment and retention. Please contact Alisa Chapman, Associate Vice President for University-School Programs at chapman@northcarolina.edu if your campus has any questions about the UNC strategic plans.***

On May 5st, the Government Accountability Office testified before the Subcommittee on Investigations and Oversight, Commission on Science and Technology, House of Representatives. The subject of the testimony was the GAOs efforts to work with the Accountability Community to help ensure effective and efficient oversight of the ARRA. The full report is located at the following URL: <http://www.gao.gov/new.items/d09672t.pdf>.



The University of North Carolina

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North Carolina
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University of
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University of
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at Wilmington

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University

Winston-Salem State
University

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May 6, 2009

-Memorandum-

TO: Jane Smith, OERI

FROM: Norma Houston, UNC General Administration

RE: Applicability of OERI Management Directives #1 & #2 to ARRA funds received by UNC institutions

Thank you for your time during the Education Work Group meeting last week during which we discussed the applicability of OERI Management Directives to American Recovery and Reinvestment Act ("ARRA") funds received by the University of North Carolina.¹ This memorandum is to confirm our conversation clarifying which categories of ARRA funds received by UNC will be governed by OERI management directives (and which will not be so governed).

There are four general categories of ARRA funds that will be, or potentially will be, received by UNC institutions:

1. Student Financial Aid – financial aid awards granted to students attending UNC constituent institutions (namely Pell Grants and Work Study funds); although financial aid award decisions are made by individual campuses, the funds are actually awarded to the student.
2. Faculty/Institution Initiated Competitive Grants – grants submitted by UNC faculty or by a UNC institution directly to a federal granting agency; these funds are awarded on a competitive basis and dollars are allocated directly from the federal agency to the faculty researcher or institution without passing through a state agency (ex: NIH research grants, Extramural Research Facilities Improvement Grants, HBCU National Park Service Historic Preservation grants, etc.)

¹ For purposes of this memorandum, "the University of North Carolina" and "UNC" refers collectively to the 17 constituent institutions, and inter-institutional centers, institutes, and other affiliated entities operating under the direction of the UNC President and UNC Board of Governors pursuant to Chapter 116 of the North Carolina General Statutes.

3. State Initiated Competitive Grants – grants submitted by the State in which UNC is a participant in the grant application process and may potentially be a recipient of some funds; these grants are awarded on a competitive basis (ex: Longitudinal Data System, Race to the Top, Health Information Technology, Broadband, etc.)
4. State Allocated ARRA formulaic funds – ARRA funds that are allocated through the Governor and administered via a state agency under the direction of OERI (i.e., the \$6.1B of ARRA funding allocated formulaically to North Carolina, such as the State Fiscal Stabilization Fund).

To date, there have been three directives issued by the state regarding ARRA funds:

1. NC/ARRA Directive #1 (issued on March 30, 2009 by OSMB, the State Controller, and OERI) – this directive provides a general overview of a number of federal and state budgeting and accounting requirements, including the requirement that ARRA funds will be budgeted with a unique 4-digit funding code, and that budgeting of ARRA funds requires prior approval by OSBM.
2. Management Directive #1 (issued on April 9, 2009 by OERI) – this directive requires weekly disbursement reports on all ARRA funds awarded to the State.
3. Management Directive #2 (issued on April 14, 2009 by OERI) – this directive requires OERI approval on all ARRA grant applications submitted by state agencies (excluding UNC).

As was discussed during our meeting last Tuesday, the main focus of OERI's management directives is on those ARRA funds that are allocated to state through the Governor and administered via a state agency (i.e., the \$6.1B). Given that some of the ARRA funds that will be received by UNC fall outside of this category of funding, we agreed during our meeting that it is unnecessary to apply all aspects of OERI's management directives to all ARRA funds received by UNC (federal reporting and accountability requirements associated with research grants and other ARRA funds will, of course, still apply). For the categories of ARRA

funds received by UNC that fall into these categories, UNC will endeavor to report to OERI information about grant awards in as timely a fashion as possible.

The following chart summarizing the applicability of the OERI management directives listed above to the four general categories of ARRA funds that may be received by UNC institutions:

ARRA Funding Category	OSBM/OSC/OERI Directive #1	OERI Directive #1	OERI Directive #2
Student Financial Aid	Does NOT apply	Does NOT apply	Does NOT apply
Faculty/Campus Initiated Competitive Grants	Does NOT apply	Does NOT apply	Does NOT apply
State Initiated Competitive Grants	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)
State Allocated ARRA formulaic funds	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)

With regard to those categories of funds to which the management directives will apply, we would appreciate clarification on the degree to which these directives will apply in the case where a UNC institution is a subgrantee (or possibly even a Tier 2 subgrantee) and, assuming the answer to this question is in the affirmative, to whom the UNC institution should report. For example, UNC-Charlotte and SBTDC may potentially receive ARRA workforce development funds as part of the Governor's initiative to address the financial sector crisis in Charlotte – in this instance, will UNC-Charlotte be receiving reporting, budgeting, and accounting instructions directly from the state agency through which the workforce development funds are being allocated? Similarly, we were pleased to learn from yesterday's press announcement that the Governor awarded ARRA funds to the AmeriCorps programs at East Carolina University and UNC-Greensboro through the NC Commission on Volunteerism and Community Service – will specific instructions on OERI Management Directives be provided from the Commission to the recipient campuses?

Again, we appreciate your assistance and cooperation as we all seek to maximize opportunities for our state while being fully accountable for the funds that make these opportunities a reality.

Memo to Jane Smith, OERI
May 6, 2009
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Please feel free to contact me should you have any questions or would like to discuss this matter further.

cc: Dempsey Benton
Sue Gouge
Teri Ferguson
John McHugh
Liz Riley
Jeff Davies
Rob Nelson
Steve Leath
Laura Luger
Kimrey Rhinehardt
Sarah Smith
Ginger Burks

May 5, 2009

MANAGEMENT DIRECTIVE # 3

TO: Senior Management Team for Recovery

FROM: Dempsey Benton, Director 
Office of Economic Recovery and Investment

SUBJECT: Contract Provisions for the Procurement of Goods, Services and Construction Projects Including Design Services and Internal Procurement Directives

In order to promote uniformity across all public entities using recovery funds in North Carolina, the attached Contract Provisions (Attachment 2) must be included as a part of any solicitation document for the procurement of goods, services and construction projects including design services for which recovery funds will be used as payment in part or whole. Likewise, the attached Internal Procurement Directives (Attachment 1) also must be adhered to when using recovery funds. This information will be provided to the Division of Purchase and Contract for dissemination to State agencies, the University System Community Colleges Public School Systems and local unit of government procurement offices. Attachment 3 is the form on which reporting of HUB information must be submitted.

Additionally, this information is not exhaustive. As further guidance is received from the Office of Management and Budget, and as conditions warrant, updates will be provided.

Attachments (3)

Cc: Charles Perusse, OSBM
David McCoy, OSC
James D. Staton, Jr., DOA
John Leaston, OERI
Zach Ambrose, Governor's Office

ARRA Contract Provisions and Management Directives Applicability

This Management Directive, Recovery Act Contract Provisions and Internal Directives are applicable to all state agencies, University System, Community Colleges, Public Schools System and local unit of government receiving recovery funds.

Compliance

All public agencies (state agencies, the University System, Community Colleges, Public School Systems and units of local governments) receiving recovery funds are hereby notified that the lack of compliance with management directives issued by the Office of Economic Recovery and Investment may result in one or more of the following actions:

- A request for compliance issued by the Recovery Office
- A referral to the Office of State Budget and Management Internal Audit Division
- A referral to the General Accounting Office
- A referral to the Office of Budget and Management
- A referral to the State Auditor Office
- A referral to other local, state or federal agencies having jurisdiction in the matter

Use of the Statewide Interactive Purchasing System (IPS)

The Statewide Interactive Procurement System will be used by all public agencies to list informal and formal solicitation documents if recovery funds or portions thereof will be used as payment for goods, services, and construction projects including design services. The words "Recovery Funds" shall be used in the description column of the IPS system to identify procurement opportunities that are using recovery funds as the method of payment. If you are not a current IPS user, please contact Judy Goldman in the North Carolina Division of Purchase and Contract at judy.Goldman@ncmail.net to receive instructions that will enable your organization to post solicitation documents electronically.

Local Newsprint Outlets

Public Agencies using recovery funds for the purposes of soliciting bids, proposals, construction projects, including design services exceeding \$5000 must advertise the opportunity in the local newsprint outlets including minority and women owned outlets.

Historically Underutilized Businesses (HUBs) Participation

"It is the policy of this State to encourage and promote the use of small contractors, minority contractors, physically handicapped contractors, and women contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small contractors, minority contractors, physically handicapped contractors, and women

contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration.” NCGS 143-48(a). Contracts where recovery funds will be utilized should comply with this and all other applicable North Carolina statutes encouraging the use of historically underutilized businesses, including but not limited to NCGS 143-48 and 143-128.2, et set. Agencies using funds are required to use their best efforts to notify at least one HUB of the opportunity to participate by submitting a bid.

Establishing contracts using new procurement processes

Competition is the preferred method for obtaining goods, services and construction requirements using recovery funds. Recovery funds must not be used to purchase goods and services from existing term, convenience or agency specific contracts without the specific prior approval of the agency establishing the contract. Public agencies using recovery funds are expressly prohibited from expanding the scope of existing contracts to accommodate the purchase additional goods, service and construction projects or activities.

Fixed-Priced Contracts

Fixed-priced contracts (all inclusive type contracts) are the preferred method for using recovery funds to contract for goods, services and construction projects, including design services. Recovery funds shall not be used for any type of cost plus contracts or arrangements that provide a cost plus additional cost that may be listed as profit, overhead, direct/ indirect cost or other factors that will lead to an increase in the contract cost without unilateral agreement.

Use of Recovery Funds

Public agencies, contractors and subcontractors are specifically prohibited from using recovery funds for travel outside the service area or county in which the project is located. The exceptions are travel specifically mandated by the Recovery Act or approved by senior management of the agency executing the contract.

Reporting of Historically Underutilized Business (HUBs) Participation

State agencies contracting for goods, services and construction projects, including design services must report their utilization of HUBs as a percentage of total contract award using recovery funds. The information must be submitted by e-mail to: deborah.cannady@nc.gov by the 10th of each month on the attached form. This form may be accessed on the recovery.com or the North Carolina Division of Purchase and Contract website: <http://www.ncpandc.gov/> under the heading of utilization report. State agencies that are awarding contracts, grants or transferring recovery funds to other units of government must make this condition a requirement of the contract, award or transfer.

CONTRACT PROVISIONS

By submission of a proposal, Contractor agrees to comply with the following provisions. Failure to comply with any and all provisions herein may be cause for the contracting agency to issue a cancellation notice to a contractor.

Reporting Requirements

The Contractor is notified that this project will be financed with *American Recovery and Reinvestment Act of 2009* (hereinafter, "ARRA") Funds. The Contractor shall ensure that all subcontracts and other contracts for goods and services for an ARRA-funded project have the mandated provisions of this directive in their contracts. Pursuant to Title XV, Section 1512 of the ARRA, the State shall require that the Contractor provide reports and other employment information as evidence to document the number of jobs created or jobs retained by this contract from the Contractor's own workforce and any sub-contractors. No direct payment will be made for providing said reports, as the cost for same shall be included in the various items in the contract.

Posting with the Local Employment Security Commission

In addition to any other job postings the Contractor normally utilizes, the Office of Economic Recovery & Investment (hereinafter, "OERI") requires that the Contractor shall post with the local Employment Security Commission Office all positions for which he intends to hire workers as a result of being awarded this contract. Labor and semiskilled positions must be posted for at least 48 hours before the hiring decision. All other positions must be posted a minimum posting of five days before the hiring decision. The Contractor and any Subcontractor shall report the new hires in the manner prescribed by the Employment Security Commission and the OERI.

Required Contract Provision to Implement ARRA Section 902

Section 902 of the ARRA requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

- (1) examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights prescribed under Section 902 of the ARRA with respect to contracts funded with recovery funds made available under the ARRA. Section 902 further states that nothing

in 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Authority of the Inspector General provision

Section 1515(a) of the ARRA provides authority for any representatives of the United States Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

Buy American provision

Section 1605 of the ARRA requires that iron, steel and manufactured goods used in public buildings or public works projects be manufactured in the United States. Contractor agrees to abide by this provision and shall maintain records of such purchases for inspections by authorized agents of the State of North Carolina and federal agencies. The Contractor must obtain written exception from this provision from the agency issuing the contract.

Wage Rate Provision

Section 1606 of the ARRA requires that all laborers and mechanics employed by contractors and subcontractors with funds from the ARRA shall be paid wages at rates not less than the prevailing wage rate under the Davis-Bacon Act. The contractor agrees that by the submission of a proposal in response to a solicitation funded in whole or in part with recovery funds, continuous compliance will be maintained with the Davis-Bacon Act.

Availability and Use of Funds

Contractors understand and acknowledge that any and all payment of funds or the continuation thereof is contingent upon funds provided solely by ARRA or required state matching funds. Pursuant to Section 1604 of the ARRA, contractors agree not to undertake or make progress toward any activity using recovery funds that will lead to the development of such activity as casinos or other gambling establishments, aquariums, zoos, golf courses, swimming pools or any other activity specifically prohibited by the Recovery Act.

Whistleblower Provisions

Contractors understand and acknowledge that Article 14 of Chapter 124, NCGS 126-84 through 126-88 (applies to the State and state employees), Article 21 of Chapter 95, NCGS 95-240 through 85-245 (applies to anyone, including state employees), and

Section 1553 of the Recovery Act (applies to anyone receiving federal funds), provide protection to State, Federal and contract employees.

Outsourcing outside the USA without Specific Prior Approval Provision

Contractor agrees not to use any recovery funds from a contract or any other performance agreement awarded by the State of North Carolina, its agencies, or political subdivisions for outsourcing outside of the United States, without specific prior written approval from the agency issuing the contract.

Federal, State and Local Tax Obligations

By submission of a proposal, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds.

Anti-Discrimination and Equal Opportunity

Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of funds.

Office of State Budget and Management Access to Records

OERI requires that the contractor and subcontractor agree to allow the Office of State Budget and Management internal auditors and state agency internal auditors access to records and employees pertaining to the performance of any contract awarded by a public agency.

USE OF RECOVERY FUNDS REPORT FORM

SECTION 1: Contract Award

Contract Award for the month of _____, 20__

Service Contracts: \$ _____

Goods: \$ _____

Construction Projects: \$ _____

Design Services: \$ _____

TOTAL CONTRACT AWARD \$ _____

SECTION 2: Historically Underutilized Business Award

HUB Award for the month of _____, 20__

Service Contracts: \$ _____

Goods: \$ _____

Construction Projects: \$ _____

Design Services: \$ _____

TOTAL HUB CONTRACT AWARD \$ _____

Please return this form to:

**Deborah M. Cannady
Office of Economic Recovery & Investment
221 E. Lane Street
Raleigh, NC 27699-0308**

**Email: deborah.cannady@nc.gov
Phone: 919-733-1530
Fax: 919-733-2422**

