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American Reinvestment and Recovery Act
The Next Phase: Impact and Risks

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Introduction

When *The Stimulus Plan and Basic Research: Responding to New Requirements for Transparency and Reporting*, a point of view, was written, American Recovery and Reinvestment Act (ARRA) funds were just beginning to flow, and recipients were anticipating the immense task of documenting and reporting the funds they would receive.

In large part, that is no longer the case. Many funding recipients have already trudged through the first three reporting cycles and have managed through the government's quarterly reconciliation of records. At research institutions across the country, faculty and staff at all levels have felt the effects of adding the ARRA reporting function to their existing workload, and without any additional support. The question that remains is, "Now what?"

In this paper, the effects of ARRA funds and the risks to recipient institutions will be discussed, along with what to expect and consider as the funding process continues.

Where We Are Today

ARRA, or "stimulus," funding recipients have completed three reporting cycles with at least six, if not ten, more cycles to come during the next several years. A few Organizations have developed an automated method of gathering data and a reporting. For them the automation has minimized to some the work involved in the data gathering, reporting and reconciliation processes. However, most institutions are not this lucky and are continuing to struggle forward as volumes increase.

While some institutions have implemented rudimentary non-integrated automated processes to help manage their reporting process, most have not. A majority of institutions fall into a category that use spreadsheets and other tools provided by the government to perform the required reporting. A small category of institutions that have developed more sophisticated systems allowing departmental personnel to complete online reporting and integrate that data into the overall reporting process of the entire organization incur the least risk of error and potential disallowance. In some cases, these systems even build in automated internal control processes to aid in assuring compliance with ARRA regulations.

Since the Federal government began distributing ARRA funds, approximately 25 percent to 30 percent of funds for university, academic medical center and nonprofit recipients had been received by the October 10, 2009 reporting deadline. While it is difficult to determine the exact amount that has been distributed to date (the government is relying on recipient reporting to track the distribution and use of allocated funds), it now appears that about 40 percent to 50 percent of the funds for these organizations has been awarded and received by institutions. This, of course, means that there remains 50 percent to 60 percent still to be awarded.

This is concerning for many reasons. While the government has set a two-year timeframe ending in 2012 during which recipients must use ARRA funding, the rate at which funding recipients have been getting money in hand could prevent them from meeting the two-year constraint and making the best use of funds. Questions remain as to whether or not the Federal government will consider extending that timeframe.

Should an extension be allowed, it would likely require ARRA reporting to continue for additional years, putting further strain on recipients, in terms of both human and financial resources. However, extending the ARRA funding process may alleviate some of the consequences organizations will face if they have to lay off staff paid with ARRA funds when the two year reporting cycles end. Should the process extend, the reduction in staff could be spread out over additional years. How staff layoffs will be handled and what the impacts will be is the eight hundred pound gorilla in the room.

One item that we are hearing but has not yet been confirmed by the government is that they are considering applying the additional ARRA reporting requirements to all grants. We will continue to examine this, and report findings in our next publication.

Effects of ARRA Funds: Where Does Your Organization Stand?

Preparing for the next phase of the ARRA funding process may require a real "gut check." It's imperative for institutions to overcome any false sense of security or kneejerk assumptions such as, "We have this under control," or, "We are fully compliant." Unfortunately, that has not been the reality for most stimulus funding recipients.

To date, institutions have been hard pressed to identify and allocate the human, technical and financial resources needed to meet ARRA reporting compliance requirements without tremendous effort. Moreover, institutions must not only recognize that existing financial and human resources systems were not designed to meet the reporting requirements associated with ARRA funding, but also that additional internal controls must be implemented and accountability assigned to avoid the consequences of negative audits. The few automated systems being used to satisfy ARRA reporting, for the most part, were not designed with audits in mind. Instead, they were created simply to save time, help assure deadlines were met and report out data. Such automated reporting tools, as well as the manual or partially manual processes, may put institutions at risk for disallowance or worse during an audit.

Across the country, many dealing with the ARRA reporting processes and systems have expressed concerns about the accuracy, timing and compliance of the reporting process. Considering the tools that most institutions are using, which rely greatly on manual data entry, there is legitimate cause for concern. Huge amounts of data and time constraints can easily increase human error.

While speed and timeliness are important, holding certain individuals accountable for the overall process can provide a critical safeguard that demonstrates the institution's competent and reliable exercise of fiduciary responsibility.

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To determine the quality of its reporting process, an institution should examine the following aspects of its internal controls as they relate to ARRA funding:

- How stringent are internal controls?
    - Do internal controls assure the accuracy of the status and goals for the research grant which were identified in the statement of work, final proposal and budget?
    - Does an internal control exist to determine accuracy of progress reported for ARRA grant-related work?
    - Does an internal control exist to assure accurate identification of newly created or extended jobs?
    - Do internal controls identify whether the number and type of new jobs from grants, as reported by the grants system or departments, match the number and type of new jobs created as reported in your human resources systems, as well as the number of employees to be paid as reported in your financial system?
    - Does an internal control exist to ensure FTE reported matches FTE used for other purposes at the institution and that nothing is double counted?
    - Are internal controls automated and integrated into other systems?
- Is there an individual responsible for reviewing key ARRA reporting controls?
- Have all necessary actions been taken to assure ARRA reporting would withstand audit?

Many, if not most, institutions' departmental staff are not trained to perform the accounting activities required to generate the required American Reinvestment and Recovery data.

Risks of Receiving ARRA Funds

The risks associated with ARRA funding are essentially the same as with any other funding you may receive from the Federal government: disallowance, false claims and potential embarrassment to the institution. By accepting ARRA funds, you agree to comply with all the pertinent rules related to the Act. If you are not compliant with the rules associated with ARRA funding, the penalties are also similar to those that come with other grant or contract funding. In most cases, penalties fall under the False Claims Act, or are imposed as direct disallowances resulting from an audit.

Nevertheless, there are some unique risks associated with ARRA funds that require particular attention:

- ARRA regulations include never before seen reporting requirements that lack a readily available, automated tool with which to meet them. Instead, an institution's departmental personnel must manually generate and submit new, not readily available data on a quarterly basis. However, many, if not most, departmental staff are not trained in Federal regulations so they can perform the activities required to generate the required ARRA data.
- Real, high-risk politics are at play at the national level. President Obama has called for a high level of transparency in the use of ARRA funds, which has led to increased audit and oversight activities for which organizations need to be prepared.

- Jobs statistics derived from ARRA recipients' reports are being used to report newly created and extended jobs. Numbers are being tracked and reported almost daily. However, with ever changing rules for how to report such statistics, jobs numbers and organizations' compliance can easily be called into question.
- The media have reported on university grants that may have appeared funny or ridiculous on a superficial level to the general public. Using the public Federal Web site Recovery.gov, they have an unimpeded, one-stop source of grant titles, funding amounts and other information. While the ARRA grants in question are appropriate and necessary to solve our most difficult national issues, there is an increasing potential for misinterpretations that could potentially embarrass funding recipients.

The Federal Government's Next Steps

Every agency that awards ARRA funding is required to perform and, in some cases, has begun to perform compliance audits. Money specifically allocated to Offices of the Inspector General (OIGs) to pay for conducting compliance audits has been included in ARRA funding distributions to individual agencies. For example, ARRA funding allocated to the Department of Health and Human Services (DHHS) included $17 million to audit the funds it will disperse. (Separate funds of approximately $35 million have been set aside to audit Medicare related ARRA funds.) According to the DHHS Web site, the agency plans to engage 50 to 60 full-time auditors to perform the work.

Many institutions are asking whether they'll be among those audited. That will depend on several factors, but generally, the amount of funding one receives is a good benchmark. An organization that is awarded five grants worth a total of $1 million, for example, will most likely only experience an extension of its A-133 audit. However, for an organization that receives numerous grants worth $200 million, for example, it won't be a matter of if, but when it will be audited.

There are three possible ARRA-specific audit scenarios that institutions could experience:

- An extended A-133 audit: Your external or State auditor will receive specific guidance as to what to review, and the process to follow, when performing the review. They also will be required to report on any anomalies found, which will be the basis for disallowances or further reviews.
- Agreed Upon Procedures: In this case, the government would develop a set of audit procedures that detail the areas to be reviewed, the testing process to follow, and the process for reporting findings to the institution and the government. These audits would be performed by independent outside auditors hired and paid for by the government. The direction and emphasis of such audits can differ greatly from an extended A-133 audit.
- OIG audit: A relatively complete audit that would cover all areas of reporting as defined on by OIG.

Determining which type of audit an institution will experience involves many factors including its size, type of ARRA award, complexity of the institution, its prior history, whistle blowers, suspected fraud, and availability of staff, to name a few. What is certain is organizations receiving stimulus funds will experience a review of some kind, and any issues found will be reported.

According to the OIG's ARRA Audit Plan, the audit process will begin in the third and fourth quarter of the funding program, which translates into the April to July 2010 timeframe. The OIG's plan has also allowed time for kinks in the new reporting process to shake out before audit activity begins. However, the process most likely will not begin in earnest until sometime in the later half of the fourth quarter since the reporting process has been slow to stabilize.

Some individual audits have already begun, but seem to be concentrated among recipients such as Indian tribes, community action groups and nonprofit medical institutions. It is possible that OIG is using these audits to fine tune their process before rolling it out nationally, or it may be the result of whistle blowers or alleged fraud reports.

Taking Action: What Should Institutions Do Today?

First and foremost, institutions must ensure that they are fulfilling their fiduciary responsibility to properly manage ARRA funds. This means that at every level of the institution there must be an understanding of the impact and risks associated with accepting ARRA funds to prevent the consequences of non-compliance.

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Many, if not most, institutions are suffering because of the recession. However, doing what is necessary now to follow the rules associated with ARRA funds will save intolerable pain, money, and potential embarrassment later.

The following are steps institutions can take now to prepare for the audit process:

- Organizations must acquire and implement the systems support they need to have the proper internal controls in place to monitor, manage and ensure data reported is accurate and compliant. Automation can assist the department in gathering data and assuring it is accurate and timely. It is not too late to do this. Institutions still have two years of the ARRA process before them and a significant amount of reporting to provide. Whether or not organizations recognize, or have quantified the cost of ARRA reporting, each is going to spend significant funds to complete the reporting function properly. Organizations should calculate the cost of the reporting function and determine what could be saved if it pursued information technology support— the risks and costs that could otherwise be incurred are far too great not to.

- Take the time now to assess where your organization stands and determine what your true risks might be. Get buy-in from academic Deans and department heads, and support for gathering data. There is time to make corrections and change processes. Surely, if an audit is begun and you are identifying and correcting any existing lapses, those actions will be viewed positively and reported as such by auditors. Further, if findings come forth, your actions will heavily affect the decision on final determination and any payback.
- Training at all levels is the key to successfully meeting reporting requirements and passing audits. Training is not a onetime thing. Put together a training plan for all levels of staff involved in gathering or reporting ARRA related data, especially at the department level. Turnover is often relatively high at universities, which means that training has to be a recurring event if new staff is to perform ARRA duties correctly in compliance with Federal regulations.

Additional Resources

Department of Health and Human Services, "DHHS OIG FY 2010 Recovery Act Work Plan," 2010, pp. 10—12

Department of Health and Human Services, "DHHS OIG FY 2010 Recovery Act Plan Overview," 2010

Department of Health and Human Services, "DHHS OIG Recovery Act Oversight," 2010

Http://www.Recovery.gov, Summary of ARRA funding by institution, by state, 2010

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About Attain

Based in Vienna, Va., Attain is a professional services company comprised of innovative problem solvers who deliver tangible results to address today's complex public sector challenges. With approximately 200 employees, Attain delivers strategic, operational support, healthcare solutions, and IT security and application services to more than 125 customers in the Federal, state and local government, higher education and nonprofit markets.

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