

## **Government Contractors and Subcontractors: Economic Stimulus Funds Come with Strings Attached**

The Federal Government's recent economic stimulus package, otherwise known as the American Recovery and Reinvestment Act of 2009 ("Recovery Act"), calls for increased government spending in the construction sector, which could be a boon for contractors. However, contractors should be aware that these funds come with strings attached in the form of additional reporting requirements.

Pursuant to the Recovery Act, all contracts funded with stimulus money must include a new clause, FAR § 52.204-11. This clause requires a contractor to submit quarterly reports to the government via its online reporting tool containing the following information:

- contract and order number;
- amount of Recovery Act funds invoiced by the contractor for the reporting period;
- list of all significant services performed or supplies delivered by the contractor for the reporting period;
- program or project title;
- description of overall purpose and expected outcomes or results of the contract;
- assessment of the contractor's progress towards completion of the contract;
- narrative description of the employment impact of the work, including a brief description of and an estimate of the types of jobs created and retained;
- names and total compensation of the five most highly compensated officers if certain criteria are met; and
- information regarding its first-tier subcontractors over \$25,000, including compensation.

These new reporting requirements apply to all solicitations and contracts funded in whole or in part with Recovery Act funds, including Government-wide Acquisition Contracts (GWACs), multi-agency contracts (MACs), Federal Supply Schedules (FSS) contracts and agency indefinite-delivery/indefinite-quantity (ID/IQ) contracts. The reporting requirements do not apply to classified solicitations and are not automatically included in existing contracts. Initial reports are due October 10, 2009 and must include cumulative information for invoices submitted prior to June 30, 2009. It is anticipated that the reported information will be available to the public online.

Contractors receiving Recovery Act funds should take steps to ensure compliance with these new reporting requirements, including implementing a program to train its employees to gather and track the required information and to properly and timely submit the required quarterly reports. A contractor's failure to comply with these reporting requirements will become part of the contractor's performance information record under FAR § 42.1500, which can jeopardize future contract awards.

For more information about the new reporting requirements, other requirements of the Recovery Act or any other government contracts matter, please contact Kelly Skrabak at 703.506.2050 or [k.skrabak@mooreandlee.com](mailto:k.skrabak@mooreandlee.com).