THE RECOVERY ACT IN PHILADELPHIA

ARRA COMPLIANCE & CONTROL GUIDE PHASES 1 - 5

Recovery
CITY OF PHILADELPHIA
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THE CITY OF PHILADELPHIA

AUGUST 2010

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Introduction

Control and Compliance

The Recovery Office is developing a control and compliance program with the Chief Integrity Officer and Inspector General to help the City manage risks associated with the Recovery program. This rule book is one of the products of that control and compliance program and is intended to help City officials clearly understand the audit and control requirements of their ARRA grant and thereby minimize and mitigate risks to the City and its staff.

The respective roles of the Recovery, Chief Integrity Officer and Inspector General are summarized at Annex A.1. If you are unclear about any of the guidance contained in this document do not hesitate to contact a member of the team listed below.

The Deputy Integrity Officer will contact all Program Managers to schedule an appointment to identify key risks associated with individual grants and, where deemed necessary, to schedule a mock-audit.

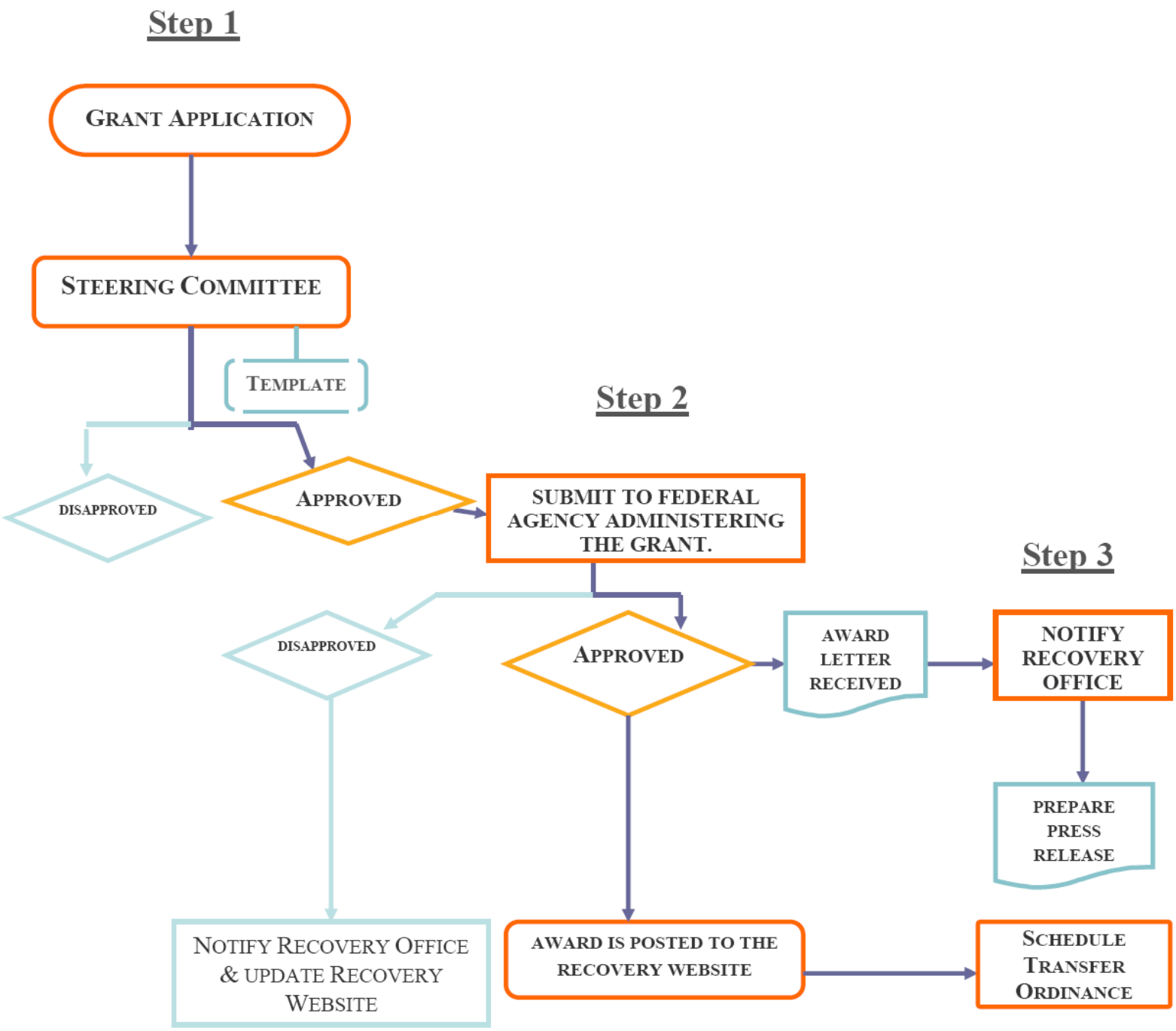
Transparency and Accountability

The Recovery Act requires unprecedented levels of transparency and accountability in the management of ARRA grants and related activity. The City is committed to ensuring that the citizens and businesses of Philadelphia have access to the best possible information. The Recovery website at www.phila.gov/recovery is one of the main vehicles in which openness and transparency will be achieved. A summary of all grants, including expenditures, jobs created and retained and achievements will be posted and regularly updated on the website. You are encouraged to use the website to publicize activity relating to your ARRA grant. Note: **All press inquiries must be directed to the Recovery Office**.

Contacts

1. **Maari Porter – Deputy Recovery Officer for Recovery**
   215-686-6131 **maari.porter@phila.gov**
2. **Adam Telem – Deputy Integrity Officer**
   215-686-2120 **adam.telem@phila.gov**
3. **Cara Lindsey – Chief Financial Investigator, Office of the Inspector General**
   215-685-6058 **cara.lindsey@phila.gov**

Phase 1 – Application



Phase 1 – Application

The goal for this phase is to ensure your application is in line with the City's strategic goals and ethics and to ensure it does not duplicate applications from other departments.

Step 1: Submission to Recovery Steering Committee

Program Managers are to submit their draft application to the Recovery Steering Committee for review and comment ***prior*** to submitting to federal or state agencies. A template (Annex A.2) is provided - for presentational purposes you should also consider providing a brief PowerPoint presentation outlining the purpose, the total amount applied for, the projected jobs created, the partners involved and key outcomes. This will be posted on the City's Recovery website.

The Recovery Steering Committee meets regularly with the meeting televised on Channel 64. Email the Recovery Office to find out when the next meeting will be held.

If non-City partners are listed in the application, you are advised to submit your application to the Law Department and the Chief Integrity Officer for review prior to presenting the application to the Recovery Steering Committee.

Step 2: Submit to Federal or State Agency

Submit application to federal or state agency following approval by the Steering Committee.

The Recovery Office will post a brief summary of your application on the Recovery website and identify your grant as "pending".

If approved or declined, including an informal notification by your federal or state agency, you must notify the Recovery Office.

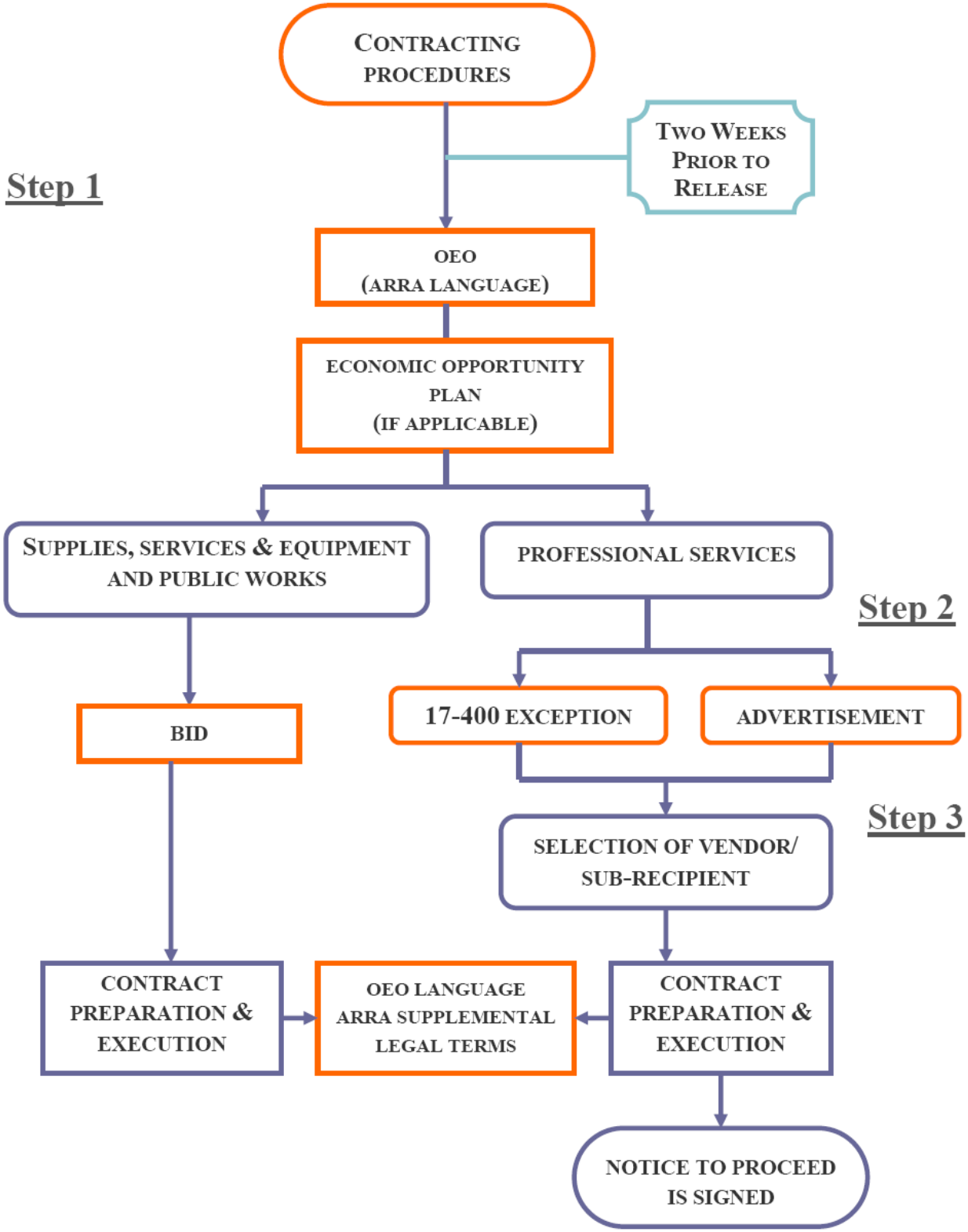
If approved, engage the Press Office to assess if a press release should be prepared – this will be posted on the City of Philadelphia homepage, as well as the Recovery website.

Step 3: Award Letter Received

Notify the Recovery Office and the Grants Accounting and Administration Unit ("GAAU") once an award letter has been received. The GAAU will help initiate the grants process in the city's books and records.

A Transfer Ordinance will be required if you have not provided for the ARRA grant in your department's FY11 budget. Program Managers must notify the Recovery Office soon as possible if a Transfer Ordinance is required so a hearing can be scheduled in a good time. ***No transfer ordinance means no spending***.

Phase 2 – Contracting Procedures



Phase 2 – Contracting Procedures

The goal for this phase is to create an efficient, accountable and transparent method for executing contracts paid for with ARRA funds. Project Managers are encouraged to begin this process as quickly as possible to ensure compliance with spending deadlines. ***No contract means no spending.***

TO ENSURE COMPLIANCE WITH FEDERAL GRANTS, EVERY CONTRACT SHOULD BE SENT TO THE APPROPRIATE CITY AGENCY FOR APPLICATION OF AFFIRMATIVE ACTION RULES. IF THERE IS ANY QUESTION AS TO THE APPROPRIATE CITY AGENCY, THE LAW DEPARTMENT SHOULD BE CONSULTED.

Step 1: Submission to Office of Economic Opportunity (OEO)

For contracts that will undergo OEO review the following requirements apply:

All contracts subject to 8-200 of the Philadelphia Home Rule Charter or Chapter 17-1400 of the Philadelphia Code must be sent to OEO for review at least two weeks prior to posting. Each department has an OEO liaison. A list of OEO liaisons and departments covered is attached (Annex A.3).

ARRA Non-Competitively Bid Contracts anticipated to cost the City more than $1,000,000 **and** requiring approval by City Council must have an Economic Opportunity Plan. For ARRA purposes, approval by City Council would mainly be required when departments want the initial term of the contract to be for a period greater than one year.

ARRA Competitively Bid Contracts anticipated to cost the City more than $250,000 must have an Economic Opportunity Plan.

These Economic Opportunity Plan determinative values are project based and not expenditure based. This means that the threshold for the EOP requirement is based upon the total value of the contract and not the total amount of ARRA dollars involved. Even if only $1.00 of ARRA money is used, if the value of the project is greater than $250,000 (meaning there are other sources of funding), you must have an economic opportunity plan.

The Recovery Office and OEO are developing a process, with departments, to track and report on achievement of participation ranges applied to those contracts receiving ARRA funding. Details of this process will follow separately.

Step 2: Advertisement of Contracting Opportunity

All ARRA solicitation documents (e.g., RFPs and bid specifications) ***must*** contain the following language:

- "Any contract resulting from this solicitation shall be subject to appropriation of funds by Council of the City of Philadelphia."

- "This opportunity is ARRA funded. The City must comply with all current and future reporting requirements established by the ARRA and the federal or Commonwealth

of Pennsylvania agencies having jurisdiction over ARRA funds. By submitting a response to this RFP, applicant agrees to cooperate with the City and provide to the City any data and information necessary to comply with ARRA Section 1512 as well as, in addition, any other information requested by the City. This commitment will be incorporated into any contract awarded pursuant to this RFP."

This language should be placed clearly and conspicuously on the applicable solicitation document to ensure that potential respondents are reasonably on notice of this important condition to the City entering into these contracts.

Step 3: Award & Contract Process

The City's standard procedures for contracting are applicable to all ARRA contracts, including both competitively bid and non-competitively bid contracts. This step is designed to highlight only those items which are in addition to, and not in lieu of, the City's standard procedures. Under no circumstances should project managers deviate from the City's standard practices without first consulting with the Law Department and the Office of the Chief Integrity Officer.

All contracts entered into ACIS must contain the phrase "ARRA Funded" in the "Scope of Services" field. This will help the Recovery Office to track ARRA professional contracts.

All contracts must include the applicable, OEO approved participation ranges. Contracts awarded pursuant to a competitive bid or RFP containing an Economic Opportunity Plan must contain all applicable letters of intent, quotations and any other accompanying documents regarding solicitation and commitments with minority, women and disabled owned businesses ("M/W/DSBE"), including the Best and Good Faith Efforts Form.

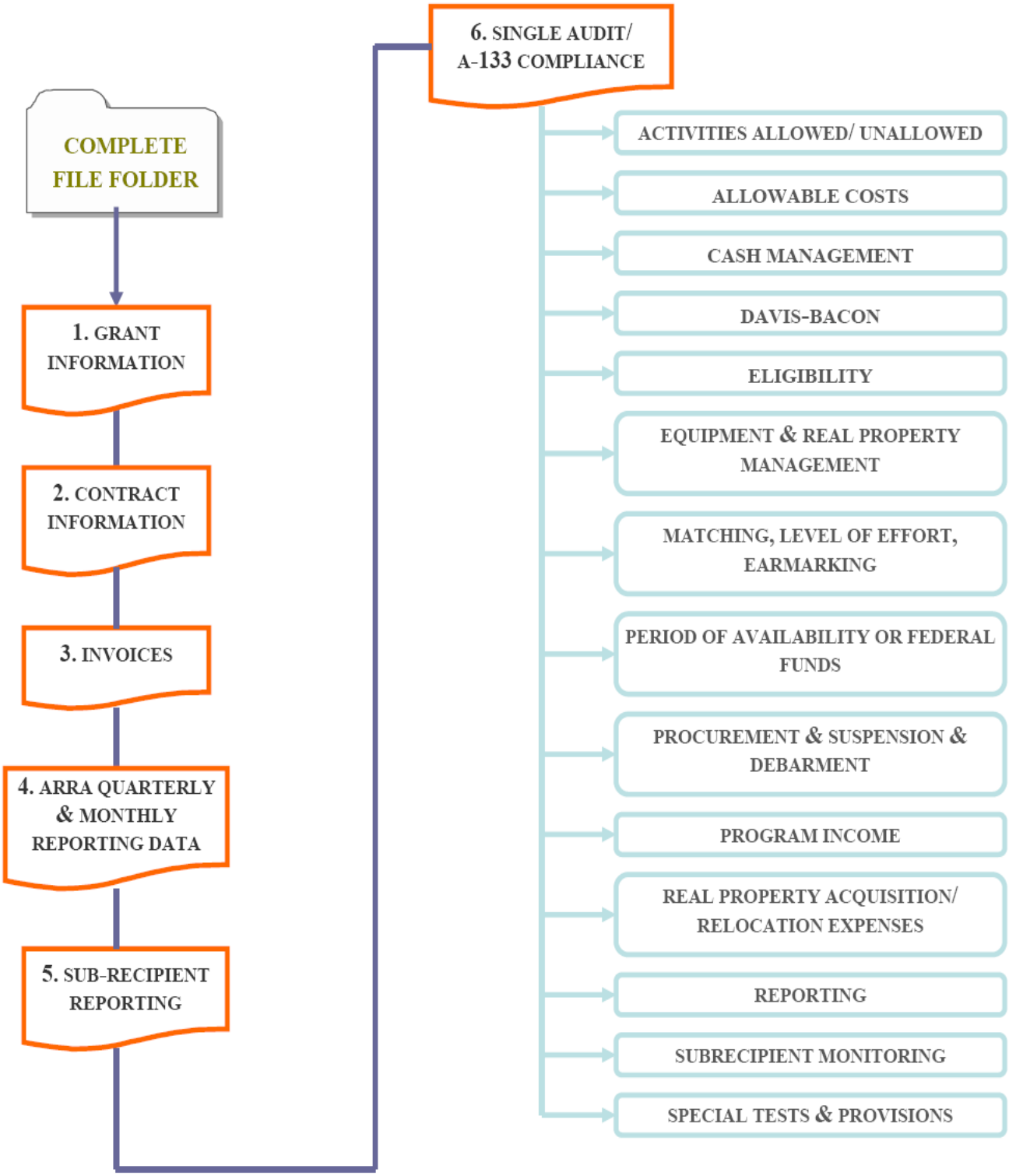
If amending an existing contract, the existing OEO approved participation ranges carry forward and apply to the added ARRA dollars.

All departments must keep accurate records of purchase orders issued off of Procurement Department contracts.

All non-competitively bid contracts must also contain the "Addendum to Contract Supplemental Terms and Conditions for ARRA Funded Non-Competitively Bid Contracts." (Attached Annex A.4). All competitively bid contracts must contain the "Addendum to Contract Supplemental Terms and Conditions for ARRA Funded Contracts Subject to Competitive Sealed Bid by City's Procurement Department." (Attached Annex A.5).

The Recovery Office will maintain a centralized list of M/W/DSBE participation in all ARRA contracts. This list will also include participation information arising from federally mandated affirmative action programs. The Recovery Office will request updated information every quarter. This list will be made publicly available.

Phase 3 – Documentation Requirements



Phase 3 – Documentation Requirements

The goal for this phase is to provide a clear and comprehensive checklist of what constitutes a good file that will satisfy ARRA and City, state and federal audit controls and requirements.

Federal Office of Management and Budget have declared that programs with ARRA awards – no matter how small – are to be treated by auditors as "high-risk." So remember—***document, document, document!***

"If an activity or action is not documented, it does not exist."
—City Controller's Office

If you seek clarification and are unsure about any of the provisions listed below, do not hesitate in contacting Adam Telem, Deputy Integrity Officer or Cara Lindsey, Chief Financial Investigator.

Contents of a Complete File:

Maintaining information on the five categories described below will ensure that you have a complete file for grant monitoring and reporting purposes.

1) Grant Data—**Files must contain all of the applicable grant documents. This includes the following:**

- Grant application
- Grant award letter or memo
- Grant amendment(s)
- Documents containing directives from state and federal agencies, e.g., OMB, detailing administration and reporting requirements applicable to that grant—
  - Bulletins
  - Memos
  - Letters
  - E-mails
- Documents tracking grant funds received by state and federal agencies, e.g., cashed checks, reimbursements and wire transfers. The GAAU must have a copy of all these documents.

Documentation covering federal reporting requirements for grants is covered in #4 on pg. 10.

2) Contract Information—**Files must contain a copy of the final versions of the following contract documents:**

- All RFPs and responses, including documents created during the evaluation process.

- Conformed contracts and all amendments, change orders and other related documentation.

- Documentation evidencing project status and performance including compliance with the deadlines and project schedules set forth in the contract. You should have a back up plan prepared to protect against delays in the event your contractor fails to perform satisfactorily.

Examples:

- Capital Improvement/Infrastructure projects – purchase orders/invoices, quality assurance documentation, photos, reports of inspection by City monitors

- Training programs – training materials, dates/times/places of training, attendance records, identification of trainers, spot visits by monitors

- Job placement – pay stubs, W-2 forms, payroll records, employment contracts

- Documentation of sub-recipient monitoring, including site visits.

- Documentation evidencing compliance with OEO guidelines.

- Documentation that all contractors and subcontractors have current business privilege licenses (should consult with L&I) and are tax compliant with the City (should consult with Revenue Department).

- Any promotion/communication materials used by contractor in performance of the contract, e.g., community outreach.

- Proof of eligibility of all beneficiaries.

Examples:

- Proof of Income – W2 forms, pay stubs, age and energy use for programmatic grants
- Proof of Age – birth certificate or drivers license
- Proof of Property Ownership – deed or property tax bill
- Proof of Energy Use – utility bill
- Proof of Education Level – school attendance records or documents evidencing drop-out
- Governmental assistance – Food stamps, Medicaid cards, welfare payments
- Residency – utility bill, drivers license or phone bill
- Identification – drivers license, Social Security card or passport

3) **Invoices—All invoices must be in the file and should contain the following information:**

- Vendor/sub-recipient name
- Contract number
- Invoice amount
- Total amount invoiced to date
- Total amount already paid to vendor
- Itemized costs
  - Time and Materials Contracts
    - Name of individual providing services
    - Hours worked
    - Hourly rate
    - Description of services provided
    - Deliverables/milestones completed
  - Fixed Priced Contracts
    - Name of individuals providing services
    - Hours worked
    - Description of services performed
    - Deliverables/milestones completed
    - Cost of each deliverable/milestone
- Subcontractor information
  - Name of all subcontractors providing services (including subcontractors' subcontractors and any other company being paid with ARRA funds)
  - Invoice amount and basis (e.g., hourly rate or fixed price)
  - Description of services performed
- OEO Information
  - Name of each MBE/WBE/DSBE subcontractor
  - Name of all individuals providing services

- Compensation owed to each MBE/WBE/DSBE subcontractor/s under current invoice (vendors should note if none rather than omit MBE/WBE/DSBE subcontractor)
- Description of services performed by each MBE/WBE/DSBE subcontractors under the current invoice (vendors should note if none rather than omit MBE/WBE/DSBE subcontractor)
- Compensation paid to each MBE/WBE/DSBE subcontractor to date
- Representation from vendor concerning accuracy of OEO information

4) **ARRA Quarterly and Monthly Reporting Data — The next section of your files should contain the complete files for 1512 quarterly reporting and regular, typically monthly, reporting to your federal or state agency**. You should refer to your specific grant conditions for the regular reporting requirements, as each grant has distinct requirements.

Accountability

It is important to show auditors, investigators, the public, Council and anyone else who asks:

- Objective of the grant
- Items/services to be purchase with the grant
- Process for choosing contractors comports with City requirements (including OEO requirements)
- Process for choosing clients/beneficiaries is objective
- Process for monitoring contract/spending of grant money
- Job counting calculations
- Administrative Cost Tracking
- Accurate reporting to your federal or (if applicable) state agency

The American Recovery and Reinvestment Act of 2009 requires, as a condition of the receipt of funds, quarterly reporting on the use of funds.

An entity that receives assistance funding under the Recovery Act must report information including, but not limited to:

1. The total amount of recovery funds received from that agency.

2. The amount of recovery funds received that were expended or obligated to projects or activities.
3. A detailed list of all projects or activities for which recovery funds were expended or obligated.
4. Detailed information on any subcontracts or sub-grants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006.

a. Documentation Requirements

Your files should contain copies of the following:

- All Section 1512 quarterly reports submitted to federalreporting.gov or to state agencies.
- All financial and performance reports submitted to federal or state agencies.
- Job creation and retention data:
  - For quarterly FTE calculations you should keep records of:
    - Name of employee
    - Name of employer
    - Position
    - Start of employment date
    - Bi-annual certification is required for employees working 100% on the grant. Annex A.6 contains a template certification form.
    - For employees not working 100% on the grant you must have documentation to prove time spent on ARRA funded projects, i.e. project summary sheets. A timesheet alone is not enough.
    - Total hours worked per person per quarter and total hours worked on ARRA per quarter. For tracking and verification purposes you should be able to identify, through timesheets, the total hours worked per week over the 13

week period of the quarter and of that, those hours solely on ARRA. (Refer to OMB guidance for FTE calculation at Annex A.7).

- In some cases federal and state agencies require grant recipients to also count jobs differently to that required by OMB for 1512 purposes. If that is the case your file should include documentation containing directives from these agencies about how to count jobs created or retained, including bulletins, letters and emails.

- Expenditure data

  - FAMIS spreadsheet provided by the Grants Accounting Office at the end of the quarter as the City requires that reported expenditures match FAMIS.

  - If your federal or state agency specifically requires that you provide additional expenditure information, for example obligations (encumbrances) you should document and file the request and any additional financial data you provide.

5) **Sub-Recipient Reporting** – The requirements for invoicing, job creation or retained data and expenditures will cover many of your responsibilities for sub-recipient monitoring. However, there is one general requirement that you should take notice of:

- **All sub-recipients receiving contracts above $500,000 are required to submit an audit and any corrective action taken on the audit findings.** The audit should be submitted to your fiscal office and the GAAU. The Law Department will ensure this requirement is included within your contract language.

All sub-recipients receiving contracts above $500,000 are required to submit an audit and any corrective action taken on the audit findings.

- A copy of any audit commissioned by a sub-recipient and submitted to the City must be kept on file. Any correspondence between the City and sub-recipient pertaining to corrective action must also be filed.

6) **Single Audit/A-133 Compliance** – Single Audit/Section A-133 is the bible by which City and federal auditors conduct their work for all federal grants, irrespective of ARRA or not.

Maintaining files in accordance with the information detailed above in Items 1) – 5) of this Phase 3 will proactively mitigate any auditing risks arising out of the guaranteed A-133 Compliance and Single Audit. For completeness the general requirements are outlined below.

All files should contain documentation evidencing compliance with the following general concerns. Requirements 1 through 14 will **not** apply to all grants**.** Some of the documentation necessary to establish A-133 Compliance and Single Audit Compliance may be the same as the items required under items 1) – 5) of this Phase 3.

Please refer to www.whitehouse.gov/OMB/circulars/a133_compliance, as well as Cara Lindsey and Adam Telem to determine which of the following compliance requirements pertains to your grant.

General Requirements of Single Audit/A-133 Compliance

1. Activities Allowed or Unallowed

To provide reasonable assurance that federal awards are expended only for allowable activities and that the costs of goods and services charged to federal awards are allowable and in accordance with the applicable cost principles.

No ARRA funds may be used for:

- Casino or other gambling establishment
- Aquarium
- Zoo
- Golf Course
- Swimming Pool

No ARRA funds may be expended or used for the construction or repair of a public building unless all of the iron, steel, and manufactured goods used in the project were produced in the United States.

2. Allowable Costs/ Cost Principles

- Costs should not be documented solely by memorandum
- Bi-Annual Certifications maintained for employees working 100% on grant
- Personal activity reports supporting amounts charged (to grants) for employees working on multiple activities or cost objectives maintained

The department should certify the hours worked and timesheets from the contract agency should be made available for audit. Timesheets should be kept on file along with the corresponding invoice that will also be subject for review/audit.

3. Cash Management

To provide reasonable assurance that the drawdown of federal cash is only for immediate needs, states comply with applicable Treasury agreements, and recipients limit payments to sub recipients to immediate cash needs.

4. Davis-Bacon Act

To provide reasonable assurance that contractors and subcontractors were properly notified of the Davis-Bacon Act requirements and the required certified payrolls were submitted to the non-federal entity.

5. Eligibility

To provide reasonable assurance that only eligible individuals and organizations receive assistance under federal award programs, that sub awards are made only to eligible sub

recipients, and that amounts provided to or on behalf of eligibles were calculated in accordance with program requirements.

6. Equipment & Real Property Management

Proper records are maintained for equipment acquired with federal awards, equipment is adequately safeguarded and maintained, disposition or encumbrance of any equipment or real property is in accordance with federal requirements, and the federal awarding agency is appropriately compensated for its share of any property sold or converted to non-federal use.

7. Matching, Level of Effort & Earmarking

Matching, level of effort or earmarking requirements are met using only allowable funds or costs which are properly calculated and valued.

8. Period of Availability of Federal Funds

Federal funds are used only during the authorized period of availability.

9. Procurement, Suspension & Debarment

Procurement of goods and services are made in compliance with the provisions of the A-102 Common Rule or OMB Circular A-110, as applicable, and that covered transactions (as defined in the suspension and debarment common rule) are not made with a debarred or suspended party.

No ARRA funds may be expended or used for the construction or repair of a public building unless all of the iron, steel, and manufactured goods used in the project were produced in the United States.

10. Program Income

Program income is correctly earned, recorded, and used in accordance with the program requirements.

11. Real Property Acquisition & Relocation Assistance

Compliance with the real property acquisition, appraisal, negotiation, and relocation requirements.
Equipment purchased with grant funds MUST be used for grant related activities.

12. Reporting

Reports of Federal awards submitted to the Federal awarding agency or pass-through entity include all activity of the reporting period, are supported by underlying accounting or performance records, and are fairly presented in accordance with program requirements.

13. Subrecipient Monitoring

Federal award information and compliance requirements are identified to subrecipients, subrecipient activities are monitored, subrecipient audit findings are resolved, and the impact of any subrecipient noncompliance on the pass-through entity is evaluated. Also, the pass-through entity should perform procedures to provide reasonable assurance that the subrecipient obtained required audits and takes appropriate corrective action on audit findings.

14. Special Test & Provisions

The specific requirements for Special Tests and Provisions are unique to each Federal program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program.

Central Contractor Registration

The Recovery Act requires recipients of Recovery Act funds, including those receiving funds directly from the Federal government, to register in the Central Contractor Registration (CCR) database.

Buy American

Projects funded by the Recovery Act, for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies.

Separate Accounting

To maximize the transparency and accountability of funds authorized under the Recovery Act, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. Recipients should understand their responsibilities with respect to tracking, accounting and reporting transactions during the award and in preparing audit documentation and reports.

Waste, Fraud and Abuse

Each grantee or sub-grantee awarded funds made available under the Recovery Act shall promptly refer to the Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

Whistleblower Protection

An employee of any non-federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector

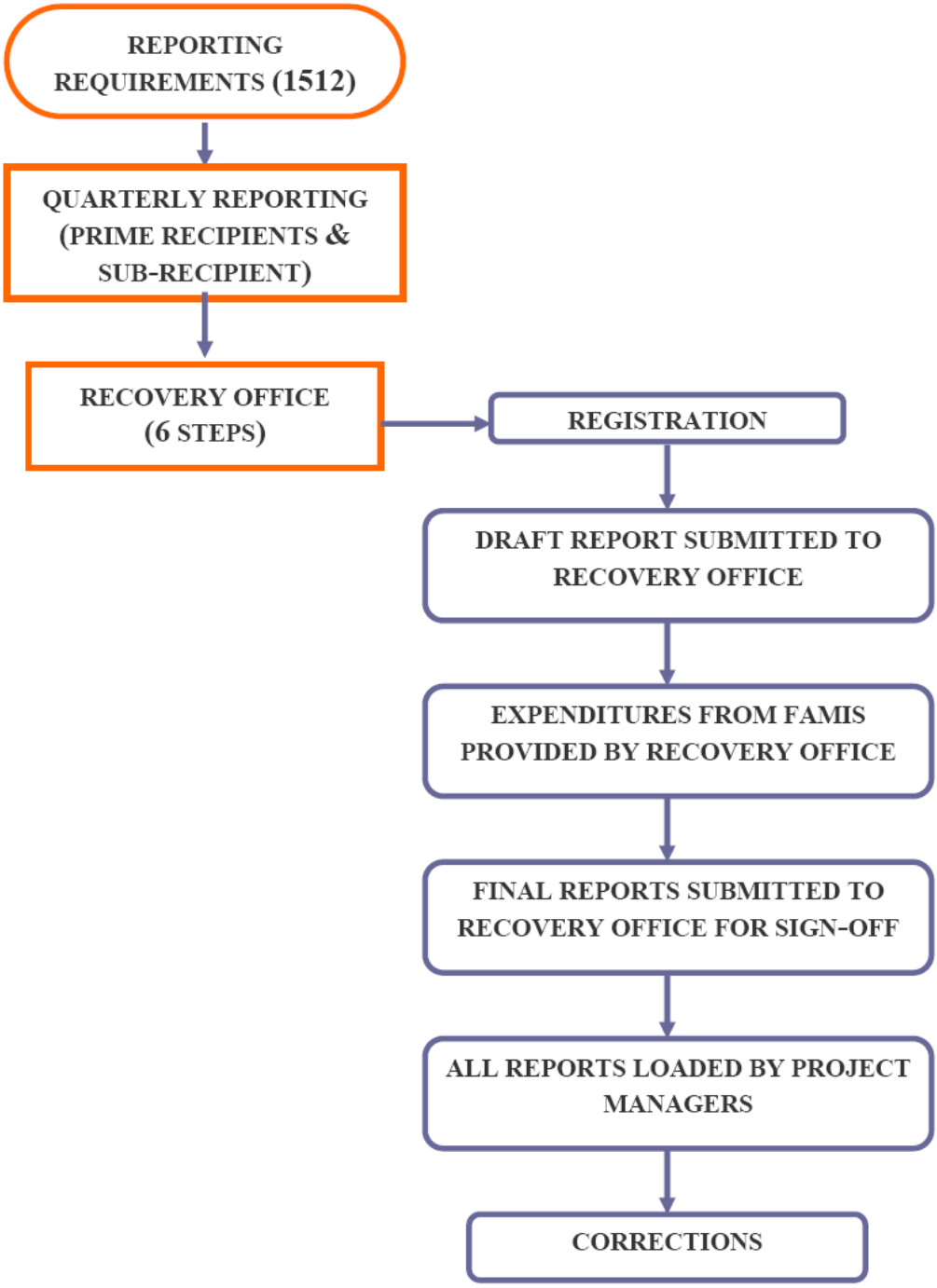
general, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a federal agency, or their representatives, information that the employee reasonably believes is evidence of:

1. Gross mismanagement of an agency contract or grant relating to covered funds.
2. Gross waste of covered funds.
3. A substantial and specific danger to public health or safety related to the implementation or use of covered funds.
4. An abuse of authority related to the implementation or use of covered funds.
5. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Post-Certifications

With respect to covered funds made available to state or local governments for infrastructure investments, the governor, mayor, or other chief executive, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars.

Phase 4 – Quarterly Reporting Policies & Procedures



Phase 4 – Quarterly Reporting Policies & Procedures

The City, in its role as either the prime or sub-recipient, is required by Section 1512 of ARRA to provide quarterly reports to federal or state agencies on, amongst other things:

- Who is receiving ARRA dollars and in what amounts?
- What projects or activities are being funded with Recovery Act dollars?
- What is the completion status of such projects or activities?
- What is the impact on job creation and retention?

These details are published on www.recovery.gov website as well as being summarized on the City's website. Accuracy is essential.

Contact the Recovery Office if you are unclear or unsure about 1512 reporting requirements.

The Recovery Office has established procedures and milestones that all ARRA grants awarded to the City must follow. No 1512 report shall be filed on reporting.gov or with the State without the express, written approval of the Recovery Office.

2010 Reporting Quarters

Prior to the start of each quarter the Recovery Office will send a memo to Policy Managers for circulation to all staff within their department working on ARRA setting out the procedures and milestones for that quarter.

Below is an outline of the key procedures and milestones for the June 30 quarter.

ARRA 1512 RECIPIEINT REPORTING CHECKLIST		
1.	**REGISTRATION JUNE 15 ONWARDS.** For grants awarded after March 31, 2010, you must register with www.federalreporting.gov/federalreporting/registration.do	☐
2.	**DRAFT REPORT(S) SUBMITTED TO RECOVERY OFFICE BY JUNE 25** Complete report (using 1512 excel spreadsheet template) excluding financial information. And provide roster/calculator of jobs created or retained.	☐
3.	**RECOVERY OFFICE REIVEWS DRAFT REPORTS BETWEEN JUNE 25 AND JUNE 30.**	☐
4.	**EXPENDITURES FROM FAMIS PROVIDED BY RECOVERY OFFICE JUNE 30 - JULY 02 AND DEPARTMENTS TO PROVIDE EVIDENCE OF PAYMENTS TO SUBRECIPIENTS/VENDORS.** Financial information as of 30 June will be provided to Policy Managers for the final 1512 report. Department to confirm evidence of payment with FAMIS screenshots.	☐ ☐
5.	**FINAL REPORTS SUBMITTED TO RECOVERY OFFICE FOR SIGN-OFF ON OR BEFORE JULY 06.** Final reports including financial information as of June 30 and job rosters to be submitted. Signed verification to also be submitted.	☐
6.	**ALL REPORTS LOADED BY PROJECT MANAGERS ON JULY 08.** All final and approved reports uploaded to www.federalreporting.gov or submitted to the State. Evidence of providing the report to federal or state governments emailed to the Recovery Office.	☐ ☐
7-8.	**CORRECTIONS.** Continuous corrections can be made from JULY 04 throughout the quarterly period. Send a note of corrections sought by federal agencies to the Recovery Office. **PUBLICATION ON JULY 31, 2010.**	☐

Phase 5 – Close-Out Requirements

This will be determined when federal guidelines are released.