



Stacey E. Pickering
State Auditor

Performance Audit Division Brief:
OSA's ARRA Monitoring and Oversight— Initial Report
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Introduction

When the American Recovery and Reinvestment Act (ARRA) was signed into law on February 17, 2009, Congress wanted to ensure the accountability of ARRA funds. The Federal Government subsequently enacted federal regulations and formed federal oversight teams to monitor the compliance of the monies disbursed to states. These regulations and teams attempted to create a standard whereby the federal government would establish unprecedented accountability of ARRA funds. Congress has stressed the impending role of states and recipient entities to place an added emphasis on the reduction of fraud, waste, and abuse of these stimulus dollars. The Mississippi State Auditor took these new requirements seriously and committed his agency -- regardless of funding -- to do as much as possible to ensure the proper expenditure and oversight of ARRA dollars.

To date, OSA has provided ARRA related training to more than 2,000 people working for cities, counties, school districts, universities, community colleges, and private and private non-profit entities.

Preparation

The Mississippi Office of the State Auditor (OSA) realized the need to begin assessments of agency preparedness before the funds were completely disbursed. OSA immediately began to plan how it would be possible to conduct "real-time" auditing; how it would rise to the task of unprecedented accountability; and how it would help State, other government, and non-government entities maneuver through what was to come. By April 2009, OSA

had assisted in updating purchasing laws and establishing its authority to monitor ARRA funds outside its normal auditing process.^{1 2} Through legislation, internal activities, and work with other agencies, OSA began various outreach and evaluation activities. OSA completed its first assessment of State agencies in a report issued on July 29, 2009.³

OSA has developed and conducted numerous training sessions and continues to work closely with other State oversight agencies, such as the Governor's Office, the Mississippi Department of Finance and Administration (DFA), and the Mississippi Department of Information Technology Services (ITS). These training sessions, along with technical assistance and continued guidance from ARRA-specific employees of OSA, help to ensure uniformity of accountability messages. Such training efforts also spread understanding for implementing the ever-changing federal rules and regulations

concerning the reporting of ARRA funds. To date, OSA has provided training to cities, counties, school districts, universities, community colleges, private and private non-profit entities, totaling more than 2,000 people who have received training. In addition, OSA continues to provide technical assistance through telephone calls and emails, in excess of 50 calls and/or emails a week. This has been, and continues to be, a process which OSA believes has set Mississippi at the forefront of establishing a practical means of implementing the unprecedented oversight necessary to ensure that funds are spent properly.

¹ Senate Bill 2923 <http://billstatus.ls.state.ms.us/documents/2009/html/SB/2900-2999/SB2923SG.htm>

² Senate Bill 3052 <http://billstatus.ls.state.ms.us/documents/2009/html/SB/3000-3099/SB3052SG.htm>

³ Preliminary Evaluations of State Agency American Recovery and Reinvestment Act Programs. July 29, 2009



Implementation

To meet our oversight objective, OSA has taken the undaunted approach of closely monitoring ARRA funded non-State entities—local government, private and public non-profits, private sector, etc.—to ensure that the oversight of ARRA funds disbursed within Mississippi is conducted in a truly unprecedented manner of objectivity, transparency, and accountability. By deciding to develop close working relationships with State governmental agencies such as the Mississippi Department of Finance and Administration (DFA), the Mississippi Governor's Office, Mississippi Information Technology Services (ITS), as well as local governmental and private sector entities, and including federal oversight entities such as the U.S. Government Accountability Office (GAO), the Federal Bureau of Investigation (FBI), and the Office of Inspector General (OIG), OSA has established a new standard for accountability that could extend beyond ARRA funding. To further strengthen its internal capacity, OSA has employed a private CPA firm through a competitive contract process⁴.

Best Practices

Recently, the Federal Government placed an added emphasis on the ability of oversight agencies to communicate, believing that networking is the best way that ARRA can be executed in a transparent and legal manner.⁵ Through OSA's growing network of experts, a task force comprised of these and other entities has led Mississippi one step closer to more effectively providing oversight and support, in addition to ensuring compliance of all ARRA funded entities in the State. Many members of this task force include various experts in their fields from both the governmental and non-governmental arena. These include attorneys, engineers, project managers,

⁴ Oversight, Assistance, and Monitoring of the American Recovery and Reinvestment Act in Mississippi: A Request for Proposals. RFP No. 09-08-04-OSA. August 4, 2009

⁵ John Long, Director of ARRA Investigations; Department of Transportation, The National Governors Association in conjunction with the Recovery Accountability and Transparency Board, State ARRA Training Notes. June 14-15, 2010.

educators, and accountants, who provide their service without cost to the State or recipients of stimulus funds.

In an effort to increase the transparency and accountability of stimulus funds dispersed within the State, OSA's working group communicates regularly to better understand, define, and implement federal guidelines uniformly; assist in the creation and promulgation of State reporting requirements and guidelines; as well as develop unified training. OSA believes this collaboration of entities with varying responsibilities and functions has allowed Mississippi a unique opportunity to take an active role in setting itself apart in the accountability arena.

Oversight

In addition to the training and technical assistance provided to Mississippi's recipients of ARRA funds, OSA set out to establish "real time" auditing and oversight activities by selecting a private CPA firm to assist OSA in its efforts. After a selection process of competitive bids from 16 private law, engineering, and CPA firms in the latter months of 2009, OSA selected and subsequently signed a contract with the CPA firm BKD LLP (BKD) in December 2009.⁶

In January of 2010, OSA and BKD established a monitoring plan. This oversight plan is designed to both assist non-State entities with technical information on federal reporting guidelines, as well as to provide OSA with a plan through compliance evaluations to ensure the entities' future compliance, transparency, and accountability. BKD provides OSA with a detailed report including its findings and recommendations of each entity monitored. These individual reports provide a unique opportunity to improve the overall monitoring plan, tailoring it to meet the needs as presented by the recipients of stimulus funds. The goals and objectives accomplished through these on-site monitoring evaluations include relevant technical information on federal and state guidelines, federal and state reporting, certifications, contracts and contract requirements, grants and bonds, internal controls, risk reduction, and fraud mitigation. In some cases, findings have already resulted in post-audits and criminal investigations.

In addition to the detailed report monitoring, the OSA contract also requires BKD to submit to OSA a bi-monthly

⁶ Oversight and Monitoring of the American Recovery and Reinvestment Act of 2009 in Mississippi: A Contract with BKD, LLP. December 22, 2009



report detailing the number of entities where on-site monitoring visits were conducted. During the first three months of fieldwork (February to April 2010), BKD, LLP visited 34 grant recipients and tested 80 separate grants, representing \$38,459,853 in ARRA funds. As a result of procedures performed there are a total of 101 findings summarized into the following compliance requirement areas as seen in Table A.

revisions to their internal control processes in order to improve compliance in the future.

In addition, it was discovered that there often is not clear and consistent guidance to the grant sub recipients regarding reporting from the various State agencies. The grant recipients expressed frustration over the reporting process, but most grant recipients appear to be exerting their best efforts to provide accurate reporting information.

Table A: Compliance Requirement Findings Related To:	Number of Findings
Allowable Costs/Costs Principles	7
Davis-Bacon Act Compliance	6
Procurement and Suspension & Debarment (PSD)- generally	5
(PSD) ARRA Specific Contract Terms	10
(PSD) Buy American	3
(PSD) Excluded Parties List Compliance	15
MS Express Products Lists	1
1512 Quarterly Reporting	30
Special Tests and Provisions--Separate Accountability of ARRA Funding	2
Special Tests and Provisions—Presentation on the Schedule of Expenditures of Federal Awards	1
Special Tests and Provisions--Posting of Whistleblower Provisions	18
Other	2

The on-site monitoring visits identified the greatest lack of compliance in 1512 quarterly reporting. It was found that much confusion still existed in how to properly report the number of jobs created/retained, especially due to the fact that the jobs reporting guidance was revised by the United States Office of Management and Budget (OMB) very late in the quarter via memo M-10-08, dated December 18, 2009⁷ In addition, there was still some confusion about which dollar amounts were needed to be reported in certain fields and whether the separate vendor tabs needed to be completed in the reporting.

For each finding, recipients were given specific recommendations for correcting existing errors in reporting and other documentation, along with recommendations for

Procurement and Suspension and Debarment is another area which contained a large number of compliance deficiencies. The majority of entities visited were not aware of the requirement to verify certain vendors to ascertain if the vendor is suspended or debarred from doing business with the federal government. While it is rare that a vendor is suspended or debarred, performing the search is still required. This requirement is not new due to ARRA.

From experience garnered from the aftermath of Hurricane Katrina, the Federal Government has vowed to stop the trend of vendors being convicted of fraud with no debarments being levied as a penalty. It promises to increase the number of debarments and suspensions in the

⁷ Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates. http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf



coming months and years.⁸ This places a greater emphasis on sub recipients' responsibility to be compliant with the requirement to verify a vendor's eligibility.

Unprecedented

The Federal Government vowed that the transparency and accountability associated with The American Recovery and Reinvestment Act of 2009 would be unprecedented. OSA believes that the commitment extended by this Agency is, by its nature, unprecedented. From the beginning, the State Auditor has stressed the importance of maintaining the system of post auditing and implementing this new rigorous "real-time" system to monitor the one-time ARRA funded programs.

Through collaboration with other State and Federal oversight agencies, non-governmental entities, public and private entities, and a vigorous plan to assist all of Mississippi's recipients of ARRA funds through guidance, training, assistance, and on-site monitoring, OSA believes that Mississippi has proven itself a leader in being accountable to each and every citizen, not only in this State, but in the nation.

Many cornerstones for Federal oversight have been established through the experience with ARRA. The transparency and accountability obligation will not be temporary. As a tenant of future Federal, state and local endeavors, institutionalization of transparency and accountability must be implemented in daily tasks in order to maintain a high level of oversight.⁹ Mississippi, through OSA and its network of partners, has created an unprecedented measure of accountability. Through continued monitoring, training, and technical assistance, the State is working to ensure compliance in all areas of federal funding, both present and future.

Currently, Mississippi is one of 16 states and the District of Columbia which are subject to bi-monthly reviews by the Government Accountability Office (GAO). These oversight and monitoring reviews look at expenditures as well as the long term affects of ARRA, including best practices and number of incidents of fraudulent behavior.

⁸ Omer Poirier, Chief Counsel; Department of Transportation, The National Governors Association in conjunction with the Recovery Accountability and Transparency Board, State ARRA Training Notes. June 14-15, 2010.

⁹ Frank DiGiammarino, Nancy DiPaolo, The Recovery Accountability and Transparency Board. The National Governors Association in conjunction with the Recovery Accountability and Transparency Board, State ARRA Training Notes. June 14-15, 2010.

This increased observation increases the need of all oversight agencies to develop and implement solid monitoring plans among its recipients of federal dollars.

In addition, Mississippi entities must comply with Section 1512 of ARRA by submitting quarterly reports about expenditures and jobs. These reports contain information on the number of positions paid for with ARRA funds as well as specific payments to vendors, completion percentages, and other data elements.

Looking Ahead

OSA will continue its efforts, with increased emphasis on information gathering, training, compliance monitoring, and collaboration with both federal and state oversight agencies. It is the goal of OSA to keep Mississippi in the forefront of the continued efforts to ensure the cornerstones of the act—transparency and accountability—are maintained.

This brief represents a summary of OSA's work and the first four months of work by BKD (of which the first two months design, development and testing where they "ramped up" to their full capacity). As the monitoring process is being developed and finalized, BKD has expanded its personnel and therefore increased significantly the number of entities being monitored. Further, through OSA's review and their input, they have refined and expanded their scope of work to create a much larger effort and broader exposure of ARRA program monitoring.

OSA believes that through the on-going oversight visits, compliance will continue to improve throughout the State. As entities become more familiar with the reporting process and gain a greater understanding of the ever-changing federal regulations, more accurate data will be reported with fewer findings being the desired outcome.

OSA has established a new standard of accountability that could extend beyond ARRA funding.