



Department of Commerce

Leaking Underground Storage Tank ARRA Program Audit

Audit Period: October 1, 2009 to April 30, 2010



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Executive Summary

Background

The American Recovery and Reinvestment Act (ARRA), signed into law on February 17, 2009, include the following statement of purposes:

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

The State of Ohio has applied for over 90 ARRA programs with expected total grant awards to exceed \$8 billion during the next two years. These applications have been initiated by 21 state agencies in the form of formula, competitive, and discretionary grants. The grant awards are distributed in the following four spending categories:

- Countercyclical Funds: The two largest components of the State's budget that are exposed during a recession, while state revenues decline, are health care and education. The State has been awarded two formula grants (Medicaid and State Fiscal Stabilization) to assist the State's budget. The State Fiscal Stabilization Fund is primarily for education.
- Appropriated Funds: These grants represent additional funding for existing programs such as transportation, labor, and justice programs which will assist in job creation.
- Safety Net Funds: These grants provide relief for lower-income families in the form of supplemental nutrition assistance, child care, and extension of unemployment benefits.
- Economic Growth Funds: These awards focus on new technologies such as alternative energy, health information technology, broadband, and research initiatives.



The Department of Commerce (COM) has applied for one award. This audit will focus on the Leaking Underground Storage Tanks (LUST) ARRA Program which is a formula grant. As of April 30, 2010, the COM has disbursed \$4,396 of the awarded \$8,080,000 for this program. Since COM is in the early stages of the program, our audit primarily focused on internal control design.

The LUST Program (Catalog of Federal Domestic Assistance number 66.805) is a formula grant awarded by the U.S. Environmental Protection Agency (USEPA) to fund contaminated LUST sites clean up, while maximizing job creation and retention and providing economic and environmental benefits (such as protecting groundwater and cleaning up and reusing contaminated land) to the citizens of the U. S.

During the audit, OIA identified opportunities for COM to strengthen internal controls and improve business operations. Summary and detailed observations have been provided. OIA would like to thank COM staff and management for their cooperation and time in support of this audit.

This report is solely intended for the information and use of agency management and the State Audit Committee. It is not intended for anyone other than these specified parties.



Scope and Objectives

OIA staff was engaged to perform assurance work related to the LUST ARRA Program. This work was completed between October 1, 2009 and April 30, 2010. The scope of this audit included the following areas:

- Program planning
 - Program risk assessment; and
 - Internal control process documentation
- Application process
 - Public award announcement; and
 - Applicant evaluation and award notification
- Program administration and monitoring
 - Communication of grant requirements; and
 - Program oversight and monitoring

The following summarizes the objectives of the review along with a conclusion on the design of management’s internal controls.

Objective	Conclusion ¹
Evaluate the adequacy of the agency’s ARRA program risk assessment and internal control documentation based on guidance provided by State management.	Well-Controlled
Evaluate the adequacy of the awarding process for ARRA funds to subrecipients and vendors.	Well-Controlled
Evaluate the design and adequacy of communication related to program requirements, state guidance, and federal compliance requirements to grant recipients.	Well-Controlled
Evaluate the design of controls over the timeliness, accuracy, and completeness of ARRA disbursements.	Improvements Needed – See Observation 1
Evaluate the design of the controls over subrecipient and vendor monitoring process for the program.	Improvements Needed – See Observation 2

¹ Refer to [Appendix A](#) for classification of audit objective conclusions.



Summary of Observations and Recommendations

The Summary of Observations and Recommendations includes only those risks which were deemed high or moderate. There were no low risk observations and recommendations identified as part of this audit.

No	Observation	Recommendation	Risk ²
1.	Fund Management – COM did not expend 15% of the \$8M award amount (\$1.212 million) within nine months of the award date as required by the grant agreement and drew down funds prematurely before immediate needs as such interest earnings may result in interest repayments due to USEPA.	COM should consider developing strategic action plans to ensure timetables established are met and enhancing their policies and procedures to ensure federal cash draw downs will be made only as actually needed for its disbursement.	Moderate
2.	Vendor Monitoring – Documentation and walkthroughs did not reflect a risk-based, coordinated monitoring process that can be used to determine whether vendors were using ARRA funds in accordance with grant application and applicable laws and regulations. Current monitoring procedures and tools do not address any ARRA specific requirements.	COM should consider developing a comprehensive, risk-based monitoring program that aligns controls with risks associated with disbursing ARRA funds to vendors.	Moderate

Due to the limited nature of our audit, we have not fully assessed the cost-benefit relationship of implementing the observations and recommendations suggested above. However, these observations reflect our continuing desire to assist COM in achieving improvements in internal controls, compliance, and operational efficiencies.

² Refer to [Appendix A](#) for classification of audit observations.



Detailed Observations and Recommendations

Observation 1 – Fund Management

Per review of the Leaking Underground Storage Tanks (LUST) cooperative grant agreement, under administrative conditions, it was noted that one of the conditions stated...“Cash draw down will be made only as actually needed for its disbursement.” In addition, under programmatic conditions of the grant agreement, it was noted that one of the conditions stated... “The recipient shall obligate funds for contracts, subgrants, or similar transactions for at least 35% of funds, and expend at least 15% of funds within nine months of this award (Award date July 16, 2009). USEPA will consider the recipient’s failure to comply with this requirement as a material failure to perform, which may warrant appropriate enforcement action under 40CFR 31.43.”

Department of Commerce (COM) drew down \$3.6 million of federal funds for the LUST program on February 26, 2010. COM experienced significant delays in site selections and awarding requests for proposal which limited expenditure activity and as of April 30, 2010, COM had expended \$4,396. Therefore, COM did not expend 15% of the \$8M award amount (\$1.212 million) within nine months of the award date. COM did, however, meet the 35% obligations requirement. Furthermore, as a result of drawing down prematurely before immediate needs, interest earnings may result in interest repayments due to USEPA.

Inadequate or ineffective review of fund/cash management increases the risk of funds not obligated and disbursed within allowable timeframe or grant period (period of availability); noncompliance with contract, or state/federal regulations; and not achieving program objectives.

Recommendation

COM should continue to work closely with USEPA to address noncompliance to the expenditure requirement and consider developing strategic action plans to ensure timetables established are met. COM should also consider enhancing their policies and procedures to ensure federal cash draw downs will be made only as actually needed for its disbursement.

Management Response

COM has been working with USEPA to address the expenditure of the 15% of the grant funds awarded. COM’s original schedule to meet this grant requirement was delayed when USEPA modified the requirements for a LUST site to be eligible to receive ARRA grant funds. As a result, the Bureau of Underground Storage Tank Review (BUSTR) had to reexamine its pool of eligible sites and delay assigning sites to each vendor to begin work. COM will continue to work with USEPA in developing an acceptable strategic action plan to meet this grant requirement.



Commerce is also working closely with USEPA and OBM to ensure that any future federal cash draw downs will be made only as needed for disbursement. Commerce will develop all necessary management controls and procedures to ensure this occurs and applicable staff will be notified.

Risk	Remediation Owner	Estimated Completion Date
Moderate	Program Manager – ARRA	August 30, 2010



Observation 2 – Vendor Monitoring

OMB implementation guidance M-09-10 (Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009), requires the department to monitor the activities to reasonably ensure that funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated. Additionally, COM signed an assurance statement indicating a risk-based vendor monitoring process would be in place to ensure achievement of the ARRA program and economic outcomes.

Review of documentation and process walkthroughs did not reflect a risk-based, coordinated monitoring process that can be used to determine whether vendors were using ARRA funds in accordance with grant application and applicable laws and regulations.

Additionally, the current monitoring procedures consist of reviews of the monthly vendor reports which are submitted directly via “ARRA Web Application” (Previously developed by COM IT group); on-site programmatic reviews (i.e. site visit) on selected sites using the “Field Audit Checklist”; and reviews of the technical vendor reports at the end of specific task orders using the applicable “Report Review Form”. Each monitoring activity is performed by the COM BUSTR Coordinators. The monthly vendor reports include number of jobs created and retained, a monthly activities list and their descriptions. The audit checklist includes the technical aspects of the Underground Storage Tank requirement, such as acceptable number of soil boring/monitoring wells installed and acceptable locations of soil boring/monitoring wells. The report review form includes the technical aspects of the requirements for the Underground Storage Tank program similar to the checklist used for site visits but involves information at a more detailed level.

None of the monitoring procedures and tools noted above currently addresses any ARRA specific requirements such as Buy America, Davis-Bacon, and Suspension and Debarment. Furthermore, they do not address any USEPA specific activities restrictions such as leak prevention and redevelopment activities. At the time when this report was prepared, no site visits had been performed, the monthly vendor report was not fully developed, and no review form had been completed because they were still in the early stages of the program.

The lack of a risk-based, coordinated monitoring process increases the risk of vendor noncompliance or questioned costs and exposes the department to increased oversight by federal agencies.



Recommendation		
<p>COM should consider developing a comprehensive, risk-based monitoring program that aligns controls with risks associated with disbursing ARRA funds to vendors. The program should prioritize monitoring activities to minimize risk to an acceptable level as established by management. The program should also address both ARRA and USEPA specific requirements and include planning for the frequency and scope of onsite visits, communication and training, and remediation processes for vendor issues identified.</p>		
Management Response		
<p>Commerce has ongoing communications with the vendors and the BUSTR coordinators regarding contract issues that may arise. At the post award vendor meeting, Commerce provided information to the vendors on using the reporting database, Davis Bacon wage rates, drafting work plans and the issuance of task orders and /or purchase orders. BUSTR coordinators have also received training on ARRA reporting requirements, Davis Bacon wage rates, the fiscal payment process and the disposal of hazardous waste.</p> <p>In response to the audit, Commerce will develop and implement a comprehensive risk based monitoring program that aligns controls with the risks associated with disbursing ARRA funds to vendors. This program will include the following:</p> <ul style="list-style-type: none"> - ensuring that the vendors are meeting specific ARRA and USEPA requirements; - a procedure for the frequency and scope of onsite visits; - on-going communication and training of vendors and BUSTR coordinators when necessary; and - utilization of the remediation process as set forth in the contract entered into between the vendors and the State of Ohio, Department of Administrative Services. 		
Risk	Remediation Owner	Estimated Completion Date
Moderate	Program Manager – ARRA	June 30, 2010



Appendix A – Classification of Audit Objective Conclusions and Observations

Classification of Audit Objective Conclusions

Conclusion	Description of Factors
Major Improvements Needed	Weaknesses are present that could potentially compromise achievement of its overall purpose. The impact of weaknesses on management of risks is widespread due to the number or nature of the weaknesses.
Improvements Needed	Weaknesses are present that compromise achievement of one or more control objectives but do not prevent the process from achieving its overall purpose. While important weaknesses exist, their impact is not widespread.
Well-Controlled with Improvements Needed	The processes have design or operating effectiveness deficiencies but do not compromise achievement of important control objectives.
Well-Controlled	The processes are appropriately designed and/or are operating effectively to manage risks. Control issues may exist, but are minor.

Classification of Audit Observations

Rating	Description of Factors	Reporting Level
High	Observation has broad (state or agency wide) impact and possible or existing material exposure requiring immediate agency attention and remediation.	State Audit Committee, Senior Management, Department Management
Moderate	Observation has moderate impact to the agency. Exposure may be significant to unit within an agency, but not to the agency as a whole. Compensating controls may exist but are not operating as designed. Requires near-term agency attention.	State Audit Committee, Senior Management, Department Management
Low	Observation poses relatively minor exposure to an agency under review. Represents a process improvement opportunity.	Department Management, Senior Management (Optional), State Audit Committee (Not reported)



Appendix B – Audit Follow-up Procedures

OIA will periodically follow-up on management's plans to remediate high and moderate risk audit observations. Follow-up activities may generally be broken down into three categories:

Detailed Detailed follow-up is usually more time-consuming and can include substantial audit customer involvement. Verifying and testing procedures implemented as well as substantiating records are examples. The more critical audit observations usually require detailed follow-up.

Limited Limited follow-up typically involves more audit customer interaction. This may include actually verifying procedures or transactions and, in most cases, cannot be accomplished through memos or telephone conversations with the audit customer but requires onsite observation or testing.

Informal This is the most basic form of follow-up and may be satisfied by review of the audit customer's procedures or an informal telephone conversation. Memo correspondence may also be used. This is usually applicable to the less critical observations.

Low risk audit observations will not result in an OIA audit follow-up, although these observations will be factored into the continuous risk assessment process for future OIA engagements.