American Recovery and Reinvestment Act (ARRA)

Transparency & Accountability

NJ Inspector General Mary Jane Cooper
December 16, 2009

Governor Corzine's New Jersey Recovery Accountability Task Force

- The New Jersey Recovery Accountability Task Force was created in March 2009 by Governor Corzine to review every step of the process and ensure that recovery funds are awarded based on clear and appropriate criteria and then distributed in a prompt, fair and reasonable manner.

- The Task Force is comprised of professionals with extensive backgrounds in government and government oversight. Its efforts are directed at creating a framework under which ARRA funds in New Jersey are spent transparently and effectively.

- The Task Force is Co-Chaired by the Governor's Chief of Staff Ed McBride and the State Comptroller Matt Boxer and includes:

NJ Medicaid Inspector General Mark Anderson
NJ Inspector General Mary Jane Cooper
NJ Chief Technology Officer Adel Ebeid
Former NJ State Auditor Richard Fair
NJ Director of Office of Management & Budget Charlene Holzbauer
Former NJ OMB Director Richard Keevey
Governor's Deputy Chief of Staff Diane Legreide
Former U.S. OMB Official David Sandahl

Transparency and Accountability

- **Extraordinary amount of money brings extraordinary responsibility**
- **Everyone is responsible to ensure that ARRA funds are used in a manner that is:**
  - **Efficient**
  - **Economical**
  - **Effective**
  - **Ethical**
  - **Equitable**

Protect the Funds

Task Force Goal: Our goal is your goal, to protect the funds while meeting the goals and objectives of ARRA

▸ Internal Control Training Initiative

▸ Task Force issued initial guidance memorandums:
  ◦ April 21, 2009 Memorandum to State Department and Agencies
  ◦ August 10, 2009 Memorandum to NJ Local Governmental Units

Federal ARRA Oversight: Unprecedented Oversight

- The Recovery Act requires Government Accountability Office (GAO) to do bimonthly reviews of the use of funds by selected states and localities.

- Describe states' and localities:
    - Use of funds
    - Up-front safeguards and ongoing monitoring, audits, and evaluations
    - Plans to evaluate the impact of funds

- New Jersey is 1 of 16 states subject to GAO review
- Federal IG's receive $120M for additional oversight activities related to ARRA
    - Increased staff means more audits

Other GAO Reports
GAO Section 1512 Reporting

Report Issued November 19, 2009

Findings:

Range of significant reporting and quality issues that need to be addressed:

- Erroneous or questionable data entries that merit further review
- Approximately 10% of recipients did not report
- Most Sub recipients report that prime recipient conducted quality review but over 75% of the prime reports were marked as having undergone review by a federal agency
- Inconsistent interpretation of the guidance for the reporting of jobs and the full time equivalent (FTE) data collection measurement

Other GAO Reports
GAO Section 1512 Reporting

- **Recommendations to OMB:**
  - Continuing to work with federal agencies to increase recipient understanding of the reporting requirements and guidance

  - Improve consistency of FTE data collection and reporting

  - Work with Recovery Accountability and Transparency Board and federal agencies to re-examine and review the quality assurance processes, procedures, and requirements in light of experiences and identified issues

GAO Emphasis on Internal Controls

Effective internal controls over the use of ARRA funds are **critical** to help allow effective and efficient use of resources, compliance with laws and regulations, and in achieving accountability over ARRA programs

September 23, 2009 GAO report, page 116

Single Audit

Federal Single Audit is not a new requirement but will have a greater emphasis with ARRA funds

- OMB Circular A- 133: Single Audit Act
  - All units of local government that expend $500,000 or more in Federal funds during the fiscal year are required to have a Single Audit
  - ARRA funds mean additional Federal funds could cause need for Single Audit
  - Single Audit is organization-wide and includes the entity's financial statements as well as Federal awards
  - Important monitoring tool for appropriate use of ARRA funds

GAO Concerns with Single Audit and Reporting of Internal Controls

- Current system does not provide for timely reporting of internal control deficiencies and weaknesses

- Single Audit reports may be due earlier (6 months compared to current 9 months)

- Extensions may not be granted

GAO Recommendations

- Early written communication of internal control deficiencies to achieve the objective of more timely accountability over ARRA funds

- Pilot Project for Single Audits

State & Federal Oversight and Monitoring

- You can count on enhanced oversight, monitoring and scrutiny from the following:
    - **NJ Attorney General – Division of Criminal Justice**
    - **State Auditor**
    - **State Comptroller**
    - **State Office of the Inspector General**
    - **State Commission of Investigation**
    - **State Ethics Commission**
    - **Federal OMB – Circular A-133: Single Audit**
    - **GAO**
    - **Federal Agencies**
    - **Federal Inspectors General**
    - **Public (Recovery.gov & NJRecovery.gov Websites)**
    - **Media**
    - **Local Independent Public Accountants**

What does the enhanced monitoring and oversight mean?

- You will be audited
- Each oversight agency has its recourses for lapses in compliance with the requirements under their cognizance
  - Reported audit findings (negative public perception)
  - Continued monitoring and oversight
  - Fines, penalties, return of funds
  - Criminal investigations

Being Prepared for the Audit

◉ Be ready:
- Maintain robust, effective internal controls
- Understand program goals
- Understand funding requirements
- Know applicable rules and regulations
- Ensure timely, accurate reporting
- Attend and provide ongoing training
- Continually monitor internal controls
- Maintain adequate supporting documentation
- Have your ARRA documents segregated and ready

If they find a problem – they will be back

Prior Audits:

- Current entity audit report findings (including single audit) will be examined by GAO (and other oversight agencies)

- Management response including corrective action will be under scrutiny

How to ensure appropriate use of ARRA funds

1. Internal Controls
2. Internal Controls
3. Internal Controls

Either address the issue now or later in a public forum

What is Internal Control?

Definition:

Internal control is a process, effected by an entity's management and other personnel, designed to provide reasonable assurance that the entity's objectives are being met without wasting resources.

Simply, internal controls are the plans, methods and procedures used to meet an entity's mission, goals, and objectives

Internal Controls - Basics

- Internal Control is Management 's Responsibility
- Incorporate the qualities of good management
- All staff have a role and controls will be effective when all of the people and the surrounding environment work together
- Are dependent upon the people and will succeed or fail depending on the attention people give to it
- Provide a level of comfort to an organization – controls do not guarantee success
- Help an organization achieve its mission
- Minimize fraud

Common sense should prevail– cost should not exceed benefit

Internal Control: Management Objectives

- Effectiveness and efficiency of operations

  (good use of tax dollars; meet program goals or legislative intent)

- Reliability of financial reporting

- Compliance with applicable laws and regulations.*

Internal Control:
Fundamental Concepts

- A continuous built-in component of operations

- Effected by people

- Provides reasonable assurance, not absolute assurance*

- Geared to achievement of objectives

*GAO Standards for Internal Control in the Federal Government
November 1999

Components of Internal Control

5 Interrelated Components:

    1. Control Environment

    2. Control Activities

    3. Risk Assessment

    4. Information and Communication

    5. Monitoring

Control Environment

- Core of any system of internal control – serves as the foundation
- It sets the tone for the entire organization
- Effective internal controls need positive, strong tone from the top
- Management communicated acceptable business practices, conduct and policies to staff
- Management demonstrates concern for conduct by performing important control procedures such as authorization of transactions, review of reconciliations
- Responsive to prior audit recommendations and makes timely corrective action

Control Environment Includes:

- Ethics and integrity of the administration and employees
- Commitment to competence at all levels (knowledge and skills, defined tasks)
- Entity operating system and attitude towards controls (management philosophy)
- Human Resource polices and practices
- Organization structure (centralized or decentralized)
- Delegation of Authority and Responsibility
- Relationship with Oversight Agencies

  - If management thinks controls are important, employees are more likely to follow suit

Risk Assessment

- Management must identify, analyze, and manage risks that affect its objectives

- Evaluation to determine those areas and functions within the entity and each department that have risk of errors, noncompliance, and fraud

- Controls may then be put in place to help mitigate the risks identified during the assessment

Risk Identification

- Risk is the probability of an event or action having an adverse effect on the organization

- Examples of Risk:
  - Assets are not adequately safeguarded against loss
  - Financial and operating reports are unreliable
  - Operations are not operating effectively / efficiently
  - Operations are not in compliance with laws, rules, and regulations

Control Activities

- Consist of the specific policies and procedures that are put in place to mitigate the risk of error, noncompliance, and fraud

- Policies and procedures help ensure management directives are carried out

- Occur throughout the organization at all levels and in all functions

Types of Control Activities

- Security of assets
- Segregation of duties
- Authorization of activities
- Appropriate approval of transactions
- Verification and Reconciliation
- Adequate documentation
- Information Processing
- Independent performance review

Security of Assets

Designed to minimize the danger of loss or misuse

Includes:

- Controlled Access
- Unique user IDs and passwords
- Physical Security
- Backup for computer records
- Disaster Recovery

Physical Control of Assets

Control Assets - Limit or restrict access through the use of management authorizations, locks, passwords, data encryption

- Accounting Records, Blank checks
- Cash
- Entity Owned Vehicles and Equipment
- Supplies
- Building
- Computer Programs

Perform periodic unannounced inventory verification

Segregation of Duties

- Reduces the risk of both erroneous and inappropriate actions

- Designed to prevent any one person from performing incompatible duties:

    Responsibility for operations should be separate from the related record-keeping

- Three functions are considered mutually incompatible:

    1. authorize a transaction
    2. record the transaction in the accounting records
    3. maintain custody of the assets resulting from the transaction

- Therefore, responsibility for the custody of assets should be kept separate from the authorization and accounting for those assets

    When resource constraints compromise the ability to segregate duties many small companies use certain compensating controls (i.e. independent verification and reconciliations)

Authorization of Activities

- Authorization is the delegation of authority that management grants to a department or employee
  - General – permission given to department to expend funds from an approved budget
  - Specific – relates to individual transactions and generally requires signature or electronic approval of the transaction by the person designated with approval authority (i.e. purchasing official, timekeeping)

Management should authorize employees to perform certain activities and execute transactions within defined parameters
  - Appropriate monetary thresholds, documentation requirements

Approval, Verification and Reconciliation

- Management specifies those activities or transactions that require supervisory approval before they are performed

- Supervisory approval implies that the transaction has been verified and validated and conforms with established policies and procedures. Approval implies that the approver has reviewed the supporting documentation and is satisfied that the transaction is appropriate, accurate, and complies with applicable laws, regulations, policies, and procedures.

- Approvers should review supporting documentation, question unusual items, and ensure that the information is present to justify the transaction before they sign off on the transaction

Documentation

- Transactions should be supported by adequate documentation
- Clearly specify the facts (dates, nature and scope of transaction, authorizations, approvals, verifications)
- Documents should be as simple as possible so they are clearly understood by all users
- Documents should be pre-numbered and properly stored
- Use of documents should be periodically verified to ensure accountability

Document Storage and Retention

- Appropriate documentation storage and retention policies should be implemented

  - Secure physical storage
  - Back-up electronic files

- Consider all pertinent laws and regulations:

  - Contract and Grant Requirements

  - Federal and State Requirements

  - IRS, State Tax and Department of Labor

Information Processing

- Appropriate policies and procedures regarding information technology are critical

- Restrict computer access, both hardware and programs, to authorized personnel
- Require passwords for access
- Require periodic password changes

Information and Communication

- Information systems identify, capture, process, and distribute information supporting the achievement of financial and performance reporting objectives

- Adequate information and communication systems help the entity obtain and process information that is needed to carry on and control the operations

- Quality of system generated information affects management's ability to make appropriate and timely decisions.

    Is the information relevant? Bad information results in bad decisions.

Communication

- Involves providing an understanding of individual roles and responsibilities

- Effective internal communications between top management and employees may be facilitated in smaller companies (fewer levels, smaller staff, greater visibility to executive management)

- Internal communications can occur through frequent meetings and day-to-day activities

Forms of Communication

- Performance and management systems
- Information systems
- Policy and procedure manuals
- Management directives
- Memos and e-mails
- Internet and Intranet
- Speeches and briefings
- "Grapevine"

Monitoring

- Process that assesses the quality of internal control performance over time
- Ongoing process
- As operations of entity change, the related controls must be revised to ensure that the entity's objectives are met
  - Are controls achieving the desired results?
  - Are the controls operating as intended?
  - Have there been changes (process or organizational) that require revisions?

Examples of Monitoring

- Monitoring of grantees by reviewing and using the Single Audit to help assess grantee performance

- Monitor contractor performance against terms and conditions of contract

- Monitoring usage of entity owned equipment (cell phone, vehicles, credit cards)

Compliance with Rules and Regulations

Internal Controls should include appropriate measures to ensure compliance with rules and regulations

- Federal and State
- New ARRA specific regulations
- Extensive Section 1512 reporting

Need effective process to know new rules and regulations

Federal Rules and Regulations

- Federal OMB guidance (www.omb.gov)

    Ongoing, continual need to monitor new guidance

- Davis Bacon, Buy American
- Excluded Parties

    https://www.epls.gov/

- For some these are new and unfamiliar
- ARRA Enhanced Reporting:
  - Extensive and numerous reporting elements
  - Direct recipients responsible for sub-recipients
  - Quarterly reports due 10th day after close of quarter
  - First reports submitted October 10 (data will be live to public)
  - Need for data integrity and accuracy

New Federal Rules

- New wider reaching federal whistleblower protection
- Government and Contractor Whistleblower protection afforded to State and Local employees for disclosing waste or fraud relating to stimulus funds
  - Any employer receiving covered funds shall post notice of whistleblower rights and remedies provided for under ARRA.

  - The following is a poster outlining ARRA whistleblower rights that can be downloaded from
       www. Recovery.gov website:

Know Your Rights
Under the Recovery Act!

Did you know?

The American Recovery and Reinvestment Act of 2009 [1] provides protections for certain employees of non-federal employers who make specified disclosures relating to possible fraud, waste and/or abuse or Recovery Act funds.

Who is protected?

Employees of non-federal employers receiving recovery funds. This includes State and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients.

How are Whistleblowers Protected?

You cannot be discharged, demoted or otherwise discriminated against as a reprisal for making a protected disclosure.

What types of disclosures are protected?

The disclosure must be made by the employee to the Recovery Accountability and Transparency 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, a court or grand jury, or the head of a federal agency or his/her representatives.

The disclosure must involve information that the employee believes is evidence of:

- gross mismanagement of an agency contract or grant relating to recovery funds;
- a gross waste of recovery funds;
- a substantial and specific danger to public health or safety related to the implementation or use of recovery funds;
- an abuse of authority related to the implementation or use of recovery funds; or
- a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to recovery funds.

Take Action!

Log on to Recovery.gov for more information about your rights and details on how to report at www.recovery.gov.

---

[1] Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5

Mandatory IG Reporting

- Agencies must include in all grants "the requirement that each grantee or sub-grantee awarded funds made available under the Recovery Act shall promptly refer to an appropriate 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."

State Rules and Regulations

- Governor Executive Orders
- Department Rules, Regulations and Policies
- Treasury/OMB Circular Letters
  - Purchasing
  - Grant Agreements
  - Suspended and Debarred Vendors
  - Records Retention
  - Travel

New State Rules and Regulations

- Governor Corzine Executive Order 151

    - Signed August 28, 2009
    - Effective Immediately

    www.state.nj.us/infobank/circular/eojsc151/htm

EO 151

Section 7 – Each Executive Branch agency that is a recipient of federal economic recovery funds pursuant to ARRA shall include in any contract, grant, or agreement funded in whole or in part with ARRA funds a clause requiring subrecipients, contractors, subcontractors, local education agencies, and vendors to post all job openings created pursuant to the contract, grant, or agreement on the State's Job Bank at least 14 days before hiring is to commence.

See EO for specific contract language

State Job Bank internet site: http:NJ.gov/JobCentralNJ

Limitations of Internal Control

Provide reasonable assurance – not absolute assurance – there are no guarantees

- Inherent limitations of controls:
  - Human errors can cause mistakes
  - Controls can be circumvented by collusion of two or more people
  - Management can intentionally override controls (justified or fraud)

Internal Control - RECAP

- Who – Everyone

- What – Procedures to help meet goals

- When – All the time

- Where – Everywhere

- Why – Avoid mistakes – Achieve Results

Recommendations

- Assess Internal controls
- Review current policies and procedures
  - Are they written and do they accurately reflect the current operations?
- Consider prior audit findings
  - Has corrective action been taken?
- Continue dialogue with the Department
- Obtain and follow the guidance of the Department
- If you have questions or concerns

Don't Wait

Ask Someone, Anyone!

What to Expect in the Future

- GAO – continued assessment of state and federal agencies use of reviewing recipient's internal controls (includes local governmental entities)

- Recipient corrective actions taken to reported internal control weaknesses and deficiencies

- Reviews of Section 1512 reporting

Reporting Fraud, Waste, and Abuse

- Everyone is responsible
- It's never too late
  - Federal reporting mechanisms
    - www.Recovery.gov
    - www.gao.gov/recovery/reporting-fraud/
    - Federal department and IG websites
  - State reporting mechanisms:
    - www.Recovery.nj.gov
    - www.State.nj.us/oig
    - www.State.nj.us/comptroller

Training

Take advantage of training opportunities and request guidance and assistance from the NJ Task Force and OIG

NJ OIG - www.state.nj.gov/oig

Task Force/OIG Training Library (access from www.recoverynj.gov:

- http://www.nj.gov/taskforceresources/

Q & A

There are no dumb questions – ASK!

A copy of the presentation is available on the training website or contact us through www.state.nj.gov/oig

or call OIG at 609-292-8183

Copies of Task Force initial guidance memorandums are available upon request