



FLORIDA
INTERNATIONAL
UNIVERSITY

Office of Internal Audit

REVIEW OF THE ADMINISTRATION OF
AMERICAN REINVESTMENT AND RECOVERY
ACT FUNDS PROGRAM

Report No. 09/10-03

March 9, 2010



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OFFICE OF INTERNAL AUDIT

DATE: March 9, 2010

TO: Kenneth A. Jessell, CFO & Sr. V.P., Finance and Administration
Liane Martinez, VP Strategic Development & Financial Planning

FROM: Allen Vann, Audit Director

A handwritten signature in blue ink, appearing to read 'Allen Vann', is written over the printed name.

SUBJECT: Review of the Administration of American Reinvestment and Recovery Act Funds Program - Report No. 09/10-03

As part of our annual audit plan, we have reviewed the use and reporting of the American Reinvestment and Recovery Act (ARRA) funds received by the University through the second quarter ended December 31, 2009. For this Fiscal Year the University has thus far been awarded \$20.4 million in various ARRA funds. Additional awards are likely to be made in Fiscal Year 2011 as well.

We are pleased to report that the University has been proactive in identifying those areas where ARRA funds can best be used in spite of the fact that external guidance on how the funds are to be used are not always clear. On the whole, the required reports filed under the act have been accurate and complete. Nevertheless, our review identified areas where ARRA funds are being expended where procedures could be strengthened and others where the University should obtain further clarification. Management responded favorably to the four recommendations resulting from our review.

We wish to express our appreciation for the cooperation and courtesies extended to us by the staff of the Office of Financial Planning, Financial Aid, Office of Sponsored Research Administration (OSRA), Facilities Management, and others who provided us information during our review.

BACKGROUND

On February 17, 2009, the American Recovery and Reinvestment Act was signed into law. The Act is intended to:

- (a) Preserve and create jobs and promote economic recovery;
- (b) Assist those most impacted by the recession;
- (c) Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
- (d) Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
- (e) Stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

The measures are nominally worth \$787 billion. The State of Florida expects to receive approximately \$15.7 billion over the three years of the program. More funding is possible if Florida's state agencies, local governments, not-for-profits, businesses and schools are successful in competitive grant programs. The Florida Office of Economic Recovery was established to coordinate ARRA efforts in Florida. The Board of Governor for the State's University Systems of Florida has provided guidance to the state universities throughout the process.

The University was awarded four grants from the Florida Department of Education (FDOE) through the State Fiscal Stabilization Fund Program, totaling \$15,116,940, of which \$866,405 was directed to the College of Medicine. Also, the University's Financial Aid Office directly received \$332,160 in Federal Work-Study funds. Finally, as December 31, 2009, individual Principal Investigators (PIs) have also been awarded Federal grants totaling \$4,709,704 and flow-through grants totaling \$263,442 of year one ARRA funds. In total, the University is currently overseeing \$20,422,246 of ARRA funds.

METHODOLOGY

We reviewed the University's procedures for ensuring compliance with the use of ARRA funds and the reporting thereof. Our review included, but was not limited to, interviews with those employees responsible for managing ARRA projects within the various units at the University and with those employees responsible for the reporting, examining the first two quarterly reports submitted by those units, reviewing the supporting documentation for those submittals, and attending the University's State Fiscal Stabilization Fund Task Force meetings.

RESULTS OF REVIEW

1. Florida Department of Education

Early on, University management determined that most of the \$15,116,940 from the FDOE would be spent on critical projects and a select number of critical positions. However, after submitting the original budgets to the Florida Board of Governors, the University was encouraged to realign itself with the other state universities by spending most of the allotted ARRA funds on payroll, rather than on projects that would require additional resources and controls to ensure compliance.

The University then identified three areas where ARRA funds would be used for payroll:

- (a) Permanent salaried positions slated for elimination within the next three fiscal years;
- (b) Adjunct professors; and
- (c) New critical positions.

As of December 31, 2009, a total of 38% of the FDOE funds had been expended, \$5,714,262 on payroll and related charges and \$86,494 on projects. Based on our review of the payroll and related charges we concluded that the University is capturing and reporting payroll charges for employees meeting the defined criteria. However, our review found some minor exceptions, some of which were corrected in a revised submission:

- \$7,102 in a leave payout and other charges for an employee who previously met the criteria.
- \$6,244 for an employee who did not appear to meet the ARRA criteria.
- \$528 for an employee's cellular telephone allowance.

The FDOE is required to make its reports to the Federal Government by the tenth of the month following the end of the calendar quarter. In turn, the University, as a sub-recipient, needs to report to FDOE by the 5th of the month. Because the report needs to be sent to the State only five days after the end of the quarter but prior to "closing" our books the staff has a difficult task and little time to adequately review the reported charges. Nevertheless, the reporting team did identify \$14,574 in charges which needed to be removed prior to submitting their report. However, in our discussions with Financial Planning personnel it was apparent that a thorough review of all the charges was not feasible. Nevertheless, staff appears to be doing their best. In a revised submittal for the second quarter dated January 28, 2010, an additional adjustment of \$14,909 was made reducing ARRA related project expenditures.

This will be more critical for the fiscal year-end, when all FDOE ARRA funds need to be used/encumbered.

On December 18, 2009, the Office of Management & Budget (OMB) issued guidance regarding the reporting of job estimates. The guidance changed from reporting on jobs created or retained, to simply reporting on the number of jobs funded. FIU's liaison at the Florida Board of Governors, believes the change in guidance does not change the intent. He states, "ARRA funding is still designed to create or retain jobs – but what the OMB memo seems to concede is that distinguishing between a job created and one retained is an artificial distinction." Thus, the question of whether the University's use of ARRA funds to fund positions which existed prior to receiving the funds and most likely will continue after the funds cease to exist, remains unanswered. This is particularly the case for adjunct professors, which represents 59% of the \$5.7 million, or \$3.4 million the University has charged to ARRA. FIU is classifying the adjunct professor positions funded under ARRA as jobs "continued," which was a DOE category. On January 21, 2010, the FDOE advised recipients that "jobs funded" would be the aggregate of the previous jobs saved, created, and continued.

University management believes that these positions, which were approved by the Board of Governors in the revised ARRA budgets, are allowable under ARRA because of their contractual nature. Although not included in the University's original three-year budgets cuts, many of these positions could have been in jeopardy as a result of expected budget cuts as contractual employees would be the first to be impacted.

As of January 29, 2010, the University had identified 12 projects, totaling \$3.3 million for use of ARRA funds. To date, only \$281,262 or 8.4% of the budgeted amount has been expensed (although 58.3% of the fiscal year has elapsed). Based on cash flow projections by management, it is expected that 100% will have been expensed by June 30, 2010. Because construction projects are not always predictable, some concern has been expressed by management that not all projects will be completed on time. As a result, management has identified 3 additional projects, totaling \$1,242,477 that could potentially qualify for ARRA funding, if necessary.

In reviewing the 12 projects, we noted that the majority of the projects were related to "surveys" and "systems," although the vast majority of the dollars were related to three construction projects, totaling \$2.1 million with scheduled completion dates in May 2010.

The University has prepared a package of documents to be used on all ARRA projects, whether vendor, consultant, or construction manager. However, these forms were not available until January 2010. Our review found that not all of the projects currently on the ARRA list have the necessary compliance documents completed, i.e., certification and contract language. However, we were informed that all project vendors, consultants and construction managers would have the necessary forms in the very near future.

During our review of the project related expenditures, which as of December 31, 2009 totaled \$86,494, we encountered a \$34,975 charge for emergency evacuation devices that appeared to be similar in nature to other equipment that had been adjusted out of the charges as it did not meet ARRA's "Buy American" requirements. Although management subsequently determined that the charge for the devices was proper, in our discussions with personnel responsible for these devices we noted a lack of awareness of ARRA restrictions. Depending on where these devices are eventually installed, they could become unallowable, e.g., athletic facilities.

Recommendations:

- 1.1 Financial Planning personnel should review charges on a continuing basis to ensure that charges not meeting the criteria are identified prior to reporting deadlines.**

Management Response/Action Plan:

The Office of Financial Planning (OFP) has been reviewing charges posted to the State Fiscal Stabilization (SFSF) - ARRA funds (People Soft funds **213 and 243**) on a monthly basis and has taken corrective action to address the items listed in the internal audit review:

- \$7,102 leave payout: This activity was identified at the time we were preparing the Q2 report and was not included in the report submitted to Board of Governors on January 28, 2010. Controller's has been notified, as well as Human Resources, to disallow payments related to employee leave payouts. The entry was reversed on 12/31/2009.
- \$6,244 for an employee who did not appear to meet the ARRA criteria: The adjusting entry has been processed to remove the payroll charge. Payroll transfer anticipated for the 03/12/2010 payroll. Position numbers established to be funded with SFSF are being monitored on a monthly basis to avoid charges of unauthorized positions.
- \$528 for an employee's cellular telephone: Entry to reverse charge is anticipated for the 03/12/2010 payroll.

It is important to note that the payments that have been reversed were reversed because they did not meet the internal criteria defined by FIU for the use of SFSF, not because they were restricted by ARRA ("The Act").

We are looking into the possibility of setting up filters within the People Soft system so entries such as leave payouts, cellular phone charges, and travel expenses cannot get posted in these funds.

Estimated completion date: Immediately

1.2 Ensure that the use of ARRA funds for adjunct faculty salaries is well documented.

Management Response/Action Plan:

The University approved to fund adjunct faculty with SFSF due to the temporary nature of the adjunct assignments and the expectation that stimulus funds will provide bridge funding until recurring funding is obtained. Each adjunct faculty contract includes information regarding the nature of the assignment and the funding source, which in this case is the SFSF. These contracts are on file in the Academic Affairs Office.

Estimated completion date: Immediately

1.3 Facilities Management should ensure that all projects have the required ARRA compliance documentation on file.

Management Response/Action Plan:

Facilities Management (FMD) will ensure that all required documentation be kept on file. FMD has worked with the Office of the General Counsel and the Office of Sponsored Research to research the law, regulations, and available guidance to prepare the required certification documentation from the contractors for each purchase order, including but not limited to certifications of compliance for the Equal Employment Opportunity Act (EO 11246), the Davis-Bacon Act (40 U.S.C 276a to a-7), Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), and so-called "Buy American" provisions.

Estimated completion date: June 30, 2010

1.4 All personnel involved in ARRA funded projects should be fully knowledgeable of ARRA restrictions so as to ensure compliance.

Management Response/Action Plan:

All future projects to be funded with SFSF will be submitted using a SFSF Request Form that explains the restrictions and compliance requirements related to ARRA funds. In addition, once a project is approved for funding OFP will contact the Budget Manager in charge of the project to ensure full understanding of ARRA restrictions.

Estimated completion date: July 31, 2010

2. **Federal Work-Study Program**

The Federal Work-Study Program is a grant from the U.S. Department of Education (USDOE) which awarded the University \$332,160. For administrative ease and reporting consistency, certain conventions and assumptions were established which included that the first funds drawn by the University from the 2009-10 Federal Work-Study program allocation were assumed to be ARRA funds.

During the second quarter the University drew from its 2009-10 allocation, and thus the first \$332,160 was considered to be ARRA funds. There is no specific identification of students associated with these funds. As a prime recipient, the University was to report the expenditure of those funds by the 10th of the month following the end of the calendar quarter, but because the deadline was extended by 5 days, the University submitted its report on January 15, 2010.

No deficiencies were noted in the use or reporting of these funds.

3. **Sponsored Research**

As of December 31, 2009, OSRA was managing Federal grants totaling \$4,709,704 and flow-through grants totaling \$263,442 funded through ARRA funds. At year end, \$246,678 of Federal grant funds had been received/invoiced. Although this only represents 5% of Federal grants awarded, these grants do not carry the same time constraints for use as other ARRA funds. These grants are mostly supplemental grants awarded on the same cycle as the primary grant.

No deficiencies were noted in the use or reporting of these funds.