

For Immediate Release
Wednesday, February 3, 2010

Grassley asks Orszag to explain reporting requirements for recipients of stimulus dollars
Senator seeks vigilance over \$787 billion taxpayer-funded program

WASHINGTON – Senator Chuck Grassley is following up on the response he received from the Director of the White House Office of Management and Budget with questions about what the response left unanswered. Grassley asked about new information related to the lack of reporting requirements for recipients of federal economic stimulus dollars, the apparent lack of procedures for preventing the award of stimulus funds to ineligible recipients, and how recipients who received funds without asking were selected.

“I appreciate how quickly Director Orszag responded to my first letter. The reach of this \$787 billion program is enormous, so every effort needs to be made to account for the tax dollars that are spent. Transparency is a key element of accounting for the expenditures and determining the success of the effort,” Grassley said. “I’ll keep asking questions and working to shed light on where the money is going.”

The text of Grassley’s second letter, which he sent today, is immediately below. The letter he sent last Friday follows. The February 1 response of OMB Director Orszag is posted with this news release at <http://finance.senate.gov> and <http://grassley.senate.gov>.

February 3, 2010

The Honorable Peter R. Orszag
Director
Office of Management and Budget
Eisenhower Executive Building
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Director Orszag:

Thank you for your prompt response to my recent letter on the stimulus program. As the federal government moves forward with this unprecedented federal spending, continuous dialogue between the executive and legislative branches is critical to ensure taxpayer dollars are spent in a transparent and accountable manner. Throughout my career in Congress, I have believed I have an obligation to oversee how our government conducts the people’s business and spends their money. I have worked to fulfill this obligation through both Republican and Democratic administrations.

As Ranking Member of the Senate Committee on Finance, I conduct oversight of federal health care spending, including the Medicare program. In this one program alone, taxpayers are bilked out of at least \$60 billion every year through fraud, waste, and abuse. So you can understand my consternation over the Administration’s efforts to spend more dollars in a shorter

period of time than we have seen in our nation's history. Administration officials, as well as others, have predicted no less than \$55 billion dollars in Recovery Act money will be lost to waste, fraud, and abuse. I think this is being optimistic.

Although I appreciate your prompt response to my earlier letter and the effort that it took to prepare it, I find that too many questions remain unanswered and the reliance on future plans and guidance to correct current problems is, at best, misguided. Let me provide you with a few examples.

While it is true that "OMB's guidance requires Recovery Act grant recipients to begin reporting as soon as an award is issued," all too often this is not the case. It is also true that "Recovery Act contract recipients are required to begin reporting as soon they invoice for the first time, which occurs before any funds reach them." But, again, this is not always the case. Too often, recipients fail to report because they understand that they are unlikely to be penalized.

After reading your response, I continue to have concerns. Therefore, I reached out to the Recovery Accountability and Transparency Board (RAT Board), which advised me that about 1,500 ARRA recipients have failed to file for two quarters, and that more than 2,000 ARRA recipients who filed for the first quarter failed to file in the second quarter. And then there are those ARRA recipients who were not required to file during the first quarter; but were required to file during the second quarter and failed to do so. That's more than 3,500 recipients of ARRA money who are not following the rules. Perhaps they have little incentive to do so.

As the Chair of the RAT Board testified late last year, there are a "considerable number of recipients who" do not report to the Recovery Act because it "prescribes no penalties for failure to report." Perhaps even more important is the fact that the Administration currently does not **require** that agencies take any punitive action(s) against ARRA recipients who fail to file; rather it provides the agencies with discretion as to whether or not action should be taken if an ARRA recipient fails to file. In the interim, it is critical that federal agencies do everything they can to clamp down on non-reporting recipients and OMB ought to be encouraging them to do so. In addition, please provide to me the total number of recipients penalized for not reporting data or reporting it late, and describe what, if any, punitive action has been taken against them as of the date of this letter.

In my letter I also raised concerns about Suspension & Debarment (S&D) problems at the Department of Transportation. It is also my understanding that until recently the Interior Department completely lacked an S&D program at all; so it would not be unusual to find that the Interior Department gave ARRA money to an organization that had earlier failed in, for example, some aspect of its performance to Interior.

I also greatly appreciated your response to my inquiry regarding the Excluded Parties List System (EPLS) and my staff looks forward to receiving a briefing on that system. According to its website the EPLS is intended to:

provide a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving federal contracts or federally approved

subcontracts and from certain types of federal financial and nonfinancial assistance and benefits. The EPLS is used to keep agencies abreast of administrative, as well as, statutory exclusions taken throughout the Federal Government.

However, there is a substantive and critical concern that has been brought to my attention by federal officials regarding the EPLS that I would like you to address. Let me start with an example to illustrate my concern. Company/Individual ABC receives a \$5 million dollar ARRA contract from Agency X on June 1, 2009. Subsequently, on August 1, 2009, Company/Individual ABC is placed on EPLS for “administrative, as well as, statutory exclusions taken.” From my conversations with federal officials, it is my understanding that because the ARRA contract was awarded prior to Company/Individual ABC being placed on the EPLS system, ARRA contract payments will continue to be paid.

This is an appalling bureaucratic mishandling of taxpayer funds. Please let me know as soon as possible whether this type of scenario is being addressed, and if not, why not.

But even for recipients who want to report data, it is not always easy to do so. A January 6, 2010 column in the *Washington Examiner* described the many problems one business owner had when reporting a \$2,000 contract to federalreporting.gov.^[1] The article noted that the business owner spent seven hours attempting to input the data, and did so only after all of the stimulus money was spent.

In addition, in response to my inquiry I was recently advised by the RAT Board that it does not have access to a complete list of precisely who received a loan, grant or contract, pursuant to the Recovery Act. To say that this is remarkable and a serious shortcoming is an understatement. How can the RAT Board do its job efficiently or effectively when it does not have possession of the most basic and fundamental of information to conduct its work, namely: who got the money?

While I am eager to see the completion of the Federal Awardee Performance and Integrity Information System (FAPIIS), I remain concerned by flaws in the current system and the numerous cases that have already arisen regarding questionable entities receiving Recovery Act dollars. For instance, a recent report told the story of two entities that have both received stimulus funds under circumstances that do not inspire confidence.^[2] In one case, a construction company under criminal investigation for bilking the taxpayers of San Diego, California, received \$6.4 million in stimulus funds to repair roads and runways. In another case, a large corporation recently fined for polluting a creek with chromium, dioxin, lead, and mercury received \$15.9 million in stimulus funds to conduct environmental monitoring on the same site. Please keep me updated on the completion of the FAPISS, and provide me with the total amount of ARRA funds and non-ARRA funds that will be spent to create it and maintain it.

^[1] Barbara Hollingsworth, *UPDATE: Even with a real zip code, it takes 7 hours to report on \$2,000 contract*, The Washington DC Examiner, January 6, 2010.

^[2] Bill Evans, *Some Firms beset by probes get stimulus fund*, California Watch, January 10, 2010.

I was also interested to read your response regarding the federal government's irregular accounting of ARRA funds. Your letter stated that these "alleged discrepancies" were the result of "incorrect assessments of the sources referenced." Any incorrect assessments occurred within the executive branch, as the terms and data in my prior letter originated there. Indeed an executive branch official told my staff: "in the federal government everybody is using different terms to talk about the same thing, and similar terms to talk about different things." In addition, I read your response to Question 5 with great interest and note that it is limited strictly to tax cheats and/or criminals who are contractors. Please provide to me your response with regard to those who received ARRA grants or loans as well.

Regarding the ability of states to protect ARRA funds from fraud, waste, and abuse, you stated that OMB is "very concerned about States' capacity to protect against waste, fraud and abuse." I share your concern. Until better controls are in place to protect these funds the waste, fraud, and abuse will only grow and we will find ourselves again in a 'pay and chase' system that routinely ends poorly for taxpayers.

My concern with sub-recipients continues despite your responses and it seems that my concerns are well founded. I recently came to learn that there are over 10,000 sub-recipients of ARRA money that reported for the first quarter. However I understand, in response to an inquiry I made, that thousands of these same sub-recipients did not report in the second quarter. Please provide information indicating whether the rules changed regarding their reporting and, if not, why these sub-recipients stopped reporting and what is the Administration going to do about it.

Additionally, I was also pleased to read in your letter that OMB is open to "alternative uses" of unobligated stimulus money if taxpayers would be "better serve[d]." But like so many Americans I remain confused about how so many of the stimulus projects were determined to be the best use of limited taxpayer dollars in the first place. For instance, recent reports by my colleague Senator Coburn and others have highlighted the following ARRA projects:

- Millions of taxpayer dollars to buy road signs reminding taxpayers of how their money is being spent.
- \$2.2 million grant to construct new water pipes for a San Francisco golf course.
- \$1.15 million to construct a guardrail around a Woodward, Oklahoma lake that does not exist.
- \$578,661 to combat homelessness in a New York town that never requested the money and does not have homelessness. A HUD official encouraged town officials to come up with "creative strategies" to use the funding.
- \$1,849,627 to a Nevada non-profit for weatherization services, after the non-profit was terminated from the same project for deficient work and failing to follow accountability requirements.

- \$800,000 for the construction of a super-runway at a Johnstown, PA airport that serves an average of 20 passengers per day.

Finally, I appreciate your noting that additional funds have been provided to the Inspectors General community to pursue ARRA matters. At the same time, I am interested in learning more about the resources that each agency is dedicating to ARRA administration and oversight. Accordingly, please let me know how many full-time employees are being provided by each agency to conduct ARRA activities.

It is no surprise that Americans are worried, and they have good reason. With a ballooning federal debt and growing unemployment, Americans are rightfully angry to see their hard-earned dollars as well as dollars the government has borrowed to fund projects that are so patently wasteful. Hundreds of thousands of dollars here and there might not sound like a lot to some in Washington, but it is an incredible amount for the millions of Americans struggling to put food on the table and pay their bills.

Please provide the requested information by February 10, 2010. Should you have any questions regarding the contents of this letter please do not hesitate to contact Christopher Armstrong or Brian Downey of my Committee staff at (202) 224-4515.

Sincerely,

Chuck Grassley
United States Senator
Ranking Member of the Committee on Finance

For Immediate Release
Friday, January 29, 2010

Grassley seeks accounting of tax dollars spent for economic stimulus

WASHINGTON --- Senator Chuck Grassley has asked the Director of the White House Office of Management and Budget a series of questions about expenditures under the American Recovery and Reinvestment Act, or the economic stimulus bill, passed nearly a year ago.

“When the government spends so much money and awards grants, loans and contracts in a short period of time like this, the potential for fraud, waste and abuse goes up. Taxpayers deserve to know that every effort is being made to account for these expenditures. The federal bureaucracy needs to answer questions and be transparent about what’s happening with the tax dollars it’s distributing through this program.”

Grassley said recent reports from the inspectors general for the departments of Education and Transportation indicate serious internal accounting deficiencies and raise additional concerns about the ability of the bureaucracy to prevent fraud, waste and abuse in spending.

The text of Grassley's letter to Director Peter Orszag follows here.

January 28, 2010

The Honorable Peter R. Orszag
Director
Office of Management and Budget
Eisenhower Executive Building
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Director Orszag:

As the senior senator from Iowa and Ranking Member of the United States Committee on Finance (Committee), I have a duty to conduct oversight of the executive branch. This duty includes monitoring executive branch activities and conducting oversight to ensure that taxpayer dollars are used appropriately. This duty is more important than ever as federal spending is at unprecedented levels, in part due to the implementation of the American Recovery and Reinvestment Act of 2009 (ARRA).

Congress passed ARRA in an attempt to stimulate economic activity and stave off further loss of American jobs. Nearly a year later, the American people have serious doubts about the effectiveness of ARRA, as a January 25, 2010 CNN Poll showed three out four Americans responded that "much of the stimulus money has been wasted."^[3] At a time of economic hardship for so many Americans, accounting for how this money is spent under the ARRA program should be a top priority of the Office of Management and Budget (OMB). At the very least, the American taxpayer deserves a transparent process when it comes to how their money is being spent.

At this time, I am specifically concerned about the process in which executive branch agencies obligate \$275 billion dollars of ARRA money through grants, loans, and contracts. In recent months my committee staff has been in contact with executive branch Inspectors General, as well as the Recovery Accountability and Transparency Board (RAT Board). They have done so in an effort to monitor the use of ARRA money and to better understand the Obama Administration's efforts to spend these funds in a way that meets the intent of Congress while also preventing fraud, waste, and abuse of taxpayer dollars.

In light of this ongoing work, I will be conducting intensive oversight now and in the coming months over how these recovery initiatives are being administered. This will include letters of inquiry to many of the departments and agencies receiving ARRA funds and continued interviews and document reviews. As the Director of the office responsible for administering the ARRA program, I write today regarding my initial concerns across the federal government.

^[3] The Stimulus Project, *CNN Poll, 3 of 4 Americans say much of stimulus money wasted*, cnn.com, January 25, 2010.

- **Insufficient Front-End Oversight**

In much of the federal government, the marching orders regarding ARRA funds seem to be, “spend now, chase later.” When federal and state bureaucrats spend money quickly, perhaps at the cost of it being spent carefully, we have a recipe for massive fraud, waste, and abuse of taxpayer dollars. Across the federal and state governments, audits are already demonstrating the risks of this mentality.

Critical to protecting taxpayer dollars is executive branch “Suspension and Debarment” programs (S&D program). The S&D Program is used to permit the exclusion of entities found to be unethical, dishonest, or otherwise irresponsible from receiving contracts and grants from the federal government. Each S&D Program links their information up to the U.S. General Services Administration (GSA) operated Excluded Party Listing System (EPLS). EPLS is a web-based system, accessed government-wide, that is supposed to provide an up-to-date and central listing of suspended or debarred entities. However, with the government’s stimulus efforts it appears that S&D programs have become a casualty of the “spend now, chase later” mentality. For instance, a January 7, 2010 audit by the U.S. Department of Transportation Office of Inspector General (DOT-OIG) reported serious deficiencies in the Suspension and Debarment Program at the Department of Transportation (DOT).^[4] At the same time, DOT received \$48 billion in stimulus money, and according to the DOT-OIG, the DOT has not devoted sufficient resources to its S&D program; the result is putting billions in taxpayer money at risk of fraud, waste, and abuse.

Similarly, the Louisville *Courier-Journal* reported that parties linked to a prominent Lexington, KY contractor on trial for bribery, conspiracy, and obstruction of justice were awarded a \$24 million ARRA contract to work on federally funded roads from the Federal Highway Administration (FHWA).^[5] Parties linked to this prominent contractor were able to access ARRA money due to a 10-month decision making process made by S&D Program Operating Administrations’ at FHWA on whether or not these parties should be suspended from receiving federally funded contracts.

Director Orszag, an efficient and proactive S&D Program, combined with EPLS, is vital to safeguarding taxpayer money. Whether the DOT’s programs are an anomaly or a symptom of a government-wide problem remains to be seen. Though in light of unprecedented federal spending across our government, proactively preventing taxpayer dollars from winding up in the hands of crooks ought to be a top priority of both OMB and individual agencies.

- **Accounting of ARRA Funds**

To date, it is not clear that there is agreement within the federal government and among the agencies regarding how much ARRA money has actually been obligated or even spent. The chart set forth below illustrates the varying amounts of ARRA money obligated to each

^[4] U.S. Department of Transportation Office of Inspector General. DOT’s Suspension and Debarment Program Does not Safeguard against Awards to Improper Parties: Report Number: ZA-2010-034. January 7, 2010.

^[5] Tom Loftus, *U.S. audit criticizes payments to companies Lawson once head*, *Courier-Journal*, January 20, 2010.

executive agency. As you can see, there are vast discrepancies between the amounts reported by the RAT Board and the executive agencies own website.

Executive Branch Agency	Total available ARRA funds, according to RAT Board	Total available ARRA funds, according to agency website
	12/11/2009	12/22/2009
Department of Agriculture	\$9.7 Billion	\$28 Billion
Corporation for National and Community Service	\$163.7 Million	\$201 Million
Agency for International Development	\$22.5 Million	Did not state total
Department of Commerce	\$1.1 Billion	Did not state total
Department of Defense-Military	\$3.6 Billion	\$7.4 Billion
Department of Education	\$69.2 Billion	\$100 Billion
Department of Energy	\$19.6 Billion	\$36.7 Billion
Department of Health and Human Services	\$57.5 Billion	\$57.6 Billion
Department of Homeland Security	\$1.4 Billion	Did not state total
Department of Housing and Urban Development	\$11.3 Billion	\$13.61 Billion
Department of Justice	\$3.96 Billion	\$3.9 Billion
Department of Labor	\$58.4 Billion	Did not state total
Department of State	\$161.6 Million	\$564 Million
Department of the Interior	\$1.08 Billion	\$3 Billion
Department of the Treasury	\$5.6 Billion	Did not state total
Department of Transportation	\$31.7 Billion	Did not state total
Department of Veteran Affairs	\$1 Billion	\$1.4 Billion
Environmental Protection Agency	\$7.08 Billion	Over \$7 Billion
Federal Communications Commission	\$77.74 Million	Did not state total
General Services Administration	\$1.9 Billion	Did not state total
NASA	\$622 Million	\$1 Billion
National Endowment of the Arts	\$49.9 Million	Did not state total

National Science Foundation	\$2.4 Billion	Did not state total
Railroad Retirement Board	\$141 Million	Did not state total
Small Business Administration	\$498 Million	\$730 Million
Smithsonian Institute	\$21.9 Million	\$25 Million
Social Security Administration	\$13.3 Billion	Did not state total
U.S. Army Corps of Engineers	\$2.7 Billion	\$4.6 for civil works / \$2-\$2.5 for DoD programs

While I understand that some argue that it is difficult to keep an accounting of such vast amounts of the taxpayers’ money, these discrepancies do not inspire confidence in the federal government’s ability to monitor where this money is going and whether it is being lost to fraud, waste, or abuse. Despite their being compiled within a period of two weeks, as you can see these numbers vary widely. For instance, the Department of Labor’s total available funds differ by \$360 million, depending on whether one consults the government’s website or its ARRA watchdog. The website for the Department of Interior lists \$3 billion in ARRA funds, while federal totals elsewhere are a third of that. While my staff continues its efforts to get a clear understanding of why these discrepancies exist, I am troubled by the inadequate explanations provided to date.

- **Sub-recipients and States Ability to Track Expenditures Appears Limited**

I am equally concerned with the ability of federal and state agencies to track sub-recipients of ARRA funds. I recently reviewed an audit issued by the U.S. Department of Education Office of Inspector General.^[6] This audit was performed prior to the New York State Department of Education receiving \$1.7 billion dollars of taxpayer money. Interestingly, the audit found that the state of New York suffered from **serious internal deficiencies** that would make tracking ARRA money much more difficult. Further, the audit report made it clear that sub-recipients of ARRA funds are subject to little oversight. A news report by the Albany, NY newspaper *Times Union*, sums it up well, “Cash in, and then what?”^[7]

With so much ARRA funding already flowing through state governments to sub-recipients, it is critical that the sub-recipients use the money in a way that is both transparent and accountable. Based upon Department of Education’s Inspector General’s audit, it also appears that New York was unable to account for federal funds **prior** to receiving ARRA money so one wonders—why American taxpayers should have any faith at all in the Administration’s ability to ensure accountability of billions more of taxpayer dollars.

- **Accounting for Jobs “Saved” or “Created”**

^[6] U.S. Department of Education Office of Inspector General. “New York State System of Internal Control Over American Recovery and Reinvestment Act funds”: ED-OIG/A02j0006, November 2009.

^[7] Rick Karlin, *Cash in, and then what?*, Times Union, January 5, 2010.

In addition, there is much public confusion over the number of jobs ARRA funds have helped to “save” or “create.” As the economic stimulus package was being debated in Congress last year, the White House claimed it would create 3.3 million net jobs by this year. In the time since, the American workforce has shed another 3.5 million jobs, 3.1 million more than the White House estimated would be lost without the stimulus, creating a deficit of 6.8 million jobs between where the American workforce is today and where the White House estimated we would be with this unprecedented spending.

Despite this hard reality, the White House continues to defend its economic stimulus program, though in varying terms. White House adviser Valerie Jarrett recently said that the \$787 billion program merely “saved thousands and thousands of jobs,” while David Axelrod claimed the program “created more than – or saved more than 2 million jobs,” and White House spokesman Robert Gibbs claimed the program “saved or created 1.5 million jobs.” Adding to this confusion, your office issued a memorandum last month changing how these totals would be calculated, allowing any job that is fully funded by ARRA funds to be counted, regardless of whether it was in fact “saved” or “created” by the program.

- **Conflicts of Interest**

Finally, in recent years I have investigated a number of university researchers, universities, non-profits, and government agencies for a lack of disclosure of conflicts of interest involving federal funds. For instance, my investigations have uncovered systemic failures to comply with regulations requiring the disclosure of conflicts of interest by those receiving federal funds from the National Institutes of Health (NIH, the National Science Foundation (NSF), and other entities.

Under the ARRA program, NIH will dole out a total of \$8.2 billion in taxpayer funds, and NSF will be handing out \$2.4 billion dollars. Given my past investigations, one can expect conflicts of interests in the research community to continue and these billions of taxpayer dollars must be safeguarded against their influence. In that regard I am interested in understanding what process the Administration is using to ensure that it has knowledge of who is and who is not conflicted and to what extent prior to the release of ARRA money. Please note also that my concerns over conflicts of interest do not end just in the sciences. Every government agency that is awarding contracts, grants or loans should make it a priority to have any conflicts disclosed before any ARRA money is obligated.

In light of these concerns I request that OMB respond to the following questions, responding by first repeating the enumerated question followed by the corresponding answer.

- 1) Through conversations with federal officials with direct involvement in the ARRA program, my staff has been told that recipients of ARRA funds do not have to report their use of the money until it is spent. If this is the case, by what mechanisms does the federal government oversee the money after it is disbursed but before it is officially spent?
- 2) Please describe what rules or guidance exists regarding interest earned on ARRA funds by state governments and private entities after they are disbursed but before they are spent.

- 3) In what ways does the executive branch penalize recipients who do not report on their use of ARRA funds? Are these penalties mandatory or permissive?
- 4) Is OMB aware of other situations similar to the one mentioned in the DOT-OIG report? If so, how many and what has been done to recover funds granted, loaned, or otherwise given to entities on the S&D list? Please explain in detail.
- 5) What safeguards are in place to ensure that tax cheats and/or criminals do not receive ARRA money? Please explain in detail.
- 6) Please answer the following questions regarding S&D Programs:
 - a. Please provide the Committee with a copy of OMB's policies regarding S&D Program.
 - b. Who is charged with monitoring the S&D Program at OMB?
 - c. What has the federal government done to ensure that EPLS is accurate? Please provide my staff a briefing on EPLS.
 - d. Please provide a current list of all suspended and debarred parties across the federal government.
- 7) What systems are in place to detect or deter conflicts of interest among executive branch officials charged with awarding ARRA grants, loans, and contracts?
- 8) Please explain the discrepancies in the total ARRA accounting described above.
- 9) Please provide a chart detailing the amount of ARRA money appropriated to each executive branch agency. This chart should include the total amount of ARRA money obligated and the total amount currently been spent by each executive branch agency.
- 10) What systems do OMB and the federal agencies at large have to ensure that sub-recipients of ARRA funds will be monitored to prevent fraud, waste, and abuse? Please describe in detail.
- 11) Does OMB believe the states have adequate ability to protect ARRA money from fraud, waste, and abuse? Please identify any work that has taken place to ensure accountability at the state level, as well as any concerns your office has on this matter.
- 12) Regarding the recent change in accounting for jobs saved or created, please explain what led to the change and whether the Administration plans to refer to these new jobs as "funded," rather than "saved" or "created."
- 13) According to OMB, how many jobs have been saved within the federal government due to the ARRA program? Please explain in detail.
- 14) According to OMB, how many jobs have been saved within the private sector due to the ARRA program? Please explain in detail.

15) According to OMB, how many jobs have been created within the federal government due to the ARRA program? Please explain in detail.

16) According to OMB, how many jobs have been created within the private sector due to the ARRA program? Please explain in detail.

Thank you in advance for your cooperation in this matter. I know you share my vigilance to protect taxpayer dollars, and look forward to your continued assistance in these efforts. As I conduct oversight of the individual agencies and departments in the coming months, your answers regarding cross-agency concerns will be very helpful.

Please provide the requested information by February 2, 2010.

Sincerely,

Charles E. Grassley
Ranking Member