

American Recovery and Reinvestment Act (ARRA)

Transparency & Accountability

NJ Inspector General Mary Jane Cooper
October 5, 2009

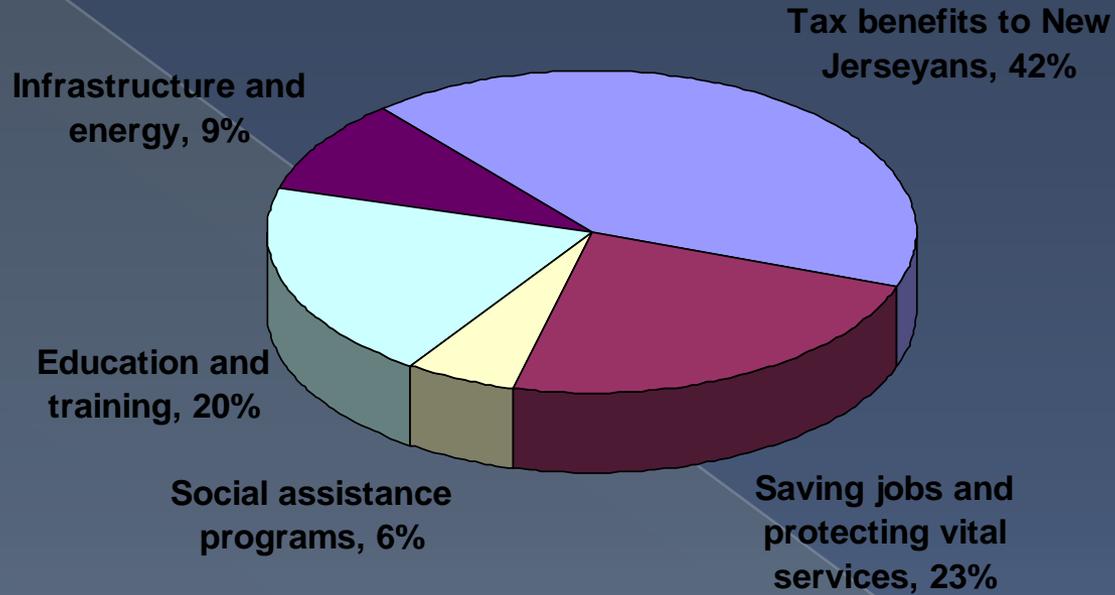
Summary of ARRA

- Authorizes expenditure of approximately \$787 Billion dollars in the form of:
 - tax cuts,
 - direct spending and
 - appropriations.

Purposes of ARRA

- Preserve/create jobs and promote economic recovery
- Assist those most impacted by the recession
- Increase economic efficiency by spurring technological advances in science and health
- Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits
- Stabilize State and local government budgets in order to minimize and avoid reductions in essential services and state and local tax increases.

New Jersey



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

Task Force Mission Statement

- ▶ **Will not** be involved in selecting or recommending particular projects for funding as project selection is the responsibility of the government agency implementing the particular program.
- ▶ **Will** provide guidance and review concerning agency use of merit-based project selection criteria to ensure clarity and compliance with applicable standards;
- ▶ **Will** provide transparency and accountability in the use of American Recovery and Reinvestment Act (ARRA) resources in our State through its website (www.recovery.nj.gov);
- ▶ **Will** monitor the distribution of ARRA funds in New Jersey and promote the effective and efficient use of those funds.

Task Force Mission Statement

More specifically, the Task Force will work in partnership with federal and state agencies to:

- **Ensure public access to information** concerning use of ARRA funds, including programmatic, financial, project, and vendor-related information, as well as criteria for project selection;
- **Provide guidance to agencies** receiving ARRA funds on merit-based project selection, internal controls, accounting practices, and best practices in contract management and grant administration;
- **Review project-selection criteria** and processes used by New Jersey government agencies receiving ARRA funds to ensure clarity and compliance with applicable standards;
- **Perform a coordination role** concerning ARRA-related efforts being carried out by state and local government agencies as well as relevant oversight bodies;
- **Provide a means to receive and address concerns** from New Jersey residents about uses of Recovery Act funds; and
- **Ensure ongoing assessments of results**, through agency self-analysis or reviews by State oversight entities.

ARRA Principles

GENERAL PRINCIPLES CONCERNING USE OF FUNDS

- ▶ The President and the heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes, including commencing expenditures and activities as **quickly as possible** consistent with **prudent management**.
- ▶ These sometimes conflicting requirements make it critical to establish and operate an effective system of internal controls.

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

GAO Reviews

- GAO will be auditing New Jersey for at least the next two years.
- GAO will be reviewing, among other things:
 - New Jersey's use of and planning for ARRA funds, and
 - New Jersey's efforts to ensure accountability for ARRA funds.

GAO Reviews

- Bi-monthly reports
 - > Three reports issued to date
 - Most recent report issued September 23, 2009
 - > NJ Appendix (and every other of the 16 states and DC)

Scope of reports:

Project based, use of funds, state, local and municipal level

Website: www.gao.gov

GAO Considerations

- Current entity single audit report findings will be examined by GAO (and other oversight agencies)
- Management response including corrective action will be under scrutiny

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?

- 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

Task Force Actions

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

- ▶ First meeting held March 13, 2009 and every other week thereafter
- ▶ Task Force issued initial guidance memorandums:
 - April 21, 2009 Memorandum to State Department and Agencies
 - August 10, 2009 Memorandum to NJ Local Governmental Units

Protecting the Funds

- Task Force sub-group recognized importance of internal controls and compliance with the many federal and state rules and regulations
 - ▶ Numerous training sessions (more than 40 to date) have been held or will be provided to State agencies receiving ARRA funds.
 - ▶ Training Library of recorded training events will be available on the NJ OIG website in the near future.

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.

Internal Control: Specific Objectives

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations.*

Internal Control Concepts

- A continuous built-in component of operations
- Effected by people
- Provides reasonable assurance, not absolute assurance*

Accountability & Transparency

- ▶ The focus on internal controls directly correlates to ARRA's unprecedented Accountability and Transparency requirements.
- ▶ It is important to understand that increased Accountability and Transparency translates into increased oversight and new rules and regulations.
- ▶ You must ensure that your existing internal control systems will prepare you for scrutiny and to ensure compliance with all rules and regulations.

Internal Controls: The Fundamentals

Never hurts to hear some of the fundamentals again

- Tone from the Top
- Written Policies and Procedures
- Document Retention and Segregation
- Safeguarding Assets
- Segregation of Duties
- Training (Utilize available resources, such as the Task Force)
- Monitoring to ensure that controls are working and are effective

Being Prepared for the Audit

- You will be audited
- Be ready:
 - > Maintain robust, effective internal controls
 - > Understand funding requirements
 - > Know applicable rules and regulations
 - > Ensure timely, accurate reporting
 - > Provide ongoing training
 - > Continually monitor internal controls
 - > Have your ARRA documents segregated and ready.

If they find a problem – they will be back

Federal Agencies Emphasis on Internal Controls

Importance underscored by emphasis

- ▶ 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
 - 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
- ▶ OMB Circular A-133 Compliance Supplement Addendum #1:
 - indicates that the requirement for commencing expenditures and activities as quickly as possible consistent with prudent management makes **the establishment and operation of effective internal controls critical**. (June 30, 2009)

Federal Agencies Emphasis on Internal Controls

- ▶ GAO's July 2009 Report made recommendations concerning the Single Audit

To leverage the importance of the Single Audit, GAO recommended that the Director of OMB should, among other things:

- develop requirements for reporting on **internal controls** during 2009, before significant ARRA expenditures occur, as well as ongoing reporting

- provide more direct focus on ARRA programs through Single Audit to help ensure that smaller programs with high risk have audit coverage in the area of **internal controls** and compliance. (GAO Report to Congress *Recovery Act States' and Localities Current and Planned Uses of Funds While Facing Financial Stresses* July 2009)

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 due October 10
 - > 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 the 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 of 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](http://www.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

New State Rules and Regulations

- ◉ Governor Corzine Executive Order 151
 - > Signed August 28, 2009
 - > Effective Immediately
 - > www.state.nj.us/infobank/circular/eojsc151/htm

E.O. 151

- All construction contracts entered into and funded, in whole or in part, by the State shall include mandatory EEO/AA contract language that requires contractors to make good faith effort to recruit and employ minorities and women
 - For specific language – See Appendix B to EO 151

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>

GAO Conclusions

- 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

GAO Concerns

- Timeliness of internal control deficiencies being communicated to management
- New recipients
- New reporting requirements
 - > Data Integrity – Is it reliable and accurate?
 - > Data Quality – Is it useful?
 - > Are sufficient personnel available to report the required information?

GAO Recommendations

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

Challenges for federal, state and local officials (GAO Risk Factors)

- Expectations for an “unprecedented level of transparency and accountability”
- Qualified personnel need to implement proper controls and accountability at all levels of government
- Close and ongoing coordination needed among federal, state, and local governments
- Accountability community: special responsibility to ensure collective efforts are well-coordinated

> Source: GAO August 17, 2009 NASACT 2009 Annual Conference

ARRA Accountability and Transparency

Federal government has enacted several measures to ensure that ARRA funds are spent effectively and for the purpose intended through:

- > Federal web site (recovery.gov) to ensure transparency for the entire program and to promote information sharing;
- > The creation of an Accountability and Transparency Board, chaired by the Chief Performance Officer, comprised of Inspectors General from various federal agencies, and charged with oversight and enforcement of many of the accountability provisions in ARRA; and
- > Adequate funding to support the expanded responsibilities of the Inspectors General and to hire an Executive Director and staff to support the work of the Board.

ARRA Fund Recipients Accountability

Fund Recipients:

- ▶ are responsible for ensuring that ARRA funds are used prudently and in accordance with the law
- ▶ must maintain records that will permit appropriate oversight: monitor, evaluate, and audit ARRA funds effectively.

ARRA Fund Recipients Transparency

- Essential Record Keeping Requirements:
 - > Current, Accurate, Complete (up to date)
 - > Adequate supporting documentation
 - > Organized
- Quarterly Reporting of program goals and financial performance

Recommendations

- ▶ Continue dialogue with the Department.
- ▶ Follow the guidance of the Department.
- ▶ If you have questions or concerns

Don't Wait

Ask Someone, Anyone!

Reporting Fraud, Waste, and Abuse

- Everyone is responsible
- It's never too late
- Federal and State reporting mechanisms
 - > www.Recovery.gov
 - > www.gao.gov/recovery/reporting-fraud/
 - > Federal department and IG websites
 - > 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
 - We are here to help
- > NJ OIG (www.state.nj.gov/oig)

Q & A

- There are no dumb questions – ASK!
- A copy of the presentation is available electronically – please 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