

Frequently Asked Questions About ARRA Compliance

Purchasing and Contracting

1. Question: Who must use the Interactive Purchasing System (IPS)?
Answer: **All public agencies, including local public agencies, for purchases exceeding \$5,000.**
2. Question: What are the requirements for purchases less than \$5,000 and for non-government organizations (NGOs)?
Answer: **A local means of competition must be used and documented, such as phone calls and fax quotes.**
3. Question: Can NGOs use IPS? Must NGOs use IPS?
Answer: **No, NGOs do not use IPS unless the NGO has specific legislative authority in NCG.S. 143.49, which is permissive for select NGOs.**
4. Question: Is just IPS okay or must public agencies use newsprint as well?
Answer: **Newsprint is in addition to IPS for purchases over \$5,000. Grantees must also remain in compliance with their current program and agency requirements as well as statutory requirements.**
5. Question: Where do I find the IPS?
Answer: <https://www.ips.state.nc.us/ips/>
6. Question: Where can I find the debarment lists?
Answer: **The state list is found at <http://www.doa.state.nc.us/PandC/actions.asp>
The federal list is found at <https://www.epls.gov/>**
7. Question: How do we deal with a situation when we check Debarment and find the sub-contractor was debarred after our initial search?
Answer: **Prior to entering into a contract using Recovery funds, public agencies must ensure that any party with whom they are contracting does not appear on the state or federal debarment list. Renewing, extending or entering into new contracts with parties on the state or federal debarment list is expressly prohibited. (Reference 2 CFR § 180.310).**
8. Question: Can local governments use a state contract to purchase vehicles and other items with ARRA funds?
Answer: **Yes, after a determination of best value is made.**
9. Question: Are there any new procedures for professional architectural engineering services?
Answer: **No. Refer to OERI Management Directive 3(b)**
http://www.ncrecovery.gov/library/pdf/OERI_Directive3a.pdf

10. Question: Who can grant waivers for non-competitive contracts?
Answer: **OERI, but this is done on a very limited, case-by-case basis and justification must be compelling.**
11. Question: When will the “Conflict of Interest” information be available from the Institute of Government?
Answer: **The UNC School of Government discussed conflicts/ethics issues in a local government law blog about ARRA compliance found at <http://sogweb.sog.unc.edu/blogs/localgovt/?p=2372>. UNC School of government slides that highlight the differences between the NC statutes and the federal requirements re: conflicts and ethics can be found at <http://www.sog.unc.edu/programs/purchase/documents/ConflictsARRA.pdf>.**

Contract Provisions

12. Question: What does fixed cost basis mean?
Answer: **The price is pre-determined. There should be a “not to exceed” price for a deliverable.**
13. Question: Is Davis-Bacon required for all construction and equipment installation regardless of amount?
Answer: **Yes. Please refer to Management Directive 6. http://www.ncrecover.gov/library/pdf/Management_Directive_6.pdf**
14. Question: Does “Buy American” apply to those using Recovery Zone bonds?
Answer: **No.**
15. Question: What is acceptable documentation certifying that vendors and subcontractors are current on their state and local taxes? Does this apply to personal services contracts as well?
Answer: **Self-certification is acceptable, e.g., notarized letter or a letter on company letterhead. The requirement applies to personal services contracts.**

Hiring

16. Question: Must Local Education Agencies (LEAs) post tutor positions on Employment Security Commission (ESC) website for 5 days?
Answer: **Yes**

17. Question: What criteria determine a 48 hour posting with ESC vs. a 5 day posting with ESC?
Answer: **Labor and Semi-Skilled positions require 48 hour posting, all other positions require 5 days. Labor is unskilled manual labor. Semi-skilled is an untrained laborer working as an assistant or an apprentice of a skilled laborer. When in doubt, post for 5 days.**
18. Question: Must we post with Employment Security Commission if we plan to re-hire a Reduction-In-Force (RIF'd) individual? (Example: Teacher RIF'd and rehired using ARRA)
Answer: **All vacant positions must be posted with Employment Security Commission even if a re-hire is anticipated.**
19. Question: Must we let ESC know that we hired persons?
Answer: **No**

Reporting

20. Question: We have been given different methodologies for tracking jobs, especially related to created vs. saved. Please comment.
Answer: **There have been some changes in instructions. Most notably, the reporting of the number of jobs created or retained is now reported as a quarterly number as opposed to a cumulative number. Also, there is no longer an attempt to distinguish between new jobs and retained jobs. Be aware that some federal agencies have issued additional requirements for reporting job counts.**
21. Question: How does reporting as discussed in Directive 8 apply to local entities?
Answers: **While the OERI Management Directive 8 applies only to state agencies, local entities should be aware that state agencies will be collecting data from them necessary to comply.**
22. Question: Are direct Grantees exempt from HUB reporting?
Answer: **Yes, if the direct grantee is not a state agency or a sub-recipient of a state agency.**

Other

23. Question: Can Community Development Block Grant ARRA funds be used to pay rent?
Answer: **Only when included in an approved plan.**
24. Question: What are the requirements for posting the whistleblower signs and how does one secure the signs?
Answer: **The signs must be posted at the job site.**
Whistleblower poster:
<http://www.recovery.gov/Contact/ReportFraud/Documents/WhistleblowerPoster.pdf>
Fraud Hotline poster
<http://www.recovery.gov/Contact/ReportFraud/Documents/RecoveryAct%20FraudHotlinePoster-RATBLogo.pdf>
See OERI Management Directive 5.
http://www.ncrecovery.gov/library/pdf/Management_Directive_5.pdf
Also refer to ARRA, Subtitle D, section 1553(e).
25. Question: Are bonds available for charter schools for building facilities?
Answer: **Qualified Zone Academy Bonds (QZAB) and Qualified School Construction Bonds (QSCB) cannot be used by Charter Schools.**
26. Question: Is an email authorization from the Office of Economic Recovery and Investment sufficient when questions are raised concerning spending of recovery money? Can I trust that the email is my approval?
Answer: **Yes, but only if instruction, approval or authorization is clearly specified.**
27. Question: Will we know when GAO is coming or will they just show up?
Answer: **Grant recipients should be prepared for an audit at any time.**
28. Question: How does a recipient handle disposition of property after an ARRA project has ended?
Answer: **ARRA does not add any special disposition requirements. Recipients should check with their state and federal funding agencies for disposition guidance.**

29. Question: Is a separate checking account required to separate ARRA funds from other funds?

Answer: A separate checking account is not necessarily required. What is important is that ARRA funds not be co-mingled with other funds. Funds can be kept separate using accounting practices such as unique expenditure and revenue accounts with good record retention and filing practices for invoices and deposit receipts. State agencies are required to use separate and distinct fund codes.

30. Question: If a grant includes a local match, how should the budgeting be handled to address the “no comingling” requirement?

Answer: There are a variety of accounting structures used by agencies and programs outside of state government, so there is not a specific description of how to account for these funds. The accounting structure must clearly identify the specific use of the federal ARRA funding and the specific use of the cash or in-kind match. The questions to be answered by recipients are “Can I identify all expenditures by their funding source? What did the federal ARRA funding pay for and what did the match pay for?” The method used must be able to answer these questions.

31. Question: Do files and records need to be centralized based on programmatic service?

Answer: Centralization of files is preferred, but at a minimum documentation should be indexed to assure complete documentation.

32. Question: What are the ramifications if the Governor’s Order #13 goal of 10% HUB is not met?

Answer: The 10% goal is a clear expectation that reaches beyond ARRA. For ARRA funding, adherence to OERI Management Directive 3(b) is a clear and attainable expectation. However, if after compliance with all guidance the 10% goal is not attained, there is no specific monetary penalty.