



October 30, 2009

MEMORANDUM FOR: EDWARD C. HUGLER  
Senior Accountable Official for the American  
Recovery and Reinvestment Act of 2009

A handwritten signature in blue ink that reads "Elliot P. Lewis".

FROM: ELLIOT P. LEWIS  
Assistant Inspector General  
for Audit

SUBJECT: Recovery Act: The Department of Labor's Plan to Ensure  
Data Quality in Recipient Reporting  
Report No. 18-10-001-01-001

The American Recovery and Reinvestment Act of 2009 (Recovery Act) requires Federal agencies to implement an unprecedented level of transparency and accountability to ensure the public can see where and how Recovery Act funds are being spent. The Department of Labor (the Department) received \$44.9 billion in Recovery Act funding to provide worker training, extend and increase unemployment benefits, and assist and educate workers and employers regarding expanded access to health benefits.

To promote accountability and transparency, Section 1512 of the Recovery Act (Section 1512) requires each recipient that received Recovery Act funds to submit a quarterly report to the Federal agency providing those funds. This report, due not later than 10 days after the end of the calendar year quarter, must include (1) the total amount of Recovery Act funds received from that agency; (2) the amount of Recovery Act funds received that were spent or obligated to projects or activities; and (3) a detailed list of all projects or activities for which Recovery Act funds were spent or obligated.<sup>1</sup> Recipients must report on the completion status of the project or activity and provide an estimate of the number of jobs created and the number of jobs retained by the project or activity. Additionally, if the recipient awarded any subcontracts or subgrants with Recovery Act funds, the report must include information required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282). The Federal

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<sup>1</sup>If funds are "infrastructure investments made by State and local governments," the recipient must provide such information as the purpose, total cost, and rationale of the agency for funding the infrastructure investment with the funds and contact information for someone at the agency if there are concerns with the infrastructure investment.

agency which awarded Recovery Act funds must make the recipient reports publicly available by posting the information on a website not later than 30 days after the end of each calendar quarter. Section 1512 also requires Federal agencies to issue reporting guidance to recipients, and directs recipients to register with a central database and comply with other requirements issued by the Office of Management and Budget (OMB).

OMB issued OMB M-09-21, "Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009," dated June 22, 2009. OMB M-09-21 requires Federal agencies receiving Recovery Act funds to implement a limited data review process to identify material omissions and/or significant errors and notify grant recipients of the need to make complete, accurate, and timely adjustments. For Recovery Act contracts, Federal Acquisition Regulation (FAR) Subpart 4.15 – "American Recovery and Reinvestment Act—Reporting Requirements" states that Contracting Officers (COs) will be responsible for ensuring all required data on the use of funds are reviewed.

Departmental officials stated and provided information that it had awarded \$3.7 billion of Recovery Act funds as of September 30, 2009, through grants and contracts. The Employment and Training Administration (ETA) had awarded 365 grants totaling \$3.5 billion, accounting for 96 percent of funds the Department had awarded to recipients. The Office of the Assistant Secretary for Administration and Management (OASAM) had awarded 135 contracts totaling \$158.4 million, and the Occupational Safety and Health Administration (OSHA) had awarded 7 grants totaling \$1.5 million. (See Attachment 1 for a detailed schedule of Recovery Act funds awarded as of September 30, 2009.)

Our audit objective was to determine whether the Department had established policies and procedures for reviewing quarterly Recovery Act data submitted by recipients. Specifically, we designed our audit to answer the following questions:

1. How does the Department plan to ensure that all prime recipients have filed the required quarterly reports, and the required reviews of the reported data are conducted?
2. Are the Department's policies and procedures designed to emphasize the avoidance of two key data problems — material omissions and significant reporting errors?
3. Does the Department have an adequate process in place to remediate systemic or chronic reporting problems?
4. Does the Department anticipate that it will be able to use the reported information as a tool for assessing compliance with the terms and conditions of award agreements, assessing risk, and determining when to release remaining funds?

The audit covered current procedures that ETA, OASAM and OSHA plan to use to review the quarterly Recovery Act data submissions of recipients. We conducted interviews with officials from ETA, OASAM and OSHA at Department Headquarters

located in Washington, D.C., and reviewed their procedures related to recipient reporting. It is too early to determine whether these procedures will adequately identify and remediate omissions and significant reporting errors, or to assess compliance with those procedures.

We did not test internal controls nor did we verify the information on the number of grants and contracts awarded and their amounts. The information presented in Attachment 1, "Schedule of Recovery Act Funds Awarded as of September 30, 2009," is included for additional information. We did not audit this information and, accordingly, we express no opinion on it.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Results

While the Department has not issued an overall policy for ensuring the quality of data reported by recipients, the agencies involved in awarding Recovery Act grants and contracts (ETA, OASAM and OSHA) have developed procedures to review the recipients' quarterly reports.

Details regarding the procedures developed by ETA, OASAM and OSHA are discussed below.

### **1. How does the Department plan to ensure that all prime recipients have filed the required quarterly reports, and the required reviews of the reported data are conducted?**

To ensure all prime recipients have registered with FederalReporting.gov, as required, each DOL agency performs daily reconciliations of Recovery Act recipients in DOL systems to those who have registered on the FederalReporting.gov website. For Recovery Act recipients identified as not having registered with FederalReporting.gov, the Department's process calls for follow up to ensure registration.

ETA has developed a data quality review plan and process that establishes a chain of accountability, roles, and responsibilities. Federal Project Officers (FPO) will review recipient reports to ensure data accuracy, completeness, and timeliness. (See Attachment 2 for an outline of OMB's timeframe for key reporting activities.) At the Regional Office level, FPOs are assigned one or more states and/or discretionary grantees for which they are responsible. FPOs at the National Office may also be assigned responsibility for discretionary grantees. FPOs will notify all recipients of the requirement to register with FederalReporting.gov prior to the reporting deadline.

ETA Regional and National Office Administrators have been made responsible to ensure the timeliness and quality of the FPO reviews, and the Deputy Assistant Secretary for Employment and Training will attest to the Department's Center for Program Planning and Results that the quarterly data reviews were performed. ETA is currently drafting a set of standard operating procedures for quality assurance purposes.

OASAM plans to use their existing contract monitoring procedures to ensure the quality of quarterly Recovery Act data submitted by recipients. The Contracting Officer's Technical Representative (COTR) will review the data to ensure timeliness and technical validity and the Contracting Officer (CO) is responsible for ensuring the required reviews are conducted.

OSHA has assigned three staff to monitor its seven Recovery Act grants, ensure the grantees file the required quarterly reports, and review the reports when submitted.

**2. Are the Department's policies and procedures designed to emphasize the avoidance of two key data problems — material omissions and significant reporting errors?**

As of September 30, 2009, ETA's process was designed to identify material omissions and significant reporting errors. However, OASAM and OSHA planned to approach the issue of material omissions and significant reporting errors as the recipient reporting begins.

ETA developed a 12-page *FPO Review Tool (Tool)* to provide guidance to its FPOs on data elements considered to have potential material omissions and significant reporting errors. The *Tool* does this by (1) listing each of the 42 data elements contained in the OMB reporting framework, (2) providing information that should be included in the recipients' response, (3) providing "examples" of possible material omissions, and (4) providing examples of possible significant reporting errors.

For example, the following chart is an excerpt from the *FPO Tool* on how to assess data quality for the data element "Estimate of jobs created or retained:"

Data element	Data Entry Response	Possible Material Omission	Possible Significant Reporting Error
Description of Jobs Created	A narrative description of the employment impact of the Recovery Act funded work...The description should be cumulative for each quarter and address the recipient's workforce at a minimum, and if known, the workforce of sub-recipients....	[Recipient] failed to include jobs created for WIA youth.	Waiting clarification from OMB.

Additionally, the *Tool* advises FPOs to start the data quality review early, as discussed in OMB's guidance. According to the *Tool*, FPOs will have access to Section 1512 data in a "view-only" mode during the recipient and sub-recipient review period (days 11 to 21 of the reporting month). If FPOs start their unofficial reviews at that time, and find possible material omissions or significant reporting errors, they have the option to notify recipients and give them a chance to correct their reports prior to the FPO's official review.

On October 7, 2009, ETA conducted a video conference with all FPOs to discuss the *Tool* with emphasis on potential material omissions and significant reporting errors.

According to OASAM, the CO and COTR will review Section 1512 data reported by the prime contractor to ensure it is not misleading and does not contain material omissions or significant reporting errors.

On September 30, 2009, OMB issued "*Interim Guidance on Reviewing Contractor Reports on the Use of Recovery Act Funds in Accordance with FAR Clause 52.204-11*" to Federal agency chief acquisition officers and senior procurement officers. The guidance describes the requirement to review contractors' Section 1512 reports for significant errors and material omissions. OASAM forwarded the OMB interim guidance to its COs. The guidance provided some examples of significant errors and material omissions.

OSHA plans to address the issue of material omissions and significant reporting errors when recipient reporting begins. Although OSHA officials noted the agency has historic ties with the seven State grantees that received Recovery Act funds, they

acknowledged certain risks with Section 1512 reporting. The Department acknowledged certain risks with OSHA's Section 1512 reporting. Specifically, the Department is concerned that OSHA's ARRA State recipients are reporting activities (inspections) that are not being charged to ARRA funding. This may be due either to state requirements on getting approval to spend ARRA funds or to the period of availability of state matching funds. Therefore, there could be a discrepancy between the activity being reported on the grant and the expenditures reported to support ARRA activities, and OSHA has initiated follow up action.

On October 14, 2009, OSHA issued an 8-page *Review Tool for Quarterly Recipient Reporting* detailing the National Office staff responsibilities for reviewing Section 1512 reports, inclusive of how to detect significant errors and material omissions. OSHA instructs National Office staff to use the *Review Tool* in conjunction with the *FederalReporting.gov User Guide* on the FederalReporting.gov's web site.

**3. Does the Department have an adequate process in place to remediate systemic or chronic reporting problems?**

ETA, OASAM and OSHA have assigned responsibility to remediate systemic or chronic reporting problems to their FPOs, COs and regional offices.

ETA has directed its FPOs to contact grantees to ensure they submit Section 1512 reports to Federalreporting.gov on time. ETA has a system in place to identify high-risk grantees that may have systemic or chronic reporting problems. ETA follows the specific guidelines in accordance with 29 CFR 97.12, "Special Grant and Subgrant Conditions for High-Risk Grantees" and 20 CFR 667.400, "Who is responsible for oversight and monitoring of WIA Title I grants?"

If a grantee does not follow the reporting requirements, FPOs will contact them to provide assistance. However, if repeated attempts are unsuccessful, ETA can withhold funds or, in extreme cases, sanction grantees. To the extent the FPO identifies any data that he/she has reason to believe is false or misleading, such finding must be submitted to the DOL Senior Accountable Official.

OASAM's COs and COTRs work directly with recipients for contract compliance and reporting. In the event of any issues with compliance or reporting, the COs will work directly with the contractors based on the guidance provided in the FAR and to ensure the problem is appropriately resolved. In extreme cases, OASAM follows FAR guidance 49.4 - *Termination for Default*. Termination for Default is generally the exercise of the Government's contractual right to completely or partially terminate a contract because of the contractor's actual or anticipated failure to perform its contractual obligations.

*OSHA's Section 1512 Review Tool* states that technical assistance is the first step to remediate reporting problems. If a grantee is not cooperative, "OSHA National Office staff must immediately inform the Director, Administrative Programs with details of the issue. If the issue cannot be resolved internally, the Director, Administrative Programs will inform the DOL Senior Accountable Official. All contact with the Recovery Board will be made by the DOL Senior Accountable Official."

**4. Does the Department anticipate that it will be able to use the reported information as a tool for assessing compliance with the terms and conditions of award agreements, assessing risk, and determining when to release remaining funds?**

The Department anticipates that the reported information can be used as a tool to complement the Department's existing management controls. The Department reviewed M-09-21 and related documents, and incorporated concepts into its planning and guidance documents for grants. While OMB issued guidance with the express proviso that they did not apply to contracts, the Department reported they found the documents helpful because they provided an overview of the general process.

Additionally, the Department said it may consider using the reported information as a means to confirm compliance with the terms and conditions of award agreements. For example, in assessing risk and making decisions about releasing additional funds, a grantee's or contractor's failure to report, or incorrect reporting rising to the level of "significant reporting errors" (as defined in M-09-21), will all be assessed in the administration of Recovery Act awards for both grants and contracts. Such problems would result in appropriate corrective action consistent with the Department's practices, up to termination of a grant agreement or contract.

### **Conclusion**

While the Department has not issued an overall written policy for ensuring the quality of Section 1512 data, the agencies which awarded Recovery Act funds have procedures to review the reports, and the Department may use the data for making decisions on future release of Recovery Act funds.

Each of the three agencies with Section 1512 review responsibilities — ETA, OASAM, and OSHA — has developed processes to ensure prime recipients have filed the required reports and to conduct the required reviews of the data. Additionally, the three agencies have developed and implemented processes to minimize two key data problems (material omissions and significant reporting errors), and to remediate systemic or chronic reporting problems. Finally, the Department expects to use Section 1512 data as a "tool" to complement existing management controls and to monitor recipients' compliance with Recovery Act award agreements.

Two examples of "promising practices" to ensure section 1512 data quality are ETA's FPO Review Tool and OSHA's Review Tool for Quarterly Recipient Reporting. Both documents provide guidance to Federal project officers on how to find potential material omissions and significant reporting errors when recipients submit their initial reports. These "tools" give FPOs examples of possible mistakes for various data elements in the recipient reports. While OASAM has not issued a similar "tool" for COs, it forwarded OMB interim guidance which also provided examples of significant errors and material omissions. These processes and "tools" related to reviewing Section 1512 reports have potential to help the Department achieve the Recovery Act's goals for transparency and accountability.

## Department's Response

In response to the draft report, the Senior Accountable Official for the American Recovery and Reinvestment Act of 2009 stated that the audit report "is a reasonable assessment of the Department's efforts to ensure that recipients of Recovery Act funds timely and properly report; reported data are reviewed by DOL in accordance with government-wide guidance; and of our readiness to remediate any problems . . . ETA, OSHA and OASAM — with oversight by the Department — have undertaken substantial measures to give clear and ample guidance to recipients, put procedures in place to monitor compliance, and follow up with ARRA fund recipients as necessary. Proof of the effectiveness of these measures is in the results-*all* ARRA grants and contractor recipients registered successfully and on time, and *all* ARRA grants and contractor recipients have reported on time."

The Department's response is included in its entirety as Attachment 3.

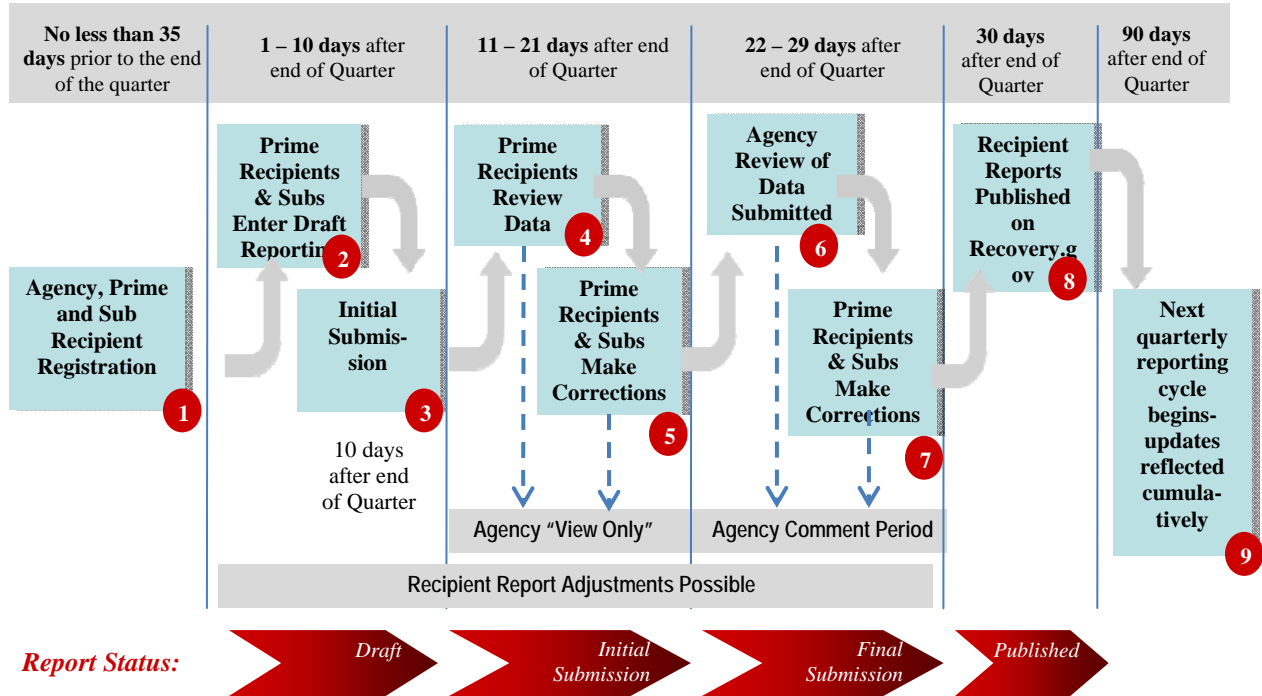


**SCHEDULE OF RECOVERY ACT FUNDS AWARDED  
AS OF SEPTEMBER 30, 2009  
<UNAUDITED>**

<b>GRANTS</b>	<b>NUMBER OF GRANTS AWARDED</b>	<b>AMOUNT AWARDED AS OF 09/30/09</b>	<b>PERCENT OF AMOUNT AWARDED</b>
<b>ETA - BY PROGRAM</b>			
WIA Youth/Adult/Dislocated			
Workers Formula	57	\$2,903,218,012	79.13%
Employment Services	54	396,000,000	10.79%
Older Workers	74	118,800,000	3.24%
Youth Build	75	47,024,999	1.28%
National Emergency Grant	26	28,541,139	0.78%
Native Americans	78	15,073,428	0.41%
Independent Initiative	<u>1</u>	<u>98,750</u>	<u>0.00%</u>
<b>Total ETA</b>	<b>365</b>	<b>3,508,756,328</b>	<b>95.64%</b>
<b>OSHA - BY STATE</b>			
California	1	765,070	0.02%
Tennessee	1	300,000	0.01%
Minnesota	1	166,945	0.00%
Oregon	1	110,979	0.00%
Michigan	1	100,000	0.00%
New Mexico	1	50,000	0.00%
New Jersey	<u>1</u>	<u>32,495</u>	<u>0.00%</u>
<b>Total OSHA</b>	<b>7</b>	<b>1,525,489</b>	<b>0.04% *</b>
<b>Total Grants</b>	<b>372</b>	<b>3,510,281,817</b>	<b>95.68% *</b>
<b>CONTRACTS</b>			
OASAM	<u>135</u>	<u>158,424,023</u>	<u>4.32%</u>
<b>Total Contracts</b>	<b>135</b>	<b>158,424,023</b>	<b>4.32% *</b>

\* Slight difference in percentage due to rounding.

## OMB Guidance M-09-21: Recipient Reporting Timeline



Source: Office of Management and Budget

U.S. Department of Labor

Office of the Assistant Secretary  
for Administration and Management  
Washington, D.C. 20210

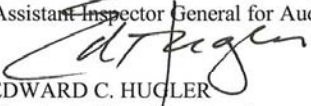


OCT 29 2009

MEMORANDUM FOR ELLIOT LEWIS

Assistant Inspector General for Audit

FROM:

  
EDWARD C. HUGLER  
Deputy Assistant Secretary for  
Administration and Management

Subject:

Response to Office of Inspector General Draft Audit Report -  
*Recovery Act: DOL's Plan to Ensure Data Quality in  
Recipient Reporting (Report No. 18-10-001-01-001)*

This responds to the Office of Inspector's General October 26, 2009, draft audit report concerning DOL's plan to ensure data quality in recipient reporting under the American Recovery and Reinvestment Act of 2009 ("ARRA" or "Recovery Act"). The draft audit report is a reasonable assessment of the Department's efforts to ensure that recipients of Recovery Act funds timely and properly report; reported data are reviewed by DOL in accordance with government-wide guidance; and of our readiness to remediate any problems.

As we shared with your team throughout the audit, ETA, OSHA and OASAM - with oversight by the Department - have undertaken substantial measures to give clear and ample guidance to recipients, put procedures in place to monitor compliance, and follow up with ARRA fund recipients as necessary. Proof of the effectiveness of these measures is in the results—all ARRA grants and contractor recipients registered successfully and on time, and all ARRA grants and contractor recipients have reported on time. DOL is currently executing its plans for the data quality review phase of this first round of quarterly ARRA recipient reporting.

Thank you for the opportunity to review the draft report.

cc: Mark Schwartz, OIG  
T. Michael Kerr, OASAM  
Jane Oates, ETA  
Yvette Meftah, OSEC  
Richard French, OASAM  
Robert Poogach, OSHA  
Tom Dowd, ETA