

**Douglas County Internal Audit Division
(DCIAD)**



**Audit of
Douglas County
American Recovery & Reinvestment Act
FY 2009/2010 -#02**

May 14, 2010

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DOUGLAS COUNTY INTERNAL AUDIT DIVISION

Douglas County Elected Officials and Department Heads
Douglas County
Omaha, Nebraska 68183

May 11, 2010

We have conducted a compliance review audit of the American Recovery Reinvestment Act – ARRA funds received by Douglas County. The audit was conducted in accordance with Standards for the International Professional Practice Framework (IPPF) of the Institute of Internal Auditing.

Such standards require we plan and perform our audit to adequately assess those operations which are included in our audit scope. Audit procedures included an examination of applicable policies, procedures, state statutes, and standards governing the ARRA funds. The review was conducted with selected staff, and management at various Douglas County offices.

The purpose of this report is to describe the results of reviewed items, including internal controls and compliance, and not to provide an opinion on the internal controls or compliance.

We would like to thank you, and your staff, for your cooperation and assistance during this audit.

Carmen Harmon
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Executive Summary

The Douglas County Attorney, Douglas County Engineer, Department of Corrections, Public Properties departments were identified as receiving funding under the American Recovery and Reinvestment Act. The guidelines for each grant and reporting agency differ for each department. If reporting requirements or other special terms and conditions are not met, the County may be denied further funding. As part of the audit process, Internal Audit reviewed the grant requirements applicable to each department and obtained supporting evidence to ensure compliance was met.

The following findings were noted while conducting the audit:

FINDING #1:

The Douglas County Attorney, Douglas County Engineer, Department of Corrections, and Public Properties offices do not have formal well-written procedures explaining grant administration activities and functions within the office.

FINDING #2:

The Douglas County Engineer's Office does not have a current organizational chart.

FINDING #3:

The Douglas County Department of Corrections does not comply with the Grant/Gift Review Committee policy regarding approval of awards.

FINDING #4:

The Douglas County Engineer does not comply with the Grant/Gift Review Committee policy regarding approval of awards.

FINDING #5:

Public Properties has not complied with Section 1511 of the Recovery Act, requiring Infrastructure investment certification. The Recovery Act requires a chief executive to certify that infrastructure investments have been properly reviewed.

FINDING #6:

Employees of Douglas County and other personnel involved with ARRA funds are unaware of the Recovery Board's hotline and whistleblower protection applicable to the Recovery Act. The Recovery Act provides protections to non-federal employees and requires these protections to be displayed at Recovery Act worksites.

FINDING #7:

The Douglas County Engineer's Office did not have a method to identify ARRA related expenditures in the Oracle Accounting System. The Engineers Office is working with the Clerk/Comptroller Finance division to resolve this issue.

FINDING #8:

The Douglas County Grant-Gift Review Committee does not have a method to identify and review all grant funds received by Douglas County, specifically ARRA grants.

FINDING #9:

A thorough ARRA reporting program does not exist.

FINDING #7

Background

From Recovery.gov website

On Feb. 13, 2009, Congress passed the American Recovery and Reinvestment Act of 2009 at the urging of President Obama, who signed it into law four days later. A direct response to the economic crisis, the Recovery Act has three immediate goals:

- Create new jobs and save existing ones
- Spur economic activity and invest in long-term growth
- Foster unprecedented levels of accountability and transparency in government spending

The Recovery Act intends to achieve those goals by:

- Providing \$288 billion in tax cuts and benefits for millions of working families and businesses
- Increasing federal funds for education and health care as well as entitlement programs (such as extending unemployment benefits) by \$224 billion
- Making \$275 billion available for federal contracts, grants and loans
- Requiring recipients of Recovery funds to report quarterly on how they are using the money. All the data is posted on Recovery.gov so the public can track the Recovery funds.

In addition to offering financial aid directly to local school districts, expanding the Child Tax Credit, and underwriting a process to computerize health records to reduce medical errors and save on health care costs, the Recovery Act is targeted at infrastructure development and enhancement. For instance, the Act plans investment in the domestic renewable energy industry and the weatherizing of 75 percent of federal buildings as well as more than one million private homes around the country.

Construction and repair of roads and bridges as well as scientific research and the expansion of broadband and wireless service are also included among the many projects that the Recovery Act will fund.

While many of Recovery Act projects are focused more immediately on jumpstarting the economy, others, especially those involving infrastructure improvements, are expected to contribute to economic growth for many years.

Scope

Audit procedures included an examination of applicable policies, procedures, and standards governing the ARRA funds. The review was coordinated and conducted with selected staff and management at various Douglas County offices. The population included all offices and departments of Douglas County eligible to receive stimulus funds. The offices included in this review are the Attorney, Corrections, Engineer, and Public Properties. The time frame includes funds awarded and administered during July 1, 2009 – February 1, 2010.

Methodology

ARRA funds awarded to Douglas County were identified by reviewing state and federal ARRA websites and communication with the Clerk/Comptroller Finance division. The business process for each department was reviewed to verify controls were in place regarding ARRA administration. Requirements applicable to each grant were identified and supporting documentation was reviewed to verify compliance.

Internal Control Requirements

The Federal agencies require that non-Federal entities receiving Federal awards establish and maintain internal control designed to reasonably ensure compliance with Federal laws, regulations, and program compliance requirements. The objectives of internal control pertaining to the compliance requirements for Federal programs, as found in OMB Circular A-133, are as follows:

- (1) Transactions are properly recorded and accounted for,
- (2) Transactions are executed in compliance with laws, regulations and grant agreements,
- (3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.¹

Objectives

The Douglas County Internal Audit Division reviewed the management of grants to:

- Identify ARRA funds awarded to Douglas County and determine contact personnel in each department receiving funds.
- Assess department readiness to administer ARRA funds.
- Verify controls are in place to ensure proper spending, reporting, and compliance with ARRA funds.
- Verify proper accounting of ARRA funds.
- Perform specific audit work required defined by the OMB.

¹ A-102 Common Rule and OMB Circular A-110 (2 CFR part 215).

Douglas County American Reinvestment Recovery Act Grants

Douglas County Attorney's Office Omaha/Douglas Victim Assistance Unit, Nebraska Crime Commission Grant

Primary Contact: Director Victim Assistance

Douglas County has been awarded \$67,664 from the Nebraska Crime Commission to serve and coordinate service to Spanish speaking crime victims throughout Douglas County. The Victim Assistance Unit would use the funds to hire two temporary full time advocates. The bilingual advocates would help insure people who speak Spanish can utilize the criminal justice system for their safety just as people who speak English can. The advocates would also help Project Harmony with assisting victims who have been sexually and or physically abused with translation for Project harmony's advocates and staff, and follow the victims and their family through the court process

Douglas County Department of Corrections Edward Byrne Memorial Justice Assistance Grant

Primary Contact: Deputy Director of Corrections

Douglas County has been awarded \$1,120,080 to purchase a new Jail Management System. Douglas County is a sub-recipient of funds awarded to the City of Omaha by the Department of Justice. The new Jail Management System will replace the outdated mainframe-based System that is currently being used. The purchase of the software includes software application development, database linking, testing, and integration into a new network designed to support such software. The new software will allow future and current corrections staff to complete jobs with greater ease, enhance ability to access inmates, and reduce associated training time and costs

Douglas County Engineer's Office Federal Highway Administration Department of Transportation -Nebraska Department of Roads

Primary Contact: Manager Construction/Maintenance

Two bridge replacement projects and one pavement improvement project have been identified as being eligible for ARRA funds by the Department of Transportation, Federal Highway Administration. Nebraska Department of Roads, (NDOR) and Douglas County have entered into an agreement for NDOR to act on the County's behalf to obtain ARRA funds for the identified projects. The combined total of ARRA funds obligated to the three projects is \$3,309,399.

***Douglas County Public Properties
Energy Efficiency and Conservation Block Grant***

Primary Contact: Construction Manager

Douglas County has been awarded \$255,800 from the Department of Energy for the removal and replacement of windows in the Douglas County Health Center with energy efficient thermal pane windows. The strategy is to provide and develop a window replacement project to improve energy efficiency to the Douglas County Health Center. The existing windows consist of 1930 steel framed windows and 1963 aluminum frame windows with single pane glass.

Douglas County Grant Administrators

Douglas County Grant-Gift Review Committee

Primary Contact: Fiscal Administrator

The Grant-Gift Review Committee was established by Resolution No. 831 in November, 2000 by the County Board of Commissioners. The Douglas County Board of Commissioners has the sole authority to execute contracts and agreements for Douglas County. The Grant-Gift Committee is composed of five members and was created to provide an initial review of awards prior to being approved by the County Board of Commissioners.

Douglas County Criminal Justice Systems Grant Officer

Primary Contact: The District Court of Nebraska

The Grant Officer works with various county departments and courts to identify projects and funding priorities and secure grants for specific projects. The Grant Officer (1) Performs grant research and writes grant proposals in collaboration with various criminal justice entities; (2) Performs or coordinates grant management and reporting; and (3) Provides staff functions to the Criminal Justice Systems Management Council. The Grant Officer has been identified in the audit as providing assistance to Douglas County Department of Corrections and Public Properties offices.

AUDIT RESULTS

FINDING #1:

The Douglas County Attorney, Douglas County Engineer, Department of Corrections, and Public Properties offices do not have formal well-written procedures explaining ARRA grant administration activities and functions within the office.

CONDITION:

Internal Audit was able to gain an understanding of grant administration procedures through an interview process. Individuals have a working knowledge of various processes used in the Department; even though no current formal policy manual exists. Internal Audit did not receive any formal written procedures involving grant administration procedures.

CRITERIA:

The Office of the Comptroller defines an internal control plan as a high level department-wide summarization of the department's risks and the controls used to mitigate those risks. This high level summary must be supported by lower level detail, i.e. departmental policies and procedures.

Policies concentrate more on general principles, procedures emphasize detail. Procedures describe the process, or chronological sequence of steps performed, to accomplish a specific job and clarify employees understanding of management's objectives. Well-written and organized procedures also protect the institutional knowledge of an organization when experienced employees leave, and benefit training for replacement employees. A periodic review of written policies and procedures helps ensure the business process is kept up to date.

EFFECT:

The lack of formal written policies and procedures increase the chance of inconsistencies in work performance.

CAUSE:

Internal Audit did not receive formal written and adopted policies and procedures.

RECOMMENDATION:

The Douglas County Attorney, Douglas County Engineer, Department of Corrections, Health Department and Public Properties office should develop formal, written procedures for all business functions.

Government Auditing Standards recommend that; every government document its accounting policies and procedures. The resulting documentation can provide specific direction to staff on-hand and also be used for training new personnel.

Well-written and organized procedures should:

- ✓ Implement and ensure compliance with policies; as well as document those policies;
- ✓ Protect the institutional knowledge of an organization; so as when experienced employees leave, new employees have the benefit of their years of experience;
- ✓ Provide the basis for training new employees;
- ✓ Offer a tool for evaluating employees based on their adherence to procedures and;
- ✓ Help prepare the Department for an external audit assessment of internal controls over processes.

To be effective, the grants manual should include job descriptions, with designated responsibilities. The Department should set up a system for regular updates and conduct periodic reviews to ensure that old policies are updated, or removed, when no longer needed.

Grant management policy and procedures are necessary to establish guidelines for current and future staff and document internal controls in compliance with federal requirements. All departments should ensure grant management staff have complete written procedures to administer grant projects.

Departments and agencies best practice should be to establish compliance with the requirements by documenting internal controls through the department or agency grant management procedures.

MANAGEMENT RESPONSE:

Written procedures are being developed by the County Engineer, Public Properties and the County Attorney explaining ARRA grant administration activities. The Correction Department has numerous written policies for their business practices. A policy will be added specifically to handling ARRA grant funds.

FINDING #2:

The Douglas County Engineer's Office does not have a current organizational chart.

CONDITION:

Internal Audit requests organizational charts when performing audits to help gain an understanding of the applicable business process.

CRITERIA:

Organizational charts are a useful tool in identifying the reporting structure in a department. They also define levels of authority and employees area of responsibility.

EFFECT:

Reporting structure may not be easily identifiable in the absence of an organizational chart.

CAUSE:

Internal Audit did not receive an organizational chart from the Engineers Office.

RECOMMENDATION:

The Engineer should develop a formal Organizational chart that clearly identifies the various divisions and positions held within the office.

MANAGEMENT RESPONSE:

The County Engineer is preparing a formal organizational chart.

FINDING #3:

The Douglas County Department of Corrections does not comply with the Douglas County Grant/Gift Review Committee policy regarding approval of awards.

CONDITION:

Funding for the ARRA stimulus grant was administered through an agreement with the City of Omaha. Douglas County approved the award without the review of the Grant Committee.

CRITERIA:

No final grant award for Federal, State, Local, or Private Grant-in-Aid or Gift shall be approved by the Douglas County Board of Commissioners that has not first been reviewed by the Grant/Gift Review Committee. *Resolution 831 November 14, 2000*²

EFFECT:

Funds awarded to Douglas County Department of Corrections (DCDC) do not receive the review of the Grant Committee as stipulated in Resolution 831.

CAUSE:

DCDC was unaware of requirement to utilize Grant Committee for review of grant awards.

RECOMMENDATION:

DCDC should comply with Resolution 831 or the resolution should be amended to provide an exception to Grant Committee review if an appropriate substitute review is conducted by another entity.

MANAGEMENT RESPONSE:

The only grants received by the Corrections Department have been Justice Assistance Grants shared with the City of Omaha. A joint City/County committee entitled the Criminal Justice Systems Management Council makes recommendations to the County Board and City Council on agreed usage of these funds. The County Board will act upon that joint recommendation. With the direct involvement by the County Board, it was felt the Grant Review Committee involvement is not needed.

AUDIT COMMENT:

The current practice followed by the Corrections Department is not listed as an exception in Resolution 831. The suggested approach in the recommendation, to update the Resolution 831 stipulating this exemption is acceptable due to another appropriate review should be implemented.

² Appendix C – Resolution 831, dated: November 14, 2000

FINDING #4:

The Douglas County Engineer does not comply with the Douglas County Grant/Gift Review Committee policy regarding approval of awards.

CONDITION:

Funding for the Douglas County Engineer projects are handled through Nebraska Department of Roads. No awards to the Engineer Office are reviewed by Douglas County Grant/Gift Review Committee.

CRITERIA:

No final grant award for Federal, State, Local, or Private Grant-in-Aid or Gift shall be approved by the Douglas County Board of Commissioners that has not first been reviewed by the Grant/Gift Review Committee. *Resolution 831 November 14, 2000*³.

EFFECT:

Funds awarded to Douglas County Engineer do not receive the review of the Grant Committee as stipulated in Resolution 831.

CAUSE:

Engineer was unaware of requirement to utilize the Douglas County Grant-Gift Committee for review of grant awards.

RECOMMENDATION:

Engineers should comply with Resolution 831 or the resolution should be amended to provide an exception to Grant Committee review if an appropriate substitute review is conducted by another entity.

MANAGEMENT RESPONSE:

The Engineer's office will bring all future grants to the Grant Review Committee.

³ Appendix C – Resolution 831, dated: November 14, 2000

FINDING #5:

Public Properties has not complied with Section 1511 of the Recovery Act, requiring Infrastructure investment certification.

CONDITION:

No certification has been made by Douglas County specifically accepting responsibility for the appropriateness of ARRA spending.

CRITERIA:**SEC. 1511. CERTIFICATIONS.** *(From Recovery Act)*

With respect to covered funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Such certification shall include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and shall be posted on a website and linked to the website established by section 1526. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made and posted.

EFFECT:

Funds may be withheld until proper certification is made and posted.

CAUSE: Public Properties was unaware if this requirement applied to their grant.

RECOMMENDATION:

Public Properties should seek guidance from the Department of Energy (DOE) to satisfactorily fulfill the certification requirement. .

MANAGEMENT RESPONSE from Douglas County Public Property:

During the course of the audit, it was asked whether this project – replacing windows in the Health Center – constituted and “infrastructure investment”. ARRA projects described as an infrastructure investment must comply with additional post-award requirements. At the time we did not believe retrofitting the Health Center with windows qualified as an infrastructure investment but stated we would contact a contract specialist with the DOE to confirm.

Contact was made to the contract specialist, on March 17, 2010. The contract specialist responded the following day indicating the project does qualify and we provided our response to DCIAD based on this information from the DOE.

In researching our responsibilities to comply with the “Infrastructure Investment”, the contract specialist followed up by phone (April 15, 2010) and email to communicate that she was mistaken in confirming this information. The contract specialist has since consulted with her financial department and indicates that “infrastructure investment” is not a federal designation but one that the award recipient determines. I located documentation similarly reflecting that the recipient defines this designation as not considered “Infrastructure Investment”.

We therefore maintain that the project does not qualify as an infrastructure investment based on the instructions of the contract specialist, and guidance provided by attachment (U.S. EPA, Office of Grants and Debarment), reaffirming our initial assessment. Thus, because the infrastructure designation no longer applies, we no longer have a responsibility to post the infrastructure certification on a website and linking to the federal recovery site.

In light of this corrected information from the DOE, I believe we have addressed all remaining issues identified in the internal audit.

FINDING #6:

Employees of Douglas County and other personnel involved with ARRA funds are unaware of the Recovery Board's hotline and whistleblower protection applicable to the Recovery Act.

CONDITION:

Currently, two mechanisms are in place as a reporting tool for legal or ethical violations in Douglas County; 1) Douglas County Civil Service Commission Whistleblower Protection Policy, and 2) The Douglas County Fraud and Waste Hotline.

Article 30 of the Douglas County Civil Service Commission Personnel Policy Manual provides for protections for employees who report legal or ethical violations. The whistleblower protection policy does not make reference to Douglas County's Fraud, Waste and Abuse Hotline. The hotline is available to alert the appropriate federal, state, or local government agency of suspected fraud, waste, and abuse without disclosing one's identity.

Internal Audit is not aware of a policy that covers ARRA personnel, non-civil service employees, contractors and Douglas County citizens.

CRITERIA:

As a best practice, recipients accepting ARRA stimulus funds should provide access to a hotline to report fraud, waste, and mismanagement of Recovery funds and have whistleblower protections policies in place. Section 1553⁴ of the Recovery Act describes protections that are provided to non-federal employees of recovery fund recipients. There is also a Recovery Board Hotline provided by the federal government. Suspected fraud, waste, and abuse can be reported via phone, fax, internet, or mail. Posters explaining whistleblower rights and the fraud hotline are available for download at Recovery.gov. All Recovery Act job sites must post signage of whistleblower protections and are encouraged to post signage of the Recovery Act Fraud Hotline.

EFFECT:

If employees are not fully aware of their rights or where to report issues to, suspected fraud, waste, and abuse may possibly go unreported.

⁴ Appendix B – Section 1553 of the Recovery Act

CAUSE:

Whistleblower protection has not been addressed beyond what is covered in the Civil Service Commission Personnel Policy Manual.

RECOMMENDATION:

Douglas County should provide whistleblower protection and hotline access to all employees, civil servants, non-civil servants (who are not covered by the Civil Service Commission Personnel Policy Manual), contractors, and Douglas County citizens. Signs explaining whistleblower protections are required to be displayed in all Recovery Act job sites. It is strongly recommended the Recovery Act Fraud Hotline poster be posted along with the Whistleblower poster.

The whistleblower and fraud hotline posters can be obtained at the following website:

<http://www.recovery.gov/Contact/ReportFraud/Pages/WhistleBlowerInformation.aspx>

The Whitehouse in their frequently asked questions at

<http://www.whitehouse.gov/recovery/about/faqs> has this response:

Q: How can I report waste, fraud or misuse of recovery funds?

A: The [Recovery Accountability and Transparency Board \(RATB\)](#) is responsible for overseeing all funds under the Recovery Act and providing the public with a direct and immediate link to spending through Recovery.gov. The RATB not only wants to provide the public with unprecedented oversight of Recovery Act funds, but also ensure swift and immediate action to prevent fraud, waste, and mismanagement.

As money begins to flow to grant and contract recipients, the public may become aware of potential fraud that should be investigated to ensure the Recovery Act funds are spent properly. Recovery.gov is currently working to provide an on-line complaint and hotline service to log suspected fraudulent use of the recovery money. In the meantime, there are ways for you to get your message to the right agency fast. If you see fraud, waste, or mismanagement of Recovery Act funds, [refer the matter immediately to the respective agency](#).

The Government Accountability Office (GAO) also offers "[FraudNet](#)," which is a website where anyone may report allegations of fraud, waste, abuse, or mismanagement of federal funds. GAO then refers those allegations to the Inspector General (IG) of the relevant federal agency. For more information, visit [Recovery.gov](#).

MANGEMENT RESPONSE from Director of Human Resources, Douglas County Civil Service Commission:

Article 30 “Whistle Blower Protection Policy” states in [Section 3c](#), “The employees should report the violation first to his or her supervisor, as well as the Department Head, Elected Official and Chief Administrative Officer. Should the employee feel uncomfortable reporting to those individuals, they may report the violation to the

Director of Human Resources, Chief Civil Deputy County Attorney, or other designated authorities.”

The County Board passed a resolution in May 1997 (attached) as to how both civil service employees and non-civil service employees can report violations of fraud, abuse and related violations of laws. The Civil Service Policy, Article 30 Whistle Blower Protection, was crafted utilizing language from previous Douglas County Board Resolutions and best practice policies. The Civil Service Commission’s Personnel Policy Manual was updated in August of 2008 and distributed to all Civil Service Commission employees and is maintained on the Civil Service Commission (CSC)-Human Resources Department website.

Follow-up Actions:

The CSC Human Resources Department will insure that language regarding the recently passed federal legislation concerning the Recovery Act Fraud Hotline be added to Article 30 of its personnel policy on Whistleblower Protection.

The Human Resource Department will print off copies of the Recovery Act’s whistleblower and fraud hotline posters from the federal website and have them posted in the various offices and departments of the County.

FINDING #7:

The Douglas County Engineer’s Office did not have a method to identify ARRA related expenditures in Oracle.

CONDITION:

The Engineers Office had established separate project numbers for projects that were later identified as being eligible for ARRA stimulus funds. These projects had accumulated pre-construction costs that were logged in Oracle under the applicable project number. There had been no separate Organization number created to track ARRA related expenditures.

CRITERIA:

ARRA recipients covered under the Single Audit Act are required to separately identify expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA).

EFFECT:

Without a separate accounting string for ARRA expenditures, identifying ARRA expenditures may be more difficult and could produce inaccurate information.

CAUSE:

The Engineer projects identified to receive ARRA stimulus funds had been created several years before the recovery act. The plan to create a separate Organization number had not been addressed at the time the projects were identified to receive ARRA funds.

RECOMMENDATION:

Since our evaluation, the Engineers Office has been working with the Douglas County Clerk/Comptroller Finance division and has established a new Organization number to be used for ARRA expenditures. The Douglas County Engineer’s office should develop a process to create separate project numbers within the Organization number to account for individual projects receiving ARRA funding. Additional Oracle financial application training is also encouraged for all Douglas County Engineer grant staff.

MANAGEMENT RESPONSE:

As stated in the recommendation, the Engineer’s office is working with the Clerk/Comptroller’s Finance division to create a new organization and separate project numbers.

FINDING #8:

The Douglas County Grant-Gift Review Committee does not have a method to identify and review all grant funds received by Douglas County, specifically ARRA grants.

CONDITION:

Currently, it is probable for grants and ARRA fund grants to be presented to the Douglas County Board of Commissioners (BOC) without a review from the Grant-Gift Review Committee established by the BOC.

CRITERIA:

The Douglas County Board established a Grant-Gift Review Committee to ensure the department requesting the grant award has properly documented the objective of the grant application, disclosed the fiscal, budgetary and personnel impact of the grant, and stated all obligations and liabilities by the grant.

EFFECT:

Some departments have not completed the review process established by the BOC through the Douglas County Grant-Gift Review Committee.

CAUSE:

The ARRA stimulus funds have been identified by the Douglas County Engineer, Douglas County Department of Corrections and the Douglas County Health Department but not reviewed by the Grant Committee prior to submission to the Board of Commissioners for approval.

RECOMMENDATION:

All grants should be reviewed by the Douglas County Grant-Gift Committee prior to the Board of Commissioners' approval. This will assist with the coordination and administration of stimulus associated funds.

The Douglas County Grant-Gift Review Committee has been working with the Clerk/Comptroller Finance division and the Grant Officer to ensure proper federal reporting requirements are established, reported in a timely manner, and monitored. This committee should assure all grant funding is identified, and reviewed by the committee before presentation to the Douglas County Board of Commissioners for approval. This will provide a centralized location for all grants received in Douglas County and establish a method to meet and track ARRA accountability and transparency goals.

MANAGEMENT RESPONSE:

With the exception of the previously mentioned Justice Assistance Grant it has been the intention of the Grant Review Committee to review all grants being submitted to the County Board.

FINDING #9:

A comprehensive, systematic ARRA grant reporting program does not exist. All Douglas County departments have not received compliance instructional material for ARRA accounting, important resource information regarding the grant process, or step-by-step instructions to help facilitate accountability.

CONDITION:

Douglas County departments and agencies are not fully acquainted with all reporting requirements of the ARRA grant funds they receive. Some degree of guidance has been provided to the departments through various degrees of training.

CRITERIA:

The American Recovery and Reinvestment Act require organizations receiving stimulus-related funds to not only make strides in moving the economy forward, but to do so responsibly with a process that ensures accountability and transparency. A sound reporting program can help organizations maintain the proper fiscal oversight of their government-funded program and deliver an end-to-end audit trail of every investigation to ensure compliance with the Act. The elements of a comprehensive reporting program is designed to help organizations evaluate their program to not only ensure compliance

with the Act, but also identify program strengths and weaknesses and areas where improvements could be implemented.⁵

EFFECT:

Without a sound reporting program and proper fiscal oversight for ARRA funds and compliance with the Act, identifying ARRA funds may be more difficult and could produce inaccurate information.

CAUSE:

The ARRA stimulus funds have been identified by the departments but the review process can be circumvented before the Board of Commissioners receives the grant for approval. The plan to create a reporting program had not been addressed at the time Douglas County was identified to receive ARRA funds.

RECOMMENDATION:

In order to promote transparency and accountability, Douglas County should expand the responsibility of the Grant-Gift Review Committee to coordinate and conduct oversight of stimulus related funds. The Grant-Gift Review Committee, a preexisting executive level team, has the authority to review funds to determine if wasteful spending or abuse is taking place and to make recommendations to agencies regarding measures to prevent fraud, waste and abuse. It should also facilitate a public-facing Web site to provide information related to stimulus-related funding and the organizations receiving it, hotline reporting, and whistleblower protection.

The DCIAD has provided guidance to the Fiscal Administrator, a strategic member of the Grant-Gift Committee, regarding best practices that are being used in other governments which include: 1) An Action Plan for Recipients and Sub-Recipients, 2) ARRA Ten Steps to Compliance, and a 3) American Recovery and Reinvestment Act Checklist which includes items to consider when receiving, distributing and accounting for ARRA funds to provide to the departments. These documents are not comprehensive and are intended to be used for informational purposes and a helpful resource.

MANAGEMENT RESPONSE:

The Grant Review Committee feels they were not granted the authority to conduct oversight of the stimulus funds. The guidance materials regarding best practices will be reviewed by the Grant Officer to ensure proper reporting requirements are met. Currently, we have only one stimulus grant that was awarded directly to Douglas County.

AUDIT COMMENT:

The Grant-Gift Review Committee was recommended as a logical centralized location for Douglas County Grants. Ensuring best practices are utilized, creating a reporting program, coordinating oversight and monitoring of stimulus related funds is not contingent on the status of the grant recipient. Whether the department is a prime-recipient or sub-recipient, all ARRA grant recipients must adhere to

⁵ www.recoveryaccountability.com

guidance in the laws, regulations, and grant agreements. Providing guidance to ensure grant requirements, reporting, and accounting will supply the assistance essential to grant employees.

FUNVAL

APPENDIX

FENVAL

APPENDIX A

REPORT FRAUD, WASTE & ABUSE

One of the core missions of the Recovery Board is to prevent fraud, waste, and mismanagement of Recovery funds. Recovery.gov gives you the ability to find Recovery projects in your own neighborhood and if you suspect fraudulent actions related to the project you can report those concerns in several ways:

- [Submit a Complaint Form](#) electronically
- Call the Recovery Board Fraud Hotline: 1-877-392-3375 (1-877-FWA-DESK)
- Fax the Recovery Board: 1-877-329-3922 (1-877-FAX-FWA2)
- Write the Recovery Board:

Recovery Accountability and Transparency Board
Attention: Hotline Operators
P.O. Box 27545
Washington, D.C. 20038-7958

The Recovery Board is committed to helping ensure these funds are spent properly, but we cannot do it without your help. Additionally, the Recovery Act provides [protections for certain individuals](#) (whistleblowers) who make specific disclosures about uses of Recovery Act funds.

All Recovery Act job sites are required to post signage of Whistleblower protections. It is strongly recommended the Recovery Act Fraud Hotline poster is posted along with the Whistleblower poster.

 [Whistleblower Poster](#) (PDF 96 KB)

 [Recovery Act Fraud Hotline Poster](#) (PDF 2.7 MB)

APPENDIX B

SEC. 1553. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of— (1) gross mismanagement of an agency contract or grant relating to covered funds; (2) a gross waste of covered funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds; (4) an abuse of authority related to the implementation or use of covered funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) INVESTIGATION OF COMPLAINTS.— (1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate inspector general. Except as provided under paragraph (3), unless the inspector general determines that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the appropriate agency, and the Board. (2) TIME LIMITATIONS FOR ACTIONS.— (A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall, not later than 180 days after receiving a complaint under paragraph (1)— H. R. 1—184 (i) make a determination that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint; or (ii) submit a report under paragraph (1). (B) EXTENSIONS.— (i) VOLUNTARY EXTENSION AGREED TO BETWEEN INSPECTOR GENERAL AND COMPLAINANT.—If the inspector general is unable to complete an investigation under this section in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint. (ii) EXTENSION GRANTED BY INSPECTOR GENERAL.— If the inspector general is unable to complete an investigation under this section in time to submit a report within the 180-day period specified under subparagraph (A), the inspector general may extend the period for not more than 180 days without agreeing with the person submitting the complaint to such extension, provided that the inspector general provides a written explanation (subject to the authority to exclude information under paragraph (4)(C)) for the decision, which shall be provided to both the person submitting the complaint and the non-Federal employer. (iii) SEMI-ANNUAL REPORT ON EXTENSIONS.—The inspector general shall include in semi-annual reports to Congress a list of those investigations for which the inspector general received an extension. (3) DISCRETION NOT TO INVESTIGATE COMPLAINTS.— (A) IN GENERAL.—The inspector general may decide not to conduct or continue an investigation under this section upon providing to the person submitting the complaint and the non-Federal employer a written explanation (subject to the authority to exclude information under paragraph (4)(C)) for such decision. (B) ASSUMPTION OF RIGHTS TO CIVIL REMEDY.—Upon receipt of an explanation of a decision not to conduct or continue an investigation under subparagraph (A), the person submitting a complaint shall immediately assume the right to a civil remedy under subsection (c)(3) as if the 210-day period specified under such subsection has already passed. (C) SEMI-ANNUAL REPORT.—The inspector general shall include in semi-annual reports to Congress a list of those investigations the inspector general decided not to conduct or continue under this paragraph. (4) ACCESS TO INVESTIGATIVE FILE OF INSPECTOR GENERAL.— (A) IN GENERAL.—The person alleging a reprisal under this section shall have access to the investigation file of H. R. 1—185 the appropriate inspector general in accordance with section 552a of title 5, United States Code (commonly referred to as the “Privacy Act”). The investigation of the inspector general shall be deemed closed for purposes of disclosure under such section when an employee files an appeal to an agency head or a court of competent jurisdiction. (B) CIVIL ACTION.—In the event the person alleging

the reprisal brings suit under subsection (c)(3), the person alleging the reprisal and the non-Federal employer shall have access to the investigative file of the inspector general in accordance with the Privacy Act. (C) EXCEPTION.—The inspector general may exclude from disclosure— (i) information protected from disclosure by a provision of law; and (ii) any additional information the inspector general determines disclosure of which would impede a continuing investigation, provided that such information is disclosed once such disclosure would no longer impede such investigation, unless the inspector general determines that disclosure of law enforcement techniques, procedures, or information could reasonably be expected to risk circumvention of the law or disclose the identity of a confidential source. (5) PRIVACY OF INFORMATION.—An inspector general investigating an alleged reprisal under this section may not respond to any inquiry or disclose any information from or about any person alleging such reprisal, except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law. (c) REMEDY AND ENFORCEMENT AUTHORITY.— (1) BURDEN OF PROOF.— (A) DISCLOSURE AS CONTRIBUTING FACTOR IN REPRISAL.—(i) IN GENERAL.—A person alleging a reprisal under this section shall be deemed to have affirmatively established the occurrence of the reprisal if the person demonstrates that a disclosure described in subsection (a) was a contributing factor in the reprisal. (ii) USE OF CIRCUMSTANTIAL EVIDENCE.—A disclosure may be demonstrated as a contributing factor in a reprisal for purposes of this paragraph by circumstantial evidence, including— (I) evidence that the official undertaking the reprisal knew of the disclosure; or (II) evidence that the reprisal occurred within a period of time after the disclosure such that a reasonable person could conclude that the disclosure was a contributing factor in the reprisal. (B) OPPORTUNITY FOR REBUTTAL.—The head of an agency may not find the occurrence of a reprisal with respect to a reprisal that is affirmatively established under subparagraph (A) if the non-Federal employer demonstrates by clear and convincing evidence that the non-Federal employer would have taken the action constituting the reprisal in the absence of the disclosure. H. R. 1—186 (2) AGENCY ACTION.—Not later than 30 days after receiving an inspector general report under subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief in whole or in part or shall take 1 or more of the following actions: (A) Order the employer to take affirmative action to abate the reprisal. (B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken. (C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency or a court of competent jurisdiction. (3) CIVIL ACTION.—If the head of an agency issues an order denying relief in whole or in part under paragraph (1), has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under subsection (b)(2)(B)(i), within 30 days after the expiration of the extension of time, or decides under subsection (b)(3) not to investigate or to discontinue an investigation, and there is no showing that such delay or decision is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. (4) JUDICIAL ENFORCEMENT OF ORDER.—Whenever a person fails to comply with an order issued under paragraph (2), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorneys fees and costs. (5) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code. H. R. 1—187 (d) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING

RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.— (1) WAIVER OF RIGHTS AND REMEDIES.— Except as provided under paragraph (3), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement. (2) PREDISPUTE ARBITRATION AGREEMENTS.— Except as provided under paragraph (3), no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising under this section. (3) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.— Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under the collective bargaining agreement. (e) REQUIREMENT TO POST NOTICE OF RIGHTS AND REMEDIES.— Any employer receiving covered funds shall post notice of the rights and remedies provided under this section. (f) RULES OF CONSTRUCTION.— (1) NO IMPLIED AUTHORITY TO RETALIATE FOR NON-PROTECTED DISCLOSURES.— Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee. (2) RELATIONSHIP TO STATE LAWS.— Nothing in this section may be construed to preempt, preclude, or limit the protections provided for public or private employees under State whistleblower laws. (g) DEFINITIONS.— In this section: (1) ABUSE OF AUTHORITY.— The term “abuse of authority” means an arbitrary and capricious exercise of authority by a contracting official or employee that adversely affects the rights of any person, or that results in personal gain or advantage to the official or employee or to preferred other persons. (2) COVERED FUNDS.— The term “covered funds” means any contract, grant, or other payment received by any non-Federal employer if— (A) the Federal Government provides any portion of the money or property that is provided, requested, or demanded; and (B) at least some of the funds are appropriated or otherwise made available by this Act. (3) EMPLOYEE.— The term “employee”— (A) except as provided under subparagraph (B), means an individual performing services on behalf of an employer; and (B) does not include any Federal employee or member of the uniformed services (as that term is defined in section 101(a)(5) of title 10, United States Code). (4) NON-FEDERAL EMPLOYER.— The term “non-Federal employer”— (A) means any employer— (i) with respect to covered funds— (I) the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, H. R. 1—188 subcontractor, grantee, or recipient is an employer; and (II) any professional membership organization, certification or other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or (ii) with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor of the State or local government; and (B) does not mean any department, agency, or other entity of the Federal Government. (5) STATE OR LOCAL GOVERNMENT.— The term “State or local government” means— (A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States; or (B) the government of any political subdivision of a government listed in subparagraph (A).

BOARD OF COUNTY COMMISSIONERS
DOUGLAS COUNTY, NEBRASKA

Resolved,

WHEREAS, the Douglas County Board of Commissioners desires to establish a policy for the review and approval of grant awards; and,

WHEREAS, the County Board desires to establish a Grant-Gift Review Committee to ensure the department requesting the grant award has properly documented the objective of the grant application, disclosed the fiscal, budgetary and personnel impact of the grant, and stated all obligations and liabilities required by the grant.

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS, DOUGLAS COUNTY, NEBRASKA, THAT the Grant-Gift Review Committee is hereby established and the attached guidelines and request forms are adopted.

DATED this 14th day of November, 2000.

Motion by Hutchings, seconded by Duda
I move the adoption of the resolution.

ADOPTED: November 14, 2000
YEAS: Duda, Harris, Hutchings, McCallister, Pirsch
ABSENT: Boyle, Borgeson

(Certified Copy)

DOUGLAS COUNTY CLERK

Certified copy to: Commissioners, Fiscal Administrator,
Elected Officials & Dept. Heads

h:/resol.grant-gift committee & policy

RESOLUTION NO. 831
ADOPTED NOV 14 2000
RECORDED BOOK PAGE

GRANT / GIFT REVIEW COMMITTEE

PURPOSE:

To establish a policy for the review and approval of application awards for grants or gifts.

POLICY:

A. Background:

The Douglas County Board of Commissioners has the sole authority to execute contracts and agreements for Douglas County. Any acceptance of a grant award by any officer or employee of Douglas County without the approval of the Douglas County Board of Commissioners is prohibited. Any agreement, or understanding so reached shall be considered null and void without any obligation on the part of the Douglas County Board of Commissioners.

B. Policy:

No final grant award for Federal, State, Local, or Private Grant-in-Aid or Gift shall be approved by the Douglas County Board of Commissioners that has not first been reviewed by the Grant/Gift Review Committee which shall review such Application to determine the following:

1. Objective of the Application.
2. Fiscal and budgetary impact, initial and subsequent.
3. Personnel impact, initial and subsequent.
4. Property and equipment disposition on closeout.
5. Legal obligations and liabilities under the Application.

C. Establishment:

The Grant/Gift Review Committee shall be composed of five permanent members from the following Departments:

1. Chief Administrative Officer.
2. Fiscal Administrator.
3. Personnel Director.
4. Deputy County Attorney.
5. Applicant Department, Ad Hoc Member.

D. Process:

Prior to submitting a request to the County Board for final Grant/Gift Award from any Federal, State, Local, or Private Agency, the Applicant Department shall complete Attachment A, together with a completed copy of the Application to the Fiscal Administrator.

The Fiscal Administrator shall then set a date and time for the Review Committee to review the Application relative to the items listed in Paragraph B above.

Timely submission of the Grant/Gift Award Request is the responsibility of the Applicant Department. Submission deadlines shall not be an excuse for failing to undergo the review process.

APPENDIX D

Important Links

Federal ARRA website – www.recovery.gov

Nebraska ARRA website – www.recovery.nebraska.gov

Nebraska Department of Roads – www.nebraskatransportation.org

Energy Efficiency and Conservation Block Grant -
<http://www.eecbg.energy.gov/default.html>

Nebraska Commission on Law Enforcement and Criminal Justice -
http://www.ncc.ne.gov/grant_information/application.htm

Office of Justice Programs – www.ojp.usdoj.gov

Centers for Disease Control and Prevention –
<http://www.cdc.gov/chronicdisease/recovery>