



OFFICE OF THE CITY AUDITOR
Long Beach, California

LAURA L. DOUD, CPA
City Auditor

February 2, 2010

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive and file the Audit Report on the Internal Controls Over Stimulus Funds.

DISCUSSION:

We recently concluded our audit of internal controls over Stimulus funds. Attached for your consideration is our audit report that describes the controls in place at the City to ensure that Stimulus monies are spent efficiently, effectively, and as intended.

The nature of government auditing is typically retrospective; programs, revenues, and expenditures are reviewed after the fact to ensure that everything was done appropriately so that improvements can be made for the future, and to serve as a deterrence function by showing that some programs will be audited and thus any errors exposed. However, given the large amount of Stimulus funds that the City will receive and the fact that these funds have been determined to be "high risk" by the California State Auditor, we decided to take a proactive approach to work with management to ensure that the controls are in place to stop problems before they occur. This approach best assures the public that these monies will be spent as intended—putting Americans back to work while funding important public projects—and minimizes the risks of noncompliance with grant requirements, which could carry significant consequences for the City.

While all grant funds have conditions that must be closely observed, Stimulus funds have additional requirements that must also be followed. Many of these requirements are listed in our report. For example, "buy American" provisions require that all contractors working on stimulus projects use American steel. Whistleblower protections must also be prominently displayed at all work sites funded by stimulus dollars.

We have met monthly with management to advise on the appropriate controls that they have put in place, which are listed in the attached report. We thank management for their cooperation with our audit, and for the controls that have been put in place. While continued diligence is needed with these high-profile funds, we believe that Long Beach has taken its responsibility to implement controls and minimize risk of noncompliance seriously, and that the City will benefit because of this approach.

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TIMING CONSIDERATIONS:

Action by the City Council is not time sensitive.

FISCAL IMPACT:

Internal controls are essential for all grant funds, and especially for Stimulus funds, to ensure that monies are spent as intended and to protect the City from potential penalties that could arise from noncompliance, such as returning funds already received or spent.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

A handwritten signature in blue ink that reads "Laura L. Doud". The signature is fluid and cursive, with the first name "Laura" being more prominent than the last name "Doud".

Laura L. Doud, CPA
CITY AUDITOR

Attachment

Office of the City Auditor

Audit Report

Internal Controls Over Stimulus Funds

January 11, 2010



Staff

City Auditor: Laura L. Doud
Assistant City Auditor: James Johnson
Deputy City Auditor: Danica D. Rogers
Senior Auditor: Jessica Machado

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Summary

This is the first report the City Auditor is issuing related to the American Recovery and Reinvestment Act (Recovery Act). The objective of our audit was to provide a preliminary assessment as of September 30, 2009 of the City of Long Beach's (City) internal controls, which address the accountability and transparency requirements, and general provisions of the Recovery Act, as well as certain requirements stipulated in other official guidance. Our preliminary assessment is that the City is making appropriate progress toward establishing the necessary additional internal controls. However, we identified some issues that could impact the City's budget or affect the City's readiness for Recovery Act funding.

We would like to thank personnel in the City Manager's Office and Department of Financial Management for their assistance with the audit. We would also like to compliment them on their efforts to implement the City's Recovery Act programs.

Background

President Obama signed the Recovery Act into law on February 17, 2009 to stimulate the economy and create jobs. The Recovery Act includes 23 title chapters covering appropriations, taxes, unemployment, health care, state fiscal relief, and other provisions. The \$787 billion stimulus package includes \$288 billion in tax credits, \$122 billion in state and local fiscal relief and \$355 billion of federal spending programs. The Recovery Act's stated purposes include the following:

1. To preserve and create jobs and promote economic recovery;
2. To assist those most impacted by the recession;
3. To provide investments needed to increase economic efficiency by spurring technological advances in science and health;
4. To invest in transportation, environmental protection and other infrastructure that will provide long-term economic benefits; and
5. To stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

Funds made available to local governments are disbursed by Federal agencies through formula, discretionary and competitive grants.¹ In many cases, funds are distributed through existing Federal programs.

The Recovery Act provides for one-time funding. The City is eligible for funds that are allocated directly from Federal agencies as well as funds allocated to the state or county and passed through to local government agencies. The Recovery Act funds projects in many program areas including energy, water, transportation, housing assistance, public

¹ A formula grant has a specific allocation formula for aid to recipients. The specified formula includes quantifiable elements such as population, depending on the purpose of the aid. A discretionary grant allows federal agencies to select from all eligible recipients based on funding criteria.

safety and others. Because of the scope of the Recovery Act, many City departments have funding opportunities.

The City and its government partners anticipate receiving \$54 million in formula grant allocations and has applied for additional funds through other grant programs. As of December 3, 2009, the City represents that it has been awarded \$76,010,074, \$49,655,028 through formula grants and \$26,355,046 through competitive grants. Additionally, awards totaling \$15,282,586, \$4,397,500 through formula grants and \$10,885,086 through competitive grants, have been awarded but not yet formally accepted by the City. Refer to Appendix A for a list of projects the City has been awarded. Additionally, the City has submitted or plans to submit applications for additional competitive grants totaling approximately \$255 million. For updated information on Recovery Act funds allocated to the City see www.longbeach.gov/recovery.

Audit Objective, Scope, and Methodology

The objective of our audit was to provide a preliminary assessment as of September 30, 2009 of the City's internal controls that address the accountability and transparency requirements and general provisions of the Recovery Act.

To accomplish our objective, we performed the following procedures:

- Reviewed the following federal documents to determine the Recovery Act requirements:
 - The American Recovery and Reinvestment Act of 2009;
 - Office of Management and Budget Memorandum "*Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*," April 3, 2009;
 - Office of Management and Budget Memorandum "*Payments to State Grantees for Administrative Costs of Recovery Act Activities*," May 11, 2009;
 - Office of Management and Budget Memorandum "*Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*," June 22, 2009;
- Reviewed City memoranda and guidance, as well as the City's Recovery Act website;
- Obtained and reviewed the City of San Jose's Office of the City Auditor's report dated June 18, 2009 and certain supporting documents pertaining to San Jose's internal controls for Recovery Act funds;

- Met with City senior staff responsible for developing the City's Recovery Act plans and procedures to inquire whether internal controls were in place or whether they are still being developed;
- Attended monthly meetings where staff from the City Manager's Office and the Department of Financial Management discussed the City's progress on the Recovery Act;
- Interviewed program staff from individual projects which had received significant Recovery Act funding;
- Reviewed documentation provided to City Manager's Office from City departments confirming compliance with the first quarterly reporting requirement; and
- Reviewed the City's fiscal year 2006 through 2008 Single Audit reports.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We offer special thanks to the City Auditor's Office of San Jose, California for the use of their audit report and generous sharing of knowledge and resources.

Recovery Act Provisions

The Recovery Act includes specific provisions to ensure that funds are used for appropriate purposes and are transparent to the public. Significant provisions include:

- Certification by the Mayor or other chief executive that infrastructure investments made with Recovery Act funds are an appropriate use of taxpayer dollars;
- Submission of reports on the use of funds within ten days after the end of each quarter (see report section titled "Section 1512: Reports on Use of Funds" for additional information);
- Contracts funded through the Recovery Act should be fixed-price contracts awarded through competitive procedures;
- Preference for "quick start" activities for infrastructure investments;
- Prohibition on the use of funds for casinos, aquariums, zoos, golf courses or swimming pools;
- Specific "Buy American" provisions;
- Prevailing wage requirements for Recovery Act funded projects; and
- Whistleblower protections for an employee of any non-federal employer receiving funds.

In addition, individual programs funded through the Recovery Act may have more specific limitations on the uses of funds, including, but not limited to:

- Matching requirements;
- Additional reporting requirements;
- Maintenance of effort provisions and other requirements that Recovery Act funds do not supplant planned expenditures; and
- Other program-specific rules.

OMB Guidance

The Federal Office of Management and Budget (OMB) assists the President in the development and execution of his policies and programs. To ensure that the Recovery Act is carried out with the highest standards of transparency and accountability, OMB has issued guidance to Federal agencies and funding recipients. A list of guidance issued by OMB related to the Recovery Act is presented at Appendix B.

OMB's April 3, 2009 memorandum, *"Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,"* (OMB April 2009 Guidance) provided guidance for Federal agencies to manage activities under the Recovery Act. The memorandum further clarified the Recovery Act's accountability objectives, as follows:

- Funds are awarded and distributed in a prompt, fair and reasonable manner;
- The recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately and in a timely manner;
- Funds are used for authorized purposes and instances of fraud, waste, error and abuse are mitigated;
- Projects funded under the Recovery Act avoid unnecessary delays and cost overruns; and
- Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

OMB's June 22, 2009 memorandum, *"Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009,"* (June 22, 2009 Guidance) provided guidance to Federal agencies and funding recipients with information necessary to effectively implement the reporting requirements included in Section 1512 of the Recovery Act, as discussed further below.

Section 1512: Reports on Use of Funds

Section 1512 of the Recovery Act requires that no later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency submit a report to that agency that contains the following:

- Total amount of recovery funds received from that agency;

- Total amount of recovery funds received that were expended or obligated to projects or activities;
- Detailed list of all projects or activities for which recovery funds were expended or obligated, such as:
 - the name of the project or activity;
 - a description of the project or activity;
 - an evaluation of the completion status of the project or activity;
 - an estimate of the number of jobs created/retained by the project or activity;
 - for infrastructure investments made by State and local governments, the purpose, total cost, rationale of the agency for funding the infrastructure investment, and the name of the person to contact at the agency if there is a concern with the infrastructure investment; and
- Detailed information on any subcontracts or subgrants awarded by the recipient.

Further, Federal agencies are then required to make the reports publicly available no later than 30 days after the end of the quarter. Reports will be made available to the public on www.Recovery.gov and on individual Federal agencies' recovery websites.

OMB's June 22, 2009 Guidance provided clarification on what information will be required to be reported, as well as instructed recipients on steps that must be taken to meet Section 1512 reporting requirements, which included the incorporation of sub-recipient reporting requirements under Section 1512(c)(2) of the Recovery Act. In addition, this guidance identified additional data elements required pursuant to Section 1512 of the Recovery Act to enhance transparency, as well as updated information on methodologies and approaches for reporting job creation/retention estimates.

Quarterly Reporting

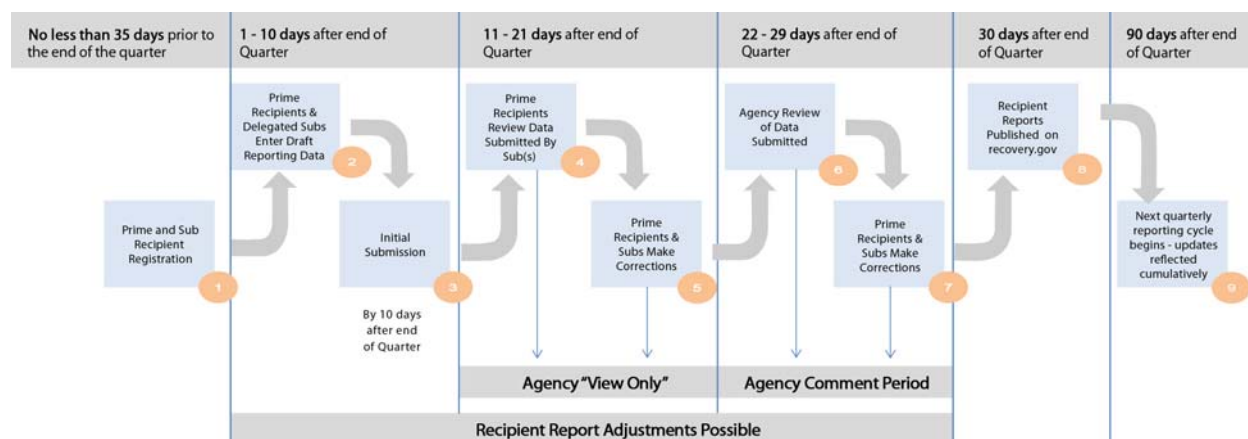
As indicated in OMB's June 22, 2009 Guidance, prime recipients are responsible for reporting the information required by Section 1512 of the Recovery Act. Prime recipients are non-Federal entities that receive Recovery Act funds directly from the Federal government in the form of grants, loans, or cooperative agreements. Prime recipients may choose to delegate certain Section 1512 reporting requirements to their sub-recipients. A sub-recipient is a non-Federal entity that expends Federal awards received from another entity to carry out a Federal program.

The City is receiving Recovery Act funds directly from the Federal government as well as from pass-through entities such as the State of California (CA) and Los Angeles County Metropolitan Transportation Authority; therefore, the City is both a prime recipient and a sub-recipient. For grants in which the City is a prime recipient, departments are required to report on www.FederalReporting.gov (the online Web portal that will collect Recovery Act recipient reports), unless otherwise instructed by the granting agency. For grants in which the City is a sub-recipient, departments need to contact the prime recipient and receive direction as to whether they will be delegated reporting responsibilities. The State of California has decided not to delegate Section

1512 reporting responsibilities to its sub-recipients; therefore, departments have been instructed by the prime recipient how to provide the necessary information.

Prime recipients and delegated sub-recipients (Recipients) must register on www.FederalReporting.gov as authorized parties prior to submitting or reviewing reports. Recipients are required to enter their data on www.FederalReporting.gov no later than the 10th day after each quarter beginning October 10, 2009. Review and corrections cycles take place during the 11-29 days after the quarter end. Recipient reports are available to the public no later than 30 days after the quarter end. All data contained in each quarterly recipient report is cumulative in order to encompass the total amount of funds expended to date. This timeframe of key reporting activities and their sequence is illustrated in Exhibit 1.

Exhibit 1: Recipient Reporting Timeline



Source: Federal OMB Guidance Memorandum dated June 22, 2009

Recovery Act Oversight

The Recovery Act calls for continuous oversight of distributed funds and designates specific responsibilities to the newly created Recovery Accountability and Transparency Board (Board), the U.S. Government Accountability Office (GAO), and the Inspectors General of Federal agencies. The Recovery Act established the Board to conduct oversight to prevent fraud, waste and abuse and to coordinate this effort with the GAO and state auditors. Among the GAO's responsibilities is to report bimonthly regarding the use of Recovery Act funds by selected states and localities, including California. Inspectors General of Federal agencies are required to review concerns raised by the public about specific Recovery Act investments; investigate matters regarding wasteful spending, poor contract or grant management or other abuses; and investigate alleged reprisals against whistleblowers employed by recipients of Recovery Act funds.

Recovery Act programs in the City are also subject to audit by the Office of the City Auditor, which could include reviews of internal controls to determine if the necessary

protections are in place. Recovery Act funding will also be subject to the City's annual required Single Audit. For additional information regarding Single Audit, see report section titled "Single Audit."

Risks of Non-Compliance

Failure to comply with Recovery Act provisions or specific individual grant requirements may result in the recipient being deemed non-compliant. The awarding agency may use any customary remedial actions necessary to ensure compliance, including but not limited to:

- Withholding funds—suspension of payment pending corrective action;
- Termination—end grant;
- Repayment of funds—demand repayment of all award amounts disbursed; or
- Suspension or debarment—excluded from or ineligible to participate for a period of time in future Federal assistance programs.

City's Internal Controls Related to the Recovery Act

Grant seeking and administration within the City is decentralized; each department is responsible for identifying and administering its respective grants. With regards to Recovery Act grants, the City intends to continue on a decentralized structure; as such, departments are responsible for ensuring compliance with provisions of the Recovery Act. The City has issued several memoranda to Department heads to communicate procedures that the City has implemented to address the accountability and transparency requirements of the Recovery Act. Following is a summary of key guidance issued by the City.

- *Long Beach's Approach to Stimulus Funding* (March 6, 2009)—explained how the City may access Recovery Act monies, listed Recovery Act prohibitions and ineligible uses, provided preliminary estimates on what the City is expected to receive, denoted the criticality of moving quickly to secure Recovery Act funds, defined the role of City Council, and outlined the City's next steps.
- *Guiding Principles for Stimulus Funding* (April 3, 2009)—created guidelines on how Recovery Act dollars should be used in the City.
- *Bid Procedure for the American Recovery & Reinvestment Act and Required Procedures for Recording Transactions Resulting From the American Recovery & Reinvestment Act of 2009 Funds* (April 13, 2009)—requested that all bids related to Recovery Act monies be directed to the Purchasing Division. In addition, this memorandum required departments to set up new grants or grant details in FAMIS (the City's accounting system) for any grants that will use Recovery Act funds.
- *Grant Review Requirements* (April 22, 2009)—highlighted the requisite grant review process including requirements of any funding from the Recovery Act.

- *Stimulus Grant Requirements* (August 12, 2009)—provided details on departments' responsibilities for receiving, expending, and reporting on Recovery Act funds.

Compliance requirements, provisions and guidance for the Recovery Act, along with the City's established or proposed internal controls to address them are listed in Exhibit 2. Specifically, Exhibit 2 shows the key accountability and transparency requirements and general provisions for recipients and OMB guidance for Federal agencies and funding recipients that are relevant to the City's compliance with the Recovery Act. As OMB or Federal agencies provide further guidance, there may be additional requirements, or those requirements listed in the exhibit may change.

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009

Compliance Requirement	City Internal Control	Status
A. Key Recovery Act Accountability and Transparency Requirements for Recipients		
1. Mayor/Chief Executive certification, accepting responsibility for the appropriateness of infrastructure investment projects, shall be posted on City's Recovery Act website.	All projects will be reviewed and vetted by the City Manager's Office (Government Affairs Manager is lead staff) to ensure appropriate use of taxpayer dollars. All Stimulus grant applications for City Manager departments will require City Manager signature on the Grant Approval Form prior to submittal.	Established
	City Manager will be certifying official for City Manager Departments.	Established
	Certification posted on City's website.	Established for City Manager Departments, Non-City Manager Departments in Progress.
2. City website linked to the federal Recovery.gov website.	City Manager's Office is responsible for keeping website up-to-date and in compliance with requirements.	Established

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009 (continued)

Compliance Requirement	City Internal Control	Status
A. Key Recovery Act Accountability and Transparency Requirements for Recipients		
<p>3. Reporting within 10 days of quarter end for recipients, including:</p> <ul style="list-style-type: none"> • Amount of funds received and expended or obligated; • Descriptions of projects and evaluations of each project's completion status; • Estimate of number of jobs created or retained; • Information on subcontracts or subgrants; and • Additional detail for infrastructure investments. 	<p>All Stimulus program leads were notified on June 25, 2009 of the June 22, 2009 OMB reporting requirements, and that they will be responsible for accurate and timely reporting. Departments will be able to use FAMIS (the City's financial accounting system) to assist with reporting requirements, as well as the established project tracking systems that currently exist in the various departments.</p>	Established
	<p>Project staff leads will ensure timely data input into the federal government reporting system FederalReporting.gov, and have been instructed on August 12, 2009 by memo that departments will be responsible for ensuring timely and accurate reporting.</p>	Established
	<p>Creation of a reporting oversight process to help ensure that departments are entering the appropriate information. The City Manager's office will perform random spot-checks of data submitted into the federal database by City Manager departments to help determine complete, accurate and timely reporting.</p>	Established
<p>4. Central Contractor Registration (CCR) and Dun and Bradstreet Data Universal Numbering System (DUNS) number.</p>	<p>City is registered with CCR and has a DUNS number.</p>	Established
<p>5. Whistleblower protections for non-federal employees.</p>	<p>The City's Recovery website has information posted on Whistleblower protection, links to the City Auditor's fraud hotline, and information on Federal Whistleblower protection.</p>	Established
	<p>The City's Administrative Officers were instructed on July 9, 2009 to post notifications in all City departments along with other legally required employee notifications.</p>	Established
	<p>Departments were also notified on August 12, 2009 of where Whistleblowers posters should be posted. Additionally, the City's recovery website has a link to the Whistleblower poster.</p>	Established

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009 (continued)

Compliance Requirement	City Internal Control	Status
A. Key Recovery Act Accountability and Transparency Requirements for Recipients		
6. To the maximum extent possible, contracts shall be fixed-price through the use of competitive procedures. A summary of any contract awarded that is not fixed price and not awarded using competitive procedures shall be posted in a special section of the federal Recovery.gov website.	Competitive procedures for the procurement of goods and services and public works improvement projects are covered in the City's Municipal Code. All Stimulus bids will be run through the City's Financial Management Department Purchasing Division, and be posted on the City's RFP database, which allows all interested parties to sign up to receive notification of bids and RFPs.	Established
	City's policy is that contracts will be awarded to the lowest responsible bidder and will be fixed-price. Additionally, Public Works bids are developed in accordance with the California Public Works Code, which already dictates fixed-pricing.	Established
	Departments were notified on August 12, 2009 that contracts that involve Recovery Act dollars must be bid through the use of competitive procedures.	Established
B. General Provisions of the Recovery Act for Recipients		
7. Preference for "quick-start" activities.	In April 2009, the City of Long Beach had identified \$54 million in formula funds that it was eligible for and had project-ready projects for, and \$485 million for 46 projects that were project-ready or will be ready to compete for federal funds. Information on these projects has been listed on the City's website since April 2009, and is updated periodically.	Established
	Program Leads in affected departments are aware of the preference for "quick-start" activities. Departments were notified on April 3, 2009 regarding the priority of shovel-ready projects.	Established
8. Funds available for obligation until September 30, 2010.	Staff leads were designated to ensure on-time delivery of project and that awarded funds will be obligated to meet the deadline.	Established
	Grant documents include language regarding the availability of funds and will be tracked by program management.	Established

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009 (continued)

Compliance Requirement	City Internal Control	Status
B. General Provisions of the Recovery Act for Recipients		
9. Funds may not be used for any casino or gambling establishment, aquarium, zoo, golf course or swimming pool.	All departments have been notified of these restrictions in a memo dated March 6, 2009. City Manager approval is required for all City Manager-department grant applications to ensure no department submits a prohibited project. City Manager departments were informed that all Recovery Act grants require City Manager approval by memo on April 22, 2009.	Established
	All projects will be reviewed and vetted by the City Manager's Office (Government Affairs Manager lead staff) to ensure appropriate use of taxpayer dollars. All Recovery Act grant applications for City Manager departments will require City Manager signature of the Grant Approval Form prior to submittal.	Established
	City Manager certification required.	Established
10. "Buy American" provisions – All iron, steel, and manufactured goods used for a public building or public work must be produced in the United States, with limited exceptions which require a waiver from the federal agency providing the funding.	Staff has developed a method to document compliance with the "Buy American" provisions. All bid documents will include clauses stating that "Buy American" provisions apply to Recovery Act dollars, and that contractors will be required to adhere to the Federal government's requirements. Contractors will also be required to keep evidence of compliance, and provide these records upon request.	Established
	Section 1605 of the Recovery Act will be added to bids.	Established

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009 (continued)

Compliance Requirement	City Internal Control	Status
B. General Provisions of the Recovery Act for Recipients		
11. Prevailing wage rate requirements.	The City of Long Beach is a prevailing wage city governed by City ordinance, and requires that all public works paid for with City funds be subject to prevailing wages. Further, the City follows Davis-Bacon requirements for eligible federal funds, and will comply with all Recovery Act prevailing wage requirements. The City has a pool of 5 pre-qualified consultants that are available to departments to perform Davis-Bacon reporting and compliance services. City Manager departments will be required to either utilize these consultants if their grant requires Davis-Bacon compliance, or utilize in-house staff to conduct the monitoring. Currently, when a bid requires Davis-Bacon monitoring, a consultant is used or in-house staff completes the monitoring. An RFP will be issued September 2009 for HUD Section 3, Davis-Bacon/State Prevailing Wage Labor Compliance and Disadvantage Business (DBE) monitoring to obtain new contracts for monitoring.	Established
C. Relevant Accountability and Transparency Requirement of the Recovery Act for Federal Agencies		
12. All funds appropriated shall be established in separate funding (Treasury) accounts (i.e. as indicated in OMB guidance, there should be no commingling of Recovery Act and non-Recovery Act funds to ensure separate tracking and reporting on the uses of Recovery Act funds).	On April 13, 2009, the Department of Financial Management issued a memo to all departments stating that they need to create separate grant or project detail in FAMIS for each Recovery Act grant awarded to ensure accurate reporting and preventing co-mingling of funds. These requirements apply for grants that Long Beach had received in the past, as well as new grants.	Established

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009 (continued)

Compliance Requirement	City Internal Control	Status
D. Relevant Governance and Risk Management Guidance from the Office of Management and Budget for Federal Agencies		
13. Establish a senior management council to oversee Recovery Act performance.	The City Manager, Assistant City Manager, Department Heads, and Government Affairs Manager have an opportunity every Wednesday to discuss emerging issues related to Recovery Act dollars. City Manager's office, Accounting, Purchasing, and the City Auditor ² meet once a month to discuss operational and implementation issues.	Established
14. Mitigate instances of fraud, waste and abuse.	City's Code of Ethics policy	Established
	Fraud Hotline is already established, and posters announcing the availability of the Hotline have been distributed throughout the City by the Administrative Officers.	Established
	Whistleblower Hotline prominently displayed on City's Recovery Act website.	Established
	Pre-bid documents, bid documents, and final contracts will be modified to include Recovery Act Section 1553: Protecting State and Local Government and Contractor Whistleblowers.	Established
	City Manager's Office will notify departments when it becomes aware of training available. City Manager's Office notified departments on fraud training offered by the State of California's Office of the Inspector General.	Established

² The City Auditor is represented at these meetings in an advisory capacity.

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009 (continued)

Compliance Requirement	City Internal Control	Status
E. Relevant Budget Guidance from Office of Management and Budget for Federal Agencies		
15. Appropriate and allowable administrative cost allocations. In general, Recovery Act funds should not be used for telecommunications services or IT desktop support, or for incidental administrative costs (e.g. paper for copy machines).	<p>The City prepares an annual Grant Cost Allocation Plan in accordance with federal cost allocation rules. Some Federal agencies' funding notices for recipients have specific administrative cost percentage caps.</p> <p>The City has decided that it will not pursue the .5% of Recovery Act administrative because it is not cost-beneficial to the City, for example:</p> <ul style="list-style-type: none"> ▪ Administrative costs are not additional funds, but would be taken out of the project amounts; ▪ Each grant would have to be adjusted to account for fewer funds, potentially slowing down projects; ▪ The City would only be eligible to receive the .5% for grants in which the City is a prime recipient; and ▪ Developing a cost allocation strategy to back-out Recovery Act costs would require a significant amount of staff work. <p>In the event that additional funds become available for administrative costs, the City will revisit this issue.</p>	Established
F. Relevant Guidance of Office of Management and Budget for Federal Agencies		
16. Give special attention to contractor responsibility determinations in awarding contracts. ³	The procurement of goods and services is covered in the City's Municipal Code and the Department of Financial Management purchasing policies and guidelines. Further, Purchasing requires that contractors carry a bond, the type of bond is determined during bid preparation (i.e.-performance bond, bid bond, etc.) These bonds will protect the City in the event the contractor cannot meet their obligations in the contract.	Established
	Public works and improvement projects are covered by the State of California Public Works Construction Code.	Established

³ Per OMB, general standards for responsibility include that a prospective contractor have (1) adequate financial resources to perform the contract or the ability to obtain them; (2) the ability to comply with the required or proposed delivery or performance schedule; (3) a satisfactory record of past performance, integrity and business ethics, (4) the necessary organization, experience, accounting and operational controls, and technical skills or the ability to obtain them; and (5) the necessary production, construction and technical equipment and facilities or the ability to obtain them.

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009 (continued)

Compliance Requirement	City Internal Control	Status
F. Relevant Guidance of Office of Management and Budget for Federal Agencies		
17. Monitor contracts to ensure that performance, cost and schedule goals are met. Maintain strong internal controls over Recovery Act program funds.	All contracts will have a staff member designated as the project manager for the project. The staff member and their supervisory staff will be responsible for ensuring contract terms are adhered to, project goals are met, and the contractor is submitting the appropriate information to document compliance.	Established
	The City's experience (in City Manager Departments) thus far is that granting entities have requested that the City follow the same types of grant regulations placed upon cities in the past (such as funding for federal highway dollars, CDBG, stormwater projects, and others.) The contract enforcement procedures the City has put in place in the past have been approved by the granting entities. Audits of those previous grants have not revealed any contract oversight issues. The City will continue to use the same contract oversight procedures to ensure ARRA projects are monitored effectively.	Established
G. Relevant Guidance of Office of Management and Budget for Federal Agencies and funding Recipients		
18. Prime recipients and delegated sub-recipients must register prior to submitting recipient reports on www.FederalReporting.gov . Award recipients should register within 10 business days of receiving an award.	Departments were notified on June 25, 2009 of their reporting requirements, and notified again on August 4, 2009 that they would need to register with www.FederalReporting.gov .	Established
19. Identify specific data elements ⁴ to be reported, which are dependent upon the recipient's status (i.e. prime recipient or sub-recipient).	<p>The specific data elements to be reported are outlined by the OMB, and are required as part of the online reporting requirements at www.FederalReporting.gov.</p> <p>Departments were informed on June 25, 2009 and again on August 12, 2009 that they will be responsible for accurate and timely reporting according to OMB requirements, and have been provided access to the OMB reporting requirement documents.</p>	Established

⁴ Data elements are included in the data dictionary contained in the Recipient Reporting Data Model published on OMB's website as supplemental material to the June 22, 2009 memorandum, "Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009."

Exhibit 2: Key Recovery Act Transparency and Accountability Requirements and Related City Manager Departments' Internal Controls as of September 30, 2009 (continued)

Compliance Requirement	City Internal Control	Status
G. Relevant Guidance of Office of Management and Budget for Federal Agencies and funding Recipients		
<p>20. Additional reporting associated with vendors receiving any payments greater than \$25,000.</p> <p>Receiving funds from the <u>prime recipient</u>:</p> <ul style="list-style-type: none"> • DUNS number, if available, otherwise name and zip code of vendor's headquarters; • The amount of the payment; and • Description of what was obtained in exchange for the payment. <p>Receiving funds from the <u>sub-recipient</u>:</p> <ul style="list-style-type: none"> • DUNS number, if available, otherwise name and zip code of vendor's headquarters. 	<p>The specific data elements to be reported are outlined by the OMB, and are required as part of the online reporting requirements at www.FederalReporting.gov.</p> <p>Departments were informed on June 25, 2009 and again on August 12, 2009 that they will be responsible for accurate and timely reporting according to OMB requirements, and have been provided access to the OMB reporting requirement documents.</p>	Established
<p>21. Ensure data quality, completeness, accuracy, and timely reporting of all amounts funded by the Recovery Act. Two specific examples include:</p> <ul style="list-style-type: none"> • Number of jobs created/retained should be expressed as "full-time equivalents" (FTE)⁵ and reported cumulatively each calendar quarter. • A job is not counted as both created and retained.⁶ 	<p>Each Department will be responsible for ensuring accurate, timely and complete reporting on their grants. The City Manager's office will perform random spot-checks of data submitted into the Federal database by City Manager departments to help determine complete, accurate and timely reporting. Departments were given instructions on their reporting requirements by memo on August 12, 2009.</p>	Established

Sources: American Recovery and Reinvestment Act of 2009 and Federal OMB Guidance Memorandum dated April 3, 2009 and June 22, 2009.

City Internal Control and Status columns prepared by City Senior Staff

⁵ Calculated as total hours worked in jobs created or retained divided by the number of hours in a full-time schedule.

⁶ A job created is a new position created and filled or an existing unfilled position that is filled as a result of the Recovery Act; a job retained is an existing position that would not have been continued to be filled were it not for Recovery Act funding.

October 10, 2009 Reporting Results

As previously mentioned, Section 1512 of the Recovery Act requires that no later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency submit a report to that agency. The first quarterly reports were due on October 10, 2009; however, some granting agencies required reports to be submitted earlier.

We reviewed the documentation submitted to the City Manager's office by the departments as proof of timely reporting. Based on that documentation, departments submitted the required reports timely into the appropriate reporting mechanism. Some departments submitted their data directly into FederalReporting.gov using a spreadsheet template, while others submitted their data into other data collection systems.

Single Audit

Congress passed the Single Audit Act of 1982 to improve auditing and management of Federal funds awarded to state and local governments. The Single Audit requires a single organization-wide financial and compliance audit for state and local governments. The Single Audit is intended to promote sound financial management, including effective internal controls, with respect to Federal awards administered by state and local governments. In addition to internal controls, the Single Audit focuses on the recipient's compliance with laws and regulations governing federal awards.

The City is subject to the Single Audit because it expends more than \$500,000 of Federal awards each year. The specific programs audited each year as part of the Single Audit are determined using monetary thresholds and risk-based criteria provided by OMB. Due to the increase in Federal awards from the Recovery Act, the number of programs subject to the Single Audit is likely to increase.

Exhibit 3 lists the relevant findings identified by the City's external auditors in their fiscal year (FY) 2006 through 2008 Single Audit reports.

Exhibit 3: Summary of Relevant Single Audit Findings

Finding	FY 2006	FY 2007	FY 2008
The City did not have internal controls in place prior to August 2006 to ensure vendors and subrecipients receiving Federal funds were not federally suspended or debarred.	X		
The City's procurement policies and procedures do not include the required information to meet Federal procurement requirements.	X		
The City did not monitor subrecipients' (in one program) compliance with the Federal eligibility requirements.	X		

Exhibit 3: Summary of Relevant Single Audit Findings (continued)

Finding	FY 2006	FY 2007	FY 2008
The required reports were not filed by the deadline.	X	X	
Weekly certified payrolls were not provided/obtained (Davis-Bacon).	X	X	X
There was a lack of supporting documentation to verify accuracy of information reported to the pass-through agency.	X	X	
The City did not maintain adequate property records that included sufficient information to monitor equipment purchases with grant funds.		X	X
Cash Management <ul style="list-style-type: none"> Interest earned on cash advances was not remitted timely to the granting agency; The time between receiving the funds and making payment to sub-recipient was not minimized; and Reimbursement was requested prior to the expenditure of funds. 		X X X	X X X
The required procurement provisions were not included in one contract.			X

Other Observations

The City Auditor has identified the following issues that may impact the City's budget or could affect the City's readiness for Recovery Act funding.

1. Monitoring, tracking, and reporting of Recovery Act funds and other grant activities are completely decentralized. The City relies on departments for these functions, and thus there is no centralized mechanism in place to ensure the City as a whole is meeting Recovery Act requirements. For example, there is no citywide guidance regarding what types of documentation must be obtained/retained by the program administrators to comply with 1) Buy American provision; 2) fraud, waste, and abuse prevention; 3) milestone achievements; 4) program progress consistent with expenditures; and 5) other monitoring requirements stipulated in grant agreements.
2. Recovery Act funds available to the City are primarily on a reimbursement basis. Therefore, a significant amount of dollars will need to be paid up front by the City to be reimbursed later, potentially creating negative cash balances for Recovery Act programs. These negative cash balances could be a concern given the City's current budget situation.
3. There is no additional funding available for management and oversight on a centralized basis of Recovery Act funds, and the City has not budgeted any full time positions solely dedicated to manage/oversee the Recovery Act.

4. Allowable administrative cost caps may be lower than the City's indirect cost rate, or may not be available if the state or another agency has already captured these funds. Therefore, there could be unbudgeted expenses incurred in relation to performance of these grants.
5. One of the City's controls with regards to contractor selection is the requirement of the contractor to carry a bond. In this way, the City may recover its losses in the event of default by the contractor. However, due diligence procedures on the financial condition of the contractor prior to awarding the contract may prevent losses from occurring and may reduce litigation, time delays, and other expenses resulting from the contractor's default.



CITY OF LONG BEACH – STIMULUS MONEY AWARDED (UNAUDITED)

To date, the City of Long Beach and Government Partners have accepted \$76,010,074*

PROJECT	AMOUNT RECEIVED	DEPARTMENT	CITY COUNCIL APPROVAL DATE
Healthy Homes Demonstration Grant Program	\$874,992	Health	April 21, 2009
Lead Based Paint Hazard Control Program	\$2,999,947	Health	April 21, 2009
Layoff Aversion and Downsizing Response	\$628,309	Community Development	May 5, 2009
Workforce Investment Act Adult Services (Pacific Gateway WIB)	\$1,158,051	Community Development	May 5, 2009
Dislocated Worker Services (Pacific Gateway WIB)	\$1,861,230	Community Development	May 5, 2009
Workforce Investment Act Youth Services (Pacific Gateway WIB)	\$2,726,003	Community Development	May 5, 2009
Homeless Prevention and Rapid ReHousing Program	\$3,566,451	Community Development	May 5, 2009
Colorado Lagoon Restoration Project Phase I Completion	\$4,319,108	Community Development	May 12, 2009
Vortex Separation System (VSS) at Pump Station 11 on Los Angeles River	\$539,634	Public Works	May 12, 2009
LA River Trash Nets for Pump Station 12	\$403,200	Public Works	May 12, 2009
LA River Trash Separation Device for Pump Station 13	\$551,845	Public Works	May 12, 2009
Los Angeles River Estuary Dredging (Army Corps)	\$1,580,000	N/A	N/A
Pier G North Slip Fill Project, IR Site 7 (West Basin) and the Channel Turning Basin Dredging Project (Army Corps)	\$2,455,000	N/A	N/A
Arlington Ave. Storm Drain / Sidewalk Program from CDBG-R	\$2,332,444	Community Development / Parks, Recreation & Marine	June 2, 2009



CITY OF LONG BEACH – STIMULUS MONEY AWARDED (UNAUDITED)

PROJECT	AMOUNT RECEIVED	DEPARTMENT	CITY COUNCIL APPROVAL DATE
Front Line Law Enforcement and Mobile Radio Acquisition	\$1,464,816	Police	June 23, 2009
Harbor WorkSource Center	\$325,807	Community Development	June 23, 2009
Bus Capital Improvements	\$8,527,000	Long Beach Transit	N/A
Bus Stop Improvements	\$7,970,214	Long Beach Transit	N/A
TANF Funds for One-Stop Center Employment Opportunities	\$880,000	Community Development	July 14, 2009
Local Green Job Corps	\$935,797	Community Development	August 4, 2009
Transportation Workforce Training Grant	\$130,000	Community Development	August 4, 2009
LA River Catch Basin Inserts for 16 Cities (LA Gateway Region Integrated Regional Water Management Authority)	\$10,000,000	N/A	N/A
Long Beach Local Streets/Roads Projects	\$14,383,000	Public Works	Pending
Long Beach Bike Racks	\$836,764	Public Works	Pending
Brownfields Job Training Grant	\$452,212	Community Development	September 1, 2009
Clean Energy Workforce Training Program	\$100,000	Community Development	November 10, 2009
Diesel Emission Reduction Projects for Port of Long Beach and Tenants	\$4,008,250	Long Beach Harbor Department	N/A
TOTAL	\$76,010,074		

*Stimulus grants generally will function on a reimbursement basis, so cities will receive the funds once invoices are submitted to the federal government for each project. Government partners include the Water Department, Harbor Department, Long Beach Transit, LA Gateway Region Integrated Regional Water Management Authority and the US Army Corps of Engineers.



CITY OF LONG BEACH – STIMULUS MONEY AWARDED (UNAUDITED)

Awards Pending But Not Yet Accepted

PROJECT	AMOUNT RECEIVED	DEPARTMENT	CITY COUNCIL APPROVAL DATE
Long Beach Desalination Research and Development Project	\$3,006,005	Long Beach Water Department	N/A
Port Security Underwater Technology Project	\$100,000	Fire Department	Pending
Geographic Extension of the Fiber Optic System (Port)	\$6,794,581	Long Beach Harbor Department	N/A
Landside Barriers Procurement and Deployment (Port)	\$984,500	Long Beach Harbor Department	N/A
Energy Efficiency Block Grant Formula Projects (City Building Retrofits and resident Energy Efficiency Incentive Program)	\$4,397,500	City Manager's Office	Pending
TOTAL	\$15,282,586		

List of OMB Guidance and Additional Resources

OMB's Recovery Act Guidance

Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009 (February 20, 2009)

http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf

Budget Execution of the American Recovery and Reinvestment Act of 2009 Appropriations (February 25, 2009)

<http://www.whitehouse.gov/omb/assets/bulletins/b09-02.pdf>

OMB Circular No A-133 Single Audit Compliance Supplement (March 2009)

http://www.whitehouse.gov/omb/circulars_a133_compliance_09toc/

Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009 (April 3, 2009)

http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf

Payments to State Grantees for Administrative Costs of Recovery Act Activities (May 11, 2009)

http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-18.pdf

Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009 (June 22, 2009)

http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf

Addendum to the Single Audit Compliance Supplement—American Recovery and Reinvestment Act (June 30, 2009)

http://www.whitehouse.gov/omb/assets/a133_compliance/arra_addendum_1.pdf

Additional Resources

<http://www.recovery.gov/>

<http://www.recovery.ca.gov/>

<http://www.FederalReporting.gov>

<http://www.gao.gov/recovery/>

<http://www.bsa.ca.gov/stimulus>

http://www.whitehouse.gov/omb/recovery_default

<http://www.cacities.org/federalstimulus>



Date: December 17, 2009

To: Patrick West, City Manager *[Signature]*

From: Tom Modica, Manager of Government Affairs *T. Modica*

For: Laura Doud, City Auditor

Subject: **Comments on Audit Report: Internal Controls Over Stimulus Funds**

City management would like to thank the City Auditor's Office for its diligent and comprehensive work in compiling this report outlining the current status of internal control mechanisms and procedures currently employed by the City of Long Beach to pursue, receive and report funds made available by the American Recovery and Reinvestment Act 2009 (Stimulus). The City's Auditor's Office has assisted the City Manager's Office in reviewing the multitude of Stimulus requirements and offered insight on how to ensure that the City has appropriate processes in place to meet those requirements.

City's Internal Controls Related to the Recovery Act

City Management would like to take this opportunity to address the observations outlined in the report.

1. Response to Decentralized Approach Observation

The report makes reference to the decentralized structure of the Stimulus grant process. While it is accurate that the City does not make use of a coordinated grants management strategy, and that it has not created one specifically for the purpose of Stimulus funds, the City Manager's office nonetheless serves as a centralized locus of authority in many aspects for Stimulus funds.

For example, the City Manager serves as the approval authority for all Stimulus related grants for departments under the City Manager, ensuring that departments are not submitting grants without centralized approval. The City Manager also certifies that each of the grants is an appropriate use of taxpayer funds. The City Manager has instructed departments on their responsibilities for monitoring, tracking and reporting, and has communicated that direction to the departments for their implementation.

In terms of departments complying with Buy American requirements, fraud prevention, milestone achievements, program progress, and other monitoring requirements, the City Manager is employing the same processes used for the numerous other federal grants the City receives on an annual basis and has directed departments to use their internal mechanisms to ensure their projects are completed on time and within the grant requirements.

The City Manager's Office plays a role in reporting as well. While each department is responsible for the reporting on their Stimulus grants, the City Manager's Office requires that departments send notification of completion of reporting, and reviews available data through a spot-check process to help ensure accurate and timely reporting.

2. Response to Reimbursement Basis Observation

The report observes that funds available through the Recovery Act are primarily issued on a basis of reimbursement, requiring significant portions of these funds to be paid initially by the City. The report indicates that this has the potential to create negative cash balances for the City. While the potential for a negative cash balance is a concern, this is an issue with accepting most federal or State grants. The City has historically been very successful in managing cash flows, and City management will ensure through ongoing and active management of cash balances that the City is not placed in negative cash balance situation due to Stimulus grants. Department adherence to specified grant program guidance and procedures and timely and frequent submission of reimbursement requests will also assist with avoiding negative cash balances.

3. Response to Funding for Management and Oversight Observation

The report notes that no additional funding is available in the City's budget for centralized management and oversight of Recovery Act funds, and that no full time positions have been budgeted for this purpose. Given the City's budget situation, management has not recommended the addition of staff to manage Stimulus grants. Two positions in the City Manager's Office, the Manager of Government Affairs and an Administrative Intern, have assumed the responsibility for the centralized coordination functions related to Stimulus dollars with no additional cost to the City. In some cases, departments directly managing the grants will have access to administrative dollars to help departments fund the appropriate administrative functions.

The Recovery Act includes the possibility to divert limited funding from projects to fund for centralized administrative costs; however, City Management declined to pursue this option as it would reduce amounts available for project implementation and potentially cause project delay. City Management has been successful in providing management and oversight with current resources and by declining to pursue administrative funding has provided that the all of the dollars being awarded by the Recovery Act are going directly to the projects and programs for which they are intended.

4. Response to Administrative Cost Caps Observation

The report indicated that there could be unbudgeted expenses incurred in relation to the performance of these grants. Those expenses are either borne by the grant itself, or are being addressed under current budget appropriation without the need for an appropriation increase.

5. Response to Requirement for Contractors to Carry a Bond Observation

The report suggests management implement a review of contractor financial conditions as opposed to the City's current practice of requiring the contractor to carry a bond. The City has successfully protected itself against contractor default through requiring bonds. Through this method, the City has a guarantee of protection from contractor default. While the City could change methodologies to require a financial review rather than a bond, additional staff would need to be hired to perform these reviews, and there would not be a guarantee of protection if the contractor defaulted despite the financial review. City Management recommends continuing the practice of requiring a bond.

Thank you for the opportunity to respond to the Audit Report, and City management looks forward to continuing our partnership to effectively and efficiently manage Stimulus dollars in Long Beach. If you have any questions please contact Tom Modica, Manager of Government Affairs, at (562) 570-5091.

cc: Suzanne Frick, Assistant City Manager
Reginald Harrison, Deputy City Manager
Lori Ann Farrell, Director of Financial Management
Jyl Marden, City Council Liaison