



COVID-19 Compliance Plan

August 2020

**STATE OF NEW JERSEY
COVID-19 COMPLIANCE AND
OVERSIGHT TASKFORCE**

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INTRODUCTION

A. CARES Act Overview

The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and three related pieces of emergency legislation provide approximately \$2.4 trillion in federal economic relief to individual citizens, loans for businesses, support for hospitals and other medical providers, and economic relief for impacted industries and government. Of that \$2.4 trillion, more than \$10 billion was allocated through the CARES Act to New Jersey to respond to the state’s multi-faceted needs during this crisis. The funding includes nearly \$3.4 billion in flexible funding from the Coronavirus Relief Fund (“CRF”); \$1.7 billion in provider relief funds for New Jersey hospitals; \$750 million in Federal Emergency Management Agency (“FEMA”) Disaster Relief funding; \$1.4

billion in funding for NJ Transit; and hundreds of millions to support New Jersey’s K-12 education and institutions of higher education. The CARES Act provides direct cash payments to New Jersey families; expands unemployment insurance for out-of-work New Jersey residents; and provides financial support to small businesses through the Paycheck Protection Program.

B. Executive Order 166

To ensure oversight and accountability in the state’s administration of crucial COVID-19 resources, on July 17, 2020, Governor Murphy signed Executive Order No. 166 (“EO 166”). EO 166 highlighted the state’s commitment to ensuring that every public dollar is spent toward impactful recovery and resilience projects and programs. To that end, EO 166 established the Governor’s Disaster Recovery Office (“GDRO”) and the COVID-19 Compliance and Oversight Taskforce (“Taskforce”). It also mandated the ap-

pointment of a COVID-19 Accountability Officer at each principal department, agency and independent authority receiving COVID-19 Recovery Funds or administering COVID-19 Recovery Programs (“Recovery Program Participant”).

As defined in EO 166, COVID-19 Recovery Funds are any funds disbursed by the federal or state government to help New Jersey residents, businesses, non-profit organizations, government agencies, and other entities respond to or recover from the COVID-19 pandemic (“COVID-19 Recovery Programs”), including any funds awarded to the state pursuant to the CARES Act (“COVID-19 Recovery Funds”).

C. COVID-19 Compliance and Oversight Taskforce

Pursuant to EO 166, the Taskforce is responsible for advising Recovery Program Participants on complying with federal and state laws, and mitigating the risks of waste, fraud, and abuse. The Taskforce is composed of the following members or their designees:

- Kevin D. Walsh, Acting State Comptroller (Chair)
- Gurbir S. Grewal, Attorney General
- Elizabeth Maher Muoio, State Treasurer
- Daniel Kelly, Executive Director, Governor’s Disaster Recovery Office
- William Viqueira, Accountability Officer - NJ Transit
- Amanda Schultz, Accountability Officer - Department of Education
- Catherine Schafer, Accountability Officer - Department of Children and Families

EO 166 directs the Taskforce to issue this Com-

pliance Plan, which describes the state’s system to guard against waste, fraud, and abuse in the disbursement of COVID-19 Recovery Funds and the administration of COVID-19 Recovery Programs. This plan will be updated to address additional identified risks and to propose appropriate mitigation measures related to those risks. EO 166 also directs the Taskforce to issue guidelines regarding the appointment and responsibilities of COVID-19 Oversight Integrity Monitors (“Integrity Monitors”). The Integrity Monitor Guidelines have been published separately.

Efficient and effective audit and oversight, along with robust transparency procedures, are critically important to ensure public trust in government. The Taskforce is committed to assisting Recovery Program Participants in establishing internal controls and other accountability measures to ensure the appropriate use of COVID-19 Recovery Funds and the effectiveness of the COVID-19 Recovery Programs.

D. Compliance Plan Overview

This Compliance Plan consists of three parts: (1) a description of the state’s oversight framework; (2) a review of federal and state guidelines applicable to COVID-19 recovery funding; and (3) best practices for Recovery Program Participants to identify, assess, and mitigate risk in their programs, contracts, and other disbursements. The appendix to this plan includes links to important resources for Recovery Program Participants.

Importantly, this Compliance Plan does not constitute a self-contained how-to manual for expending federal funds and implementing recovery programs and does not provide authoritative legal guidance regarding all situations. This plan provides a general overview and is intended to supplement and prompt

a reexamination and, where necessary, adjustment of a Recovery Program Participant's existing administrative, audit, compliance, or monitoring and oversight functions and activities. Special caution is appropriate when new programs are being created. The Taskforce encourages Recovery Program Participants to consult with the Division of Law in the Office of the Attorney General and in-house legal counsel prior to expending federal funds and implementing recovery programs.

THE OVERSIGHT FRAMEWORK

In accordance with EO 166, the Taskforce has established a comprehensive compliance plan consisting of seven elements designed to ensure proper controls and prevent and detect waste, fraud, and abuse associated with the state's COVID-19 recovery efforts. These seven elements are intended to ensure public transparency and accountability in the state's use of funds disbursed by the federal and state governments in response to COVID-19.

A. COVID-19 Accountability Officers

EO 166 directs Recovery Program Participants, state agencies and independent authorities that receive COVID-19 Recovery Funds or administer a COVID-19 Recovery Program to assist in the state's accountability efforts by designating an Accountability Officer to work with and serve as a direct point of contact for the GDRO and the Taskforce.

The Accountability Officer is required to be a senior-level official within an agency, below the Executive Director or Commissioner-level, who will oversee federally funded COVID-19 funds and programs administered by that agency.

In order to accomplish the goals of EO 166, the Accountability Officer should:

- Establish and maintain a culture of accountability, transparency, and compliance;
- Oversee the responsible disbursement of COVID-19 Recovery Funds and the administration of any COVID-19 Recovery Programs;
- Ensure that all new procurements involving an expenditure of \$150,000 or more of COVID-19 Recovery Funds or of other funds that are expended as part of a COVID-19 Recovery Program are submitted to the State Comptroller for review as of July 17, 2020, the effective date of EO 166;
- Provide, at the request of the State Comptroller, all documentation demonstrating that an expenditure of less than \$150,000 involving COVID-19 Recovery Funds and/or COVID-19 Recovery Program complies with all relevant federal and state laws;



- Serve as a point of contact with the State Comptroller for such procurements;
- Review and assess the management of any COVID-19 related contracts;
- Review and assess the adequacy of all existing internal controls;
- Conduct, or cause to be conducted, an internal risk assessment related to the disbursement of COVID-19 Recovery Funds and the administration of COVID-19 Recovery Programs;
- Based upon a risk assessment and other factors, in accordance with guidelines issued by the Taskforce, determine the need to retain and appoint an Integrity Monitor; once retained, work directly with the Integrity Monitor in accordance with the Integrity Monitor Guidelines established by the Taskforce;
- Promptly address any deficiencies or issues, whether raised by Integrity Monitors or otherwise, and advise the GDRO of any such deficiencies or issues;
- Maintain open communication with the GDRO and Taskforce;
- Promptly respond to any and all requests for information and documents from the GDRO and State Comptroller;
- Attend trainings conducted by the State Comptroller;
- Consult with the legal counsel in the Office of Attorney General as necessary to determine compliance on Recovery Program Participant specific questions;
- Determine and adhere to funding deadlines to ensure funds are properly and efficiently spent;
- Ensure compliance with applicable federal and state reporting requirements;
- Ensure compliance with applicable federal and state rules and requirements, including Uniform Guidance, civil rights laws, whistleblower protections, and other relevant laws;
- Engage with audit staff to develop areas for future audit oversight;
- Train staff as necessary on COVID-19 or grant-related compliance issues; and
- Promptly refer any suspected fraud to the appropriate oversight or law enforcement entity.

This list of responsibilities is intended to be illustrative and not exhaustive. Accountability Officers are expected to act proactively by identifying, assessing, and understanding the needs of their agencies, which may result in additional oversight tasks that are not specifically identified above.

B. COVID-19 Integrity Oversight Monitors

Pursuant to EO 166, Integrity Monitors may be used to oversee the disbursement of COVID-19 Recovery Funds and to oversee the administration of a COVID-19 Recovery Program. In accordance with the Integrity Monitor Guidelines, Recovery Program Participants that have received or will administer a total of up to \$20 million in COVID-19 Recovery Funds should, through their Accountability Officers, assess risk to determine whether an Integrity Monitor is appropriate. A Recovery Program Participant that has received \$20 million or more in COVID-19 Recovery Funds should retain at least one Integrity Monitor, subject to federal funding being available. The GDRO should be consulted for any questions or concerns regarding the use of Integrity Monitors or the availability of federal funding.

The GDRO and Taskforce will oversee the work of any Integrity Monitors and review their work reports. In addition to their regular reporting requirements, the Integrity Monitors will be expected to respond expeditiously to requests for information from the GDRO and State Comptroller and to report immediately to Recovery Program Participants and the State Comptroller on findings necessitating action to prevent the misuse or misspending of funding. The Integrity Monitors will also be expected to report findings of potential criminal conduct to the

Office of the Attorney General.

In accordance with EO 166, the Taskforce has issued guidelines regarding the appointment and responsibilities of the Integrity Monitors. A link to those guidelines is [here](#).

C. Training and Technical Assistance

Pursuant to EO 166, the State Comptroller is responsible for providing COVID-19 Recovery training for Recovery Program Participants. The training includes best practices for mitigating risks of waste, fraud, and abuse, with a focus on best practices related to procurement and internal controls. The training presentation and materials are available for reference on the State Comptroller's website.

Recovery Program Participants with specific questions regarding procurement practices may submit their questions in writing to contracts@osc.nj.gov. Participants are also encouraged to seek legal and compliance advice from their legal counsel at the Office of the Attorney General.

D. COVID-19 Expanded Procurement Reviews

The State Comptroller's Procurement Division has broad jurisdiction to review and monitor the process of soliciting proposals for and the awarding of contracts that meet or exceed certain statutory dollar thresholds. Prior to July 1, 2020, the State Comptroller's review thresholds were \$2 million and \$10 million for post-award and pre-advertisement reviews respectively. Effective July 1, 2020, pursuant to N.J.S.A. 52:15C-10(d), those thresholds increased to \$2.5 million and \$12.5 million.

There are more than 1,900 public entities subject to the State Comptroller's statutory contract oversight. These entities include, but are not limited to, municipalities, school districts, state departments, public

colleges, and universities. Ordinarily, for any procurement expected to be greater than \$12.5 million, notice must be submitted to the State Comptroller at least 30 days prior to advertisement. And, for contracts greater than \$2.5 million but less than \$12.5 million, post-award notice must be provided to the State Comptroller within 20 business days after the award.

EO 166 expands the scope of the State Comptroller's pre-advertisement review for state entities for any potential procurement of \$150,000 or more that (i) involves COVID-19 Recovery Funds or (ii) is for a COVID-19 Recovery Program. An agency's engagement of an Integrity Monitor is subject to such pre-advertisement review.

For COVID-19 procurements satisfying the above criteria, agencies are expected to complete OSC Form E1, which is available [here](#). The Accountability Officer shall submit the completed form and the following documents as appropriate to the procurement in final form to the State Comptroller by email to contracts@osc.nj.gov:

- Proposed advertisement;
- Proposed solicitation (Request for Proposals, Request for Quotes or Invitation to Bidders, including the scope of work or specifications);
- Statutory forms;
- Waiver packet (with justification for use of the exception to competition and all required approvals); and
- All documentation required for transactions pursuant to the Department's delegated purchasing authority (applicable to DOH, NJSP/OEM, DHS and DCF only).

Recovery Program Participants must provide prospective vendors notice that, pursuant to EO 166, all approved contracts for the allocation and expenditure of COVID-19 Recovery Funds will be posted on

the COVID-19 Transparency website. This notice is available as an attachment in the Appendix.

Within 10 business days of submission, the State Comptroller will:

- review potential procurements for compliance with applicable laws, rules, and regulations; and
- inform the Recovery Program Participant and the GDRO of the changes needed to make the process legally compliant.

For planning purposes, Recovery Program Participants should submit the final documents to the State Comptroller not later than 10 business days prior to the anticipated date of advertisement.

To promote accountability and transparency, the State Comptroller will ensure that all awarded contracts for the allocation and expenditure of resources involving a Recovery Program allocated by or through any Recovery Program Participant are publicly posted online to the dedicated COVID-19 Transparency website. Within 20 business days after the contract award, the Accountability Officer shall submit a completed OSC Form E2 along with the fully signed contract to OSC at contracts@osc.nj.gov. Typically, the contract consists of several documents: the solicitation issued and any addenda, the successful submitted proposal or bid and any signed forms, any general or special provisions, and standard terms and conditions.

As noted above, for more information regarding COVID-19 related procurements, please refer to the [training presentation](#) and [materials](#) available on the State Comptroller's website.

E. Reporting Requirements

Recovery Program Participants are expected to provide information, documentation, and full cooperation, to the GDRO and Taskforce upon request. EO 166 specifically authorizes the GDRO, State Comptroller and Taskforce to call upon any department, office, division, or agency of the state to provide information, personnel, or other assistance necessary to discharge their duties in accordance with the executive order.

Furthermore, Recovery Program Participants are expected to comply with the reporting requirements established by applicable law and by the GDRO. This includes, but is not limited to, the quarterly reporting that EO 166 mandates for any Integrity Monitors retained by the Recovery Program Participant.

F. Waste, Fraud, and Abuse Hotline

The State Comptroller has an established fraud hotline that will be used to receive complaints concerning waste, fraud, and abuse of CARES Act funds. Investigators will field and review tips, referrals, and complaints provided to the office. Recovery Program Participants and the general public should submit tips through the State Comptroller's website, via email at ComptrollerTips@osc.nj.gov, or by calling the toll-free hotline, 1-855-OSC-TIPS.

The State Comptroller will track all COVID-19 Recovery Fund related calls and refer any such complaints indicating criminal activity to the Office of the Attorney General. Complaints not involving potential criminal activity will be vetted by the State Comptroller and, where appropriate, referred to the proper agency.

G. Audits

In addition to the prevention, detection, and monitoring steps outlined above, the State Comptroller may conduct audits of Recovery Program Participants regarding the use of COVID-19 Recovery Funds and the administration of the COVID-19 Recovery Programs. Recovery Program Participants should also be prepared to be audited by other state and federal entities with oversight authority.

COMPLIANCE WITH FEDERAL GUIDELINES

To maximize the benefits of federal aid for the state and avoid the potential recoupment or de-obligation of funding, Recovery Program Participants must ensure that recovery funds are used and disbursed appropriately, in accordance with federal and state program guidelines, and in ways that minimize or eliminate the risk of mismanagement, fraud, and abuse. Recovery Program Participants should consult in-house legal counsel or the Office of the Attorney General for any specific questions regarding compliance with federal and state laws.

A. GENERAL FEDERAL REQUIREMENTS APPLICABLE TO CARES ACT FUNDING

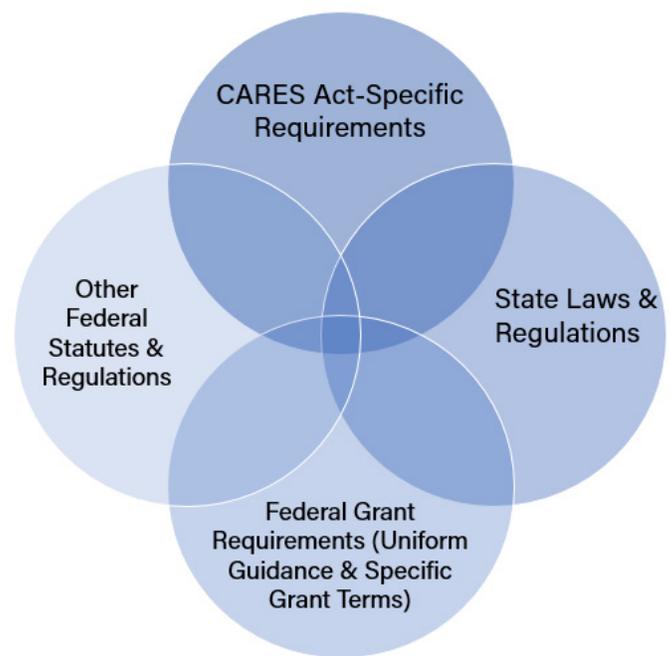
The CARES Act provides assistance to New Jersey residents through new programs and funds allocated to existing programs. For certain CARES Act funding, such as Coronavirus Relief Fund (“CRF”), the CARES Act provides specific requirements for fund usage and reporting. Existing federal programs generally have their own rules and guidelines. If not specified, federal funds are subject to the requirements of 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (“Uniform Guidance”).

Other state and federal statutes may also impose requirements on Recovery Program Participants, such as prohibitions on duplication of benefits, transparency requirements, civil rights protections, and more. Below is a non-exhaustive list of some of the federal and state requirements that may apply to Recovery Program Participants.

1. CARES Act-Specific Requirements

As noted above, many of the programs funded through the CARES Act already exist and funds awarded through those programs must comply with preexisting laws and regulations. There are, however, a few overarching requirements that will apply to most, if not all, Recovery Program Participants receiving federal funding under the CARES Act.

Specifically, Section 15011 of the CARES Act establishes a quarterly reporting requirement for “covered recipients.” That requirement applies to recipients of \$150,000 or more of “covered funds.” In general, “covered funds” are any federal funds provided to non-federal entities, not including individuals, related to the Coronavirus response and related activities.



Recovery Program Participants should consult the memoranda available on the [OMB website](#), including M-20-21, which describes these requirements. Generally, already existing reporting requirements will be sufficient to meet many of the reporting requirements for covered recipients. For programs in which existing reporting requirements are not sufficient, federal awarding agencies are responsible for communicating requirements to recipients through the terms and conditions of the award and other relevant agency guidance. Recovery Program Participants should examine their grant agreements to verify their specific grant reporting requirements.

2. Uniform Guidance

Certain Recovery Program Participants receiving federal grant funds will be required to comply with the requirements in 2 C.F.R. Part 200. This document, 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, is often referred to as the “Uniform Guidance” or the “Super Circular.” It applies to non-federal entities (e.g., state agencies, state authorities, local governments, non-profits, etc.) receiving federal grant funds. Recovery Program Participants should note that revisions to 2 C.F.R. Part 200 will become effective as of November 12, 2020 and may change the requirements described below.

Under the Uniform Guidance, a non-federal entity receiving federal grant funds may be either a direct recipient of those funds (e.g., federal agency award to a state) or a sub-recipient receiving federal funds through a subaward. The sections below highlight a few specific requirements from the Uniform Guidance; *Recovery Program Participants subject to the Uniform Guidance should*

ensure programs comply with all applicable requirements. Federal agencies may also modify or make exceptions to the requirements, so Recovery Program Participants should check their grant agreements to determine what is applicable.

a. Internal Controls (2 C.F.R. 200.303)

The Uniform Guidance requires non-federal entities required to comply with the guidance, to establish and maintain effective internal controls over a federal award that provide reasonable assurance that the non-federal entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States (the “Green Book”) or, if a non-governmental entity, with the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”). The Green Book, which governs governmental agencies, is based upon the COSO framework and is discussed in further detail in the Internal Controls section below.

Non-federal entities are expected to evaluate and monitor their compliance and take prompt action when noncompliance is identified. The Uniform Guidance also requires non-federal entities to take reasonable measures to safeguard and protect personally identifiable information.

b. Cost Principles (2 C.F.R. 200, Subpart E)

The Uniform Guidance sets forth basic conditions, or cost principles, for determining whether costs are allowable under a federal award. In general, an

allowable cost must be: (1) reasonable, (2) allocable, and (3) consistently treated.

Reasonable: A cost is reasonable if the nature of the goods or services and the price paid for the goods and services reflect the action that a prudent person would have taken given the circumstances at the time the decision to incur the cost was made.

Allocable: A cost is allocable if the goods or services involved can be directly charged or assigned to the award based on the benefit provided.

Consistently treated: Costs may be direct or indirect. In general, a direct cost is an expense for an item or service bought specifically and entirely for the project, whereas an indirect cost is an expense for an item or service that benefits more than one project or purpose (e.g., facilities, administrative costs). Non-federal entities must ensure that direct and indirect costs are treated consistently in accordance with the Uniform Guidance.

Allowable costs must also conform to any limitations or exclusions in the award as to types or amounts, not be used to meet cost sharing obligations of another federal award and be adequately documented. Sections 200.420 through 200.475 of the Uniform Guidance discuss specific cost categories. These sections cover a wide range of costs and provide guidance on determining allowable and unallowable costs.

The description of allowable costs above reflects a summary of the requirements outlined in the Uniform Guidance. Recovery Program Participants subject to the Uniform Guidance must carefully review the cost principles, understand the specific requirements applicable to their awards, including any award-specific modifications, and ensure com-

Case Study

DHS-OIG Audit of Little Egg Harbor Public Assistance Grant Funds for Hurricane Sandy Debris Removal Activities

An audit of FEMA grant funds awarded to Little Egg Harbor found that the Township planned to claim over \$600,000 in debris removal expenditures that were not supported by adequate documentation.

According to Cost Principles for State, Local and Indian Tribal Governments, 2 C.F.R. Part 225 Appendix A Section C.1.j (now 2 C.F.R. 200.403(g)), grant recipients must adequately document costs under a federal award. The FEMA Debris Management Guide also required applicants to maintain source documents, such as timesheets, work logs and equipment use sheets to show work was disaster related.

While the township had timecards and payroll records, it did not have other documentation to show which employees performed disaster-related debris removal activities and the specific hours worked under the project. It also found that certain labor costs were outside the scope of the project and some costs were ineligible as duplicate costs.

[Read more.](#)

pliance with all relevant regulations.

c. Performance and Financial Monitoring and Reporting (2 C.F.R. 200, Subpart D)

Sections 200.327 through 200.329 set forth procedures for monitoring and reporting the grantee's financial and program performance and list the standard reporting forms.

d. Procurement Standards (2 C.F.R. 200, Subpart D)

Section 2 C.F.R. 200.317 sets standards for procurements by states using federal grant funding. In general, the Uniform Guidance requires that a state procuring property and services under a federal award must follow the same policies and procedures for procurements that is used for procurements paid for with its non-federal funds. States must also comply with 2 C.F.R. 200.322 with regard to the procurement of recovered materials and ensure that every purchase order or contract includes any clauses required by 2 C.F.R. 200.326.

All other non-federal entities, including sub-recipients of a state, must follow the procurement standards set forth in 2 C.F.R. 200.318 through 200.326 and use their own documented procurement procedures which reflect applicable state law and regulations, provided that they conform to the federal standards. In the event of a direct conflict between state and federal requirements, the more restrictive requirements should be followed. These guidelines address general procurement standards, competition, the method of procurement, cost and price, required contract provisions and more. Recovery Program Participants should review the State Comptroller's training presentation and materials, and consult with legal counsel or the Office of the Attorney General to ensure their procurements properly

address these federal standards.

3. Robert T. Stafford Disaster Relief and Emergency Assistance Act and FEMA Guidance

The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 ("Stafford Act") authorizes the federal government to provide assistance to states during declared major disasters and emergencies. FEMA coordinates the administration of disaster relief resources and assistance to states. FEMA has extensive rules, policies, and guidance to further define eligibility and procedures for Stafford Act assistance, which can be found generally at 44 C.F.R. Parts 1-362 and at www.fema.gov. Recovery Program Participants must be aware of these guidelines and ensure their compliance or this essential funding may be recouped or de-obligated.

Past audits of New Jersey's use of FEMA funding have found deficiencies in several areas, including procurement deficiencies, duplication of benefits, and lack of proper documentation. Recovery Program Participants should review these areas to ensure compliance with applicable federal statutes and regulations.

Procurement: The FEMA website includes a host of information and resources related to conducting proper procurements that should be reviewed by Recovery Program Participants seeking to rely on FEMA funding:

- Basic overview of the procurement process for FEMA grants: [Procurement Process](#)
- List of federally required contract provisions and contract template: [Contract Provisions Template](#)
- Procurement Training Webinars: [FEMA Procurement Training](#)
- Top Ten Procurement Mistakes that Lead to Loss of FEMA Public Assistance Funding: [State Top](#)

Ten Mistakes

Duplication of Benefits: Section 312 of the Stafford Act requires the federal government to ensure that no entity will receive assistance for any loss for which it has received financial assistance from other programs, insurance, or any other source. These requirements apply to all federal agencies administering a disaster recovery program providing financial assistance, including HUD and the Community Development Block Grant Disaster Recovery (CDBG-DR) program. Recovery Program Participants must establish and maintain adequate procedures to prevent any duplication of benefits. See generally this [FEMA Fact Sheet](#).

Documentation: Federal cost principles require grant recipients to adequately document costs under a federal award. Recovery Program Participants receiving FEMA funding must maintain accurate records in accordance with these requirements to avoid costs being disallowed or de-obligated.

B. SPECIFIC REQUIREMENTS FOR CORONAVIRUS RELIEF FUND

1. Eligible Uses, Reporting, and Records Retention

Section 601 of the Social Security Act, as added by section 5001 of the CARES Act, establishes the \$150 billion Coronavirus Relief Fund (“CRF”), which allocates funds to state, local, and tribal governments navigating the impact of the COVID-19 outbreak. Section 601(d) sets forth criteria that expenses must meet to be eligible for CRF funding. Pursuant to Section 601(d), funds may only be used for costs that:

1. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
2. were not accounted for in the budget most recently approved as of March 27, 2020; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Recovery Program Participants in receipt of CRF funding must ensure that CRF funds are only used for eligible costs, or the funds may be subject to recoupment. The U.S. Department of Treasury (“Treasury”) has provided guidance regarding eligible uses of CRF monies in a Guidance and FAQ document, both of which are available [here](#). Some examples of eligible expenditures include:

- Medical expenses such as COVID-19-related expenses of public hospitals, clinics, and similar facilities;
- Public health expenses such as expenses for communication and enforcement by state, territorial, local and tribal governments of public health orders related to COVID-19;
- Payroll expenses for public safety, public health, health care, human services and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

Examples of costs that would **not** be eligible expenditures from the fund include:

- Expenses for the state share of Medicaid;
- Damages covered by insurance;
- Payroll or benefit expenses of employees whose work duties are not substantially dedicated to

mitigating or responding to the COVID-19 public health emergency;

- Workforce bonuses other than hazard pay or overtime.

The Treasury Guidance and FAQ document (current version dated August 10, 2020) clarify that CRF funding is subject to parts, but not all, of the requirements contained in the Uniform Guidance. For example, CRF fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. 7501-7507) and the related provisions of the Uniform Guidance, section 2 C.F.R. 200.303 regarding internal controls, sections 200.330 through 200.332 regarding sub-recipient monitoring and management, and Subpart F regarding audit requirements. Subpart E concerning cost principles, however, is not applicable. Recovery Program Participants are encouraged to follow the applicable procurement guidelines contained within the Uniform Guidance to ensure that procurements are proper and federal funding is not recouped at a later date. The Treasury Guidance and FAQs may be updated periodically, so Recovery Program Participants should check the Treasury [website](#) to ensure up-to-date guidance.

The U.S. Department of Treasury Office of Inspector General (“Treasury OIG”) published two guidance documents and an FAQ (current version dated August 28, 2020) setting forth reporting and records retention requirements for CRF monies, [OIG-CA-20-021](#), [OIG-CA-20-025](#), and [OIG-CA-20-028](#). The guidance documents provide that Recovery Program Participants receiving CRF funds must maintain and make available to Treasury OIG upon request all documents and financial records sufficient to establish that expenses were used for eligible costs in accordance with Section 601(d). The documents also contain detailed information related to the reporting portal to be used

for tracking and reporting on CRF funds.

The guidance issued by Treasury OIG requires that records be maintained for a period of five (5) years after final payment is made using CRF monies. The records retention requirements are applicable to all prime recipients and their grantees and sub-grant recipients, contractors and other levels of government that received transfers of CRF payments from prime recipients.

Records to support compliance with Section 601(d) may include, but are not limited to, accounting ledgers; budget records; payroll, time and HR records; purchase receipts; contracts and subcontracts; grant agreements; documentation of reports, audits, and other monitoring of contractors; pertinent electronic mail records; and investigative files and reports involving CRF payments. Records of any suspended or debarred providers who may be recipients or sub-recipients should also be maintained.

Further details expanding upon proper and eligible uses of CRF funding, as well as details related to reporting and records retention, can be found on the U.S. Department of Treasury [website](#).

Note that although the federal government has provided recipients of CRF funding with fairly broad discretion regarding use of CRF funds, Recovery Program Participants and Accountability Officers responsible for CRF funds should ensure the funds are disbursed transparently, fairly, and in accordance with an established set of guidelines and criteria. Discretionary funding such as CRF funding can present additional opportunities for waste, fraud, abuse or mismanagement of public funding and is likely an area that is ripe for state and federal audit.

C. OTHER FEDERAL AND STATE REQUIREMENTS

Below is a listing and description of other federal and state requirements Recovery Program Participants should review.

1. Federal False Claims Act - 31 U.S.C. 3729 - 3733

The Federal False Claims Act allows the federal government to pursue perpetrators of fraud, e.g., individuals who knowingly submitted a false claim to the government. It also allows individuals to bring “whistleblower” lawsuits on behalf of the government against those that have defrauded the government. Private citizens who successfully bring False Claims Act claims, or “qui tam” suits, may receive a portion of the government’s recovery. Penalties for filing false claims are substantial and may be up to three times the actual loss, plus civil monetary penalties up to \$11,000 per false claim. Violations of the False Claims Act are punishable by prison terms up to five years and substantial criminal fines.

2. Civil Rights Statutes

New Jersey’s use of federal financial assistance requires the state to ensure compliance with substantial civil rights requirements imposed by, among other sources of law, Title VI of the Civil Rights Act of 1964 (“Title VI”) and Title VIII of the Civil Rights Act of 1968 (“Fair Housing Act”). New Jersey state law should also be considered, in particular the New Jersey Law Against Discrimination. N.J.S.A. 10:5-1 et. seq. and its implementing regulations, N.J.A.C. 17:27 et seq. These obligations are especially significant in view of the disproportionately greater impact of COVID-19

on communities of color.

Recovery Program Participants must ensure their compliance with state and federal civil rights laws and should consult with the Office of the Attorney General and the New Jersey Division on Civil Rights, as appropriate, with any questions regarding federal or state civil rights laws.

3. Records Retention and Maintenance Requirements

Records retention requirements may vary in accordance with a Recovery Program Participant’s particular grant terms or source of funding. The following records retention guidelines may also apply:

- For entities subject to the Uniform Guidance, records retention requirements can be found in Subpart D Section 200.333, which provides, generally, that records must be retained for a period of three years after the date of the final expenditure.
- Recovery Program Participants who are not subject to the Uniform Guidance should refer to their specific grant award’s terms and conditions, which may have different requirements.
- For Recovery Program Participants in receipt of CRF monies, records must be maintained for a period of five years after final payment is made using CRF monies. See Treasury OIG’s Coronavirus Relief Fund Reporting and Records Retention Requirements, available [here](#).
- At the state level, Recovery Program Participants should continue to comply with applicable records retention schedules established by the State Records Committee pursuant to

the Public Records Law, N.J.S.A. 47:3- 20 et seq. as well as the policies set forth in the New Jersey Records Manual, available [here](#).

- Pursuant to the State Comptroller’s regulations at N.J.A.C. 17:44-2.3 and 3.10, all “covered entities” and “contracting units” (as defined therein) must either comply with the state records retention schedules mentioned above, or, if not applicable, relevant records must be maintained for a period of no less than five years after contract completion and produced upon request. N.J.A.C. 17:44-2.2 requires that the following language be inserted into contracts with covered entities: “(The contract partner) shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the Office of the State Comptroller upon request.”

BEST PRACTICES FOR INTERNAL CONTROLS, PROCUREMENT, AND FRAUD PREVENTION

A. INTERNAL CONTROLS

Internal controls serve as an agency’s first line of defense in safeguarding assets. They are processes performed by an agency on an ongoing basis that provide reasonable assurance that the objectives of the entity will be achieved. The Government Accountability Office’s (“GAO”) Standards for Internal Control in the Federal Government (September 2014), also known as the Green Book, serves as the federal government’s guide for implementing internal control procedures. Recovery Program Participants are encouraged to review the Green Book’s framework for internal controls with respect to their use of COVID-19 Recovery Funds and administration of COVID-19 Recovery Programs.

The Green Book identifies five key components of an effective internal control system: (1) control environment, (2) risk assessment, (3) control activities, (4) information/communication, and (5) monitoring. The below table identifies these components and the 17 recognized principles that support their design, implementation, and operation.

Control Environment	Risk Assessment	Control Activities	Information and Communication	Monitoring Activities
<ul style="list-style-type: none"> ▪ Demonstrates commitment to integrity and ethics ▪ Exercises oversight responsibilities ▪ Establishes structure, authority, and responsibility ▪ Demonstrates commitment to competence ▪ Enforces accountability 	<ul style="list-style-type: none"> ▪ Defines objectives and risk tolerances ▪ Identifies, analyzes, and responds to risk ▪ Assesses fraud risk ▪ Identifies and analyzes and responds to change 	<ul style="list-style-type: none"> ▪ Designs control activities ▪ Selects and develops general controls for the system ▪ Deploys and implements control activities 	<ul style="list-style-type: none"> ▪ Uses relevant, quality information ▪ Communicates internally ▪ Communicates externally 	<ul style="list-style-type: none"> ▪ Performs ongoing monitoring activities ▪ Evaluates issues and remediates deficiencies

Table 1: Green Book Standards for Internal Controls

The five components of an effective internal control system should be used by Recovery Program Participants to guide their use of recovery funds and implementation of recovery programs as follows:

Control Environment

- The importance of the control environment cannot be overstated. Management and the Accountability Officer will be responsible for setting the tone for competency, accountability, ethics and compliance from the top, and ensuring that the organization has sufficient and capable staff to meet program goals.
- Recovery Program Participants should ensure that sufficient staff are in place to disburse funds properly in accordance with clear and appropriate governing criteria. It is essential that staff are properly trained regarding the parameters of the program, the criteria for eligible use of funds, and the required documentation the agency must receive from a potential sub-recipient before it distributes funds to that sub-recipient.

Risk Assessment

- Risk assessment consists of identifying, analyzing, and responding to risks. The potential for fraud should be considered in assessing risks. Types of fraud include fraudulent financial reporting, misappropriation of assets, and corruption.
- An agency assesses the significance of a risk by considering the magnitude of impact, likelihood of occurrence, and the nature of the risk.

Case Study

HUD-OIG Audit of Home-buyer Assistance Program

Among other findings, this audit found that the state lacked proper procedures and staff were not trained to ensure home buyer's compliance with income eligibility and property ownership requirements. The audit recommended the state repay HUD for the nearly \$1 million disbursed to home buyers who did not meet all of the program eligibility requirements.

[Read more.](#)

- Types of risks can include:
 - Internal and external;
 - Changes in operating style;
 - New personnel;
 - New or enhanced information technology systems;
 - New programs; and
 - New laws and regulations.
- To mitigate these and other risks, the Recovery Program Participants and Accountability Officers should assess risk on an ongoing basis, as lessons are learned in the course of implementing a program. This includes, but is not limited to:
 - Thorough review of existing internal controls and strengthening where necessary;
 - Review of prior audits (internal and/or external) and any resolution of audit findings;
 - Development of strategies for mitigating risk;
 - Assessment of agency capacity and staff's ability and expertise in managing and overseeing the funds. If necessary, consideration should be given to redeployment of resources as necessary; and
 - Performance of existing internal audit functions, and capacity of internal audit units, if any.
- Some examples of control activities include:
 - Maintaining physical control of assets to minimize loss or misuse, e.g., use of passwords, locks, data encryption, and management authorization for assets (cash, accounting records, equipment) and computer programs/networks;
 - Ensuring backup of computer records and maintaining a disaster recovery plan;
 - Segregating duties to guard against any one person performing incompatible duties (e.g., separate operations from related record keeping);
 - Delegating authority of approved activities from management to a department or employee;
 - Enhancing accountability through approval, verification, and reconciliation;
 - Retaining documentation of all relevant transactions; and
 - Storing and retaining documents and records for the requisite period of time.

Control Activities

- Control activities consist of the specific policies and procedures that are put in place to mitigate the risk of error, noncompliance, and fraud. They are designed to ensure management directives are carried out, and should occur throughout the organization at all levels and in all functions.
- Information and communication involve the internal and external communication of quality information so that agency objectives can be met.
- Recovery Program Participants must ensure that management clearly communicates program guidelines and requirements to staff at all relevant levels, to ensure consistent messages and effective program administration.
- Recovery Program Participants must clearly communicate program guidelines and requirements to sub-recipients and update such guidance, if necessary, to respond to new informa-

Information and Communication

tion.

- Recovery Program Participants should have a method in place to field and promptly respond to questions from the public about programs, guidelines, eligibility, etc.
- Recovery Program Participants must ensure prompt and clear communication between the Accountability Officer, State Comptroller and GDRO.

Monitoring Activities

- Monitoring involves reviewing the internal control system and results and taking steps to remediate deficiencies on a timely basis.
- Recovery Program Participants and Accountability Officers should monitor programs, sub-recipients and sub-grantees in order to accurately track use of the funding and apply lessons learned to ensure the most efficient use of the funding.
- Monitoring programs should be designed to test for inconsistencies, duplication, errors, policy violations, missing approvals, incomplete data, dollar or volume limit errors, or other possible breakdowns in internal controls. Monitoring techniques may include sampling protocols that permit staff to identify and review variations from an established baseline. Effective monitoring thus requires timely receipt of accurate financial records and performance reports, and the ability to assess whether programs are achieving their goals and objectives.
- Agencies should also consider conducting

real-time audits of the disbursement of funds, as well as performance audits, in order to determine if the spending achieved the desired outcome.

In addition to the above components of internal controls, documentation is also a necessary part of an effective internal control program. Documentation is particularly crucial with respect to COVID-19 funding, as state and federal auditors and oversight bodies, as well as the public, will want assurances that this funding has been disbursed appropriately.

- Financial transactions and interactions with sub-recipients, contractors, or vendors should be appropriately documented in order for a Recovery Program Participant to justify any spending.
- Program disbursements should be supported by documentation setting forth the guidelines utilized in the distribution of funds and the reason the funds were appropriately disbursed to the receiving party.
- Any third-party vendors or contractors utilized must be the subject of oversight by a Recovery Program Participant and any monies paid to a vendor/contractor should be supported by appropriate documentation.
- Invoices submitted by vendors/contractors should be reviewed for thoroughness prior to payment. All payments should be made in accordance with established policies for payments to vendors/contracts.

Case Study

HUD-OIG: Internal Audit Requirement for Disaster Relief Appropriations Act of 2013 Grantees

An audit of Disaster Relief Appropriations Act of 2013 grantees to examine whether and to what extent grantees were properly implementing HUD internal audit requirements. The audit evaluated 12 grantees to determine whether each:

- Described internal audit activity in a prescribed plan;
- Established an organization chart showing independence;
- Established traditional internal audit activity; and
- Completed internal audits of their disaster grants.

Of the 12 grantees, New Jersey was the only grantee determined to be compliant with each aspect.

[Read more.](#)

B. PROCUREMENT BEST PRACTICES

The public contracting process in New Jersey is established by multiple regulations and statutes. Recovery Program Participants must not only comply with state requirements but must also ensure that their procurement complies with federal standards.

Set forth below is a non-exhaustive list of procurement best practices that Recovery Program Participants should take into consideration. In addition to these best practices, Recovery Program Participants should review the State Comptroller's training presentation and materials.

1. Compliance with the Uniform Guidance

As noted earlier in this Plan, if applicable, a state procuring property and services under a federal award must follow the same policies and procedures it uses for procurements from its non-federal funds. 2 C.F.R. 200.317, 200.322, and 200.326. All other non-federal entities, including sub-recipients of a state, must follow the procurement standards set forth in 2 C.F.R. 200.318 through 200.326.

Recovery Program Participants should consult with their legal counsel, if necessary, to ensure their procurement properly addresses these standards and is compliant with any special terms associated with its use of particular COVID-19 Recovery Funds as set forth in the CARES Act or their specific grant agreement.

2. Encourage open competition

Open competition among bidders maximizes the public benefit and guards against favoritism and corruption in public contracting. While balancing the need for efficiency, Recovery Program Participants should seek as expansive a pool of potential bidders as possible under the circumstances. This can be done through public notice and advertisement as well as posting a notice on the agency's website.

Because of the short deadlines associated with the expenditure of COVID-19 Recovery Funds, Recovery Program Participants are encouraged to conduct a thorough search of state contracts to de-

termine whether the required good or service is available under an existing state contract. Such purchases would eliminate the need to conduct a competitive process, and any delays that may be associated with that process.

While limited “emergency” exceptions to the requirements for public advertisement exist, in general, these should only be used when public exigency requires the immediate delivery of the goods or performance of the service due to life, safety, or health emergencies. The exception should be used only when there is insufficient time to engage in a competitive solicitation. In addition, the duration of the contract should be just long enough to address the emergency. Proper documentation must be maintained to justify the proper use of the exception.

3. Draft a clear scope of work

The scope of work should be clear and unambiguous and must disclose to potential bidders the criteria that will be used to award the contract. A clear scope of work will include at least the following elements: a) the contract term and any options for renewal or extension in accordance with applicable laws and regulations; b) clear outcome-based contract deliverables; c) a specific description of the goods to be delivered or services and/or tasks to be performed; d) contract milestones, schedules and timelines; e) any reporting requirements expected of the contractor, if applicable; and f) details related to contract management and administration, i.e., when payment will occur, the change order process, any penalties or sanctions for failure to perform in accordance with the contract.

4. Determine the estimated cost of the contract

Engaging in a thorough cost estimation process prior to bidding a public contract is an effective method for gauging the reasonableness of a bidder’s offer and en-

Case Study

HUD-OIG Audit of Superstorm Sandy Housing Incentive Program

An audit of New Jersey’s Community Development Block Grant Disaster Recovery-funded Superstorm Sandy Housing Incentive Program found, among other things, that the state did not disburse disaster funds to its contractor in accordance with HUD, federal, and other applicable requirements because it did not have adequate controls in place to administer its contract and monitor contract performance. Further, the state was not fully aware of federal procurement and cost principle requirements. This included a failure to maintain adequate documentation supporting expenditures. It was recommended that the state produce the missing documentation or repay HUD over \$40 million.

[Read more.](#)

sure that a bidder has a complete understanding of the work to be performed. In addition, Recovery Program Participants must also ensure that they are in compliance with the cost principles in 2 C.F.R. 200.400 – 200.474, including ensuring that costs are reasonable, as defined in 2 C.F.R. 200.404.

5. Awarding the contract.

In New Jersey, the basis for a contract award depends on the type of contract being bid (e.g., construction vs. goods vs. professional services) and the type of entity procuring the contract (e.g., a state agency that procures goods and services through the Division of Purchase and Property within the Department of the Treasury versus a state entity with its own procurement authority). The method of award and evaluation criteria for the award must be reasonable and clearly established and communicated to bidders in the solicitation

document.

6. Limit the use of sole source, brand name, or proprietary specifications.

The use of sole source, brand name, or proprietary specifications can limit competition, and in some cases, steer a public contract toward a particular bidder. As such, their use is discouraged at the state level, and prohibited at the local level. Recovery Program Participants must also take care that the scope of work and specifications are not crafted in such a specific or technical manner that they deter potential bidders or provide a particular bidder with an unfair advantage.

7. State and federal contracting forms and other requirements.

All Recovery Program Participants must ensure

Case Study

DHS-OIG Audit of Downe Township FEMA Public Assistance Funds

An audit of FEMA grant funds awarded to the Township of Downe found, among other things, that the Township did not follow federal procurement standards in awarding contracts valued over \$800,000. Specifically, the Township did not solicit bids for non-exigent Sandy-related work, and instead awarded the work to contractors it used previously for Sandy-related work. The FEMA-OIG found that this violated FEMA procurement regulations at 44 C.F.R. 13.36. In addition, the FEMA-OIG found that none of the 12 contracts reviewed contained federally required contract provisions.

[Read more.](#)

that bid documents contain all applicable state and federal contract language (e.g., the State Comptroller’s document retention language, Prevailing Wage Act, New Jersey Affirmative Action/EEO language and requirements, 2 C.F.R. Part 200, Appendix II) and that their contracts comply with other applicable state and federal contract requirements (e.g., Business Registration, Prompt Payment Act, Statement of Corporate Ownership, Disclosure of Investment Activities in Iran). The State Comptroller’s training materials contain references to the state and federal requirements to be considered.

8. Compliance with New Jersey Pay to Play Law

Pursuant to N.J.S.A. 19:44A-20.22, on March 22, 2020, the State Treasurer determined that the emergency declared pursuant to Executive Order 103 required the immediate delivery of goods and the performance of services, and therefore declared the requirements of N.J.S.A. 19:44A-20.13 – 20.25 (“Pay to Play” law) not applicable to such contracts. The State Treasurer’s memo is available [here](#). This limited exception is available for public exigency contracts related to COVID-19. For many contracts, this exception will not apply. This means that state departments, agencies, state colleges, and independent authorities are prohibited from entering into a contract valued at over \$17,500, if during the 18-month period preceding contract negotiations the vendor has made a reportable contribution in excess of \$300. State entities should consult Public Law 2005, Chapter 51 & Executive Order 117 (2008, Corzine) and the resources available [here](#) to ensure their compliance.

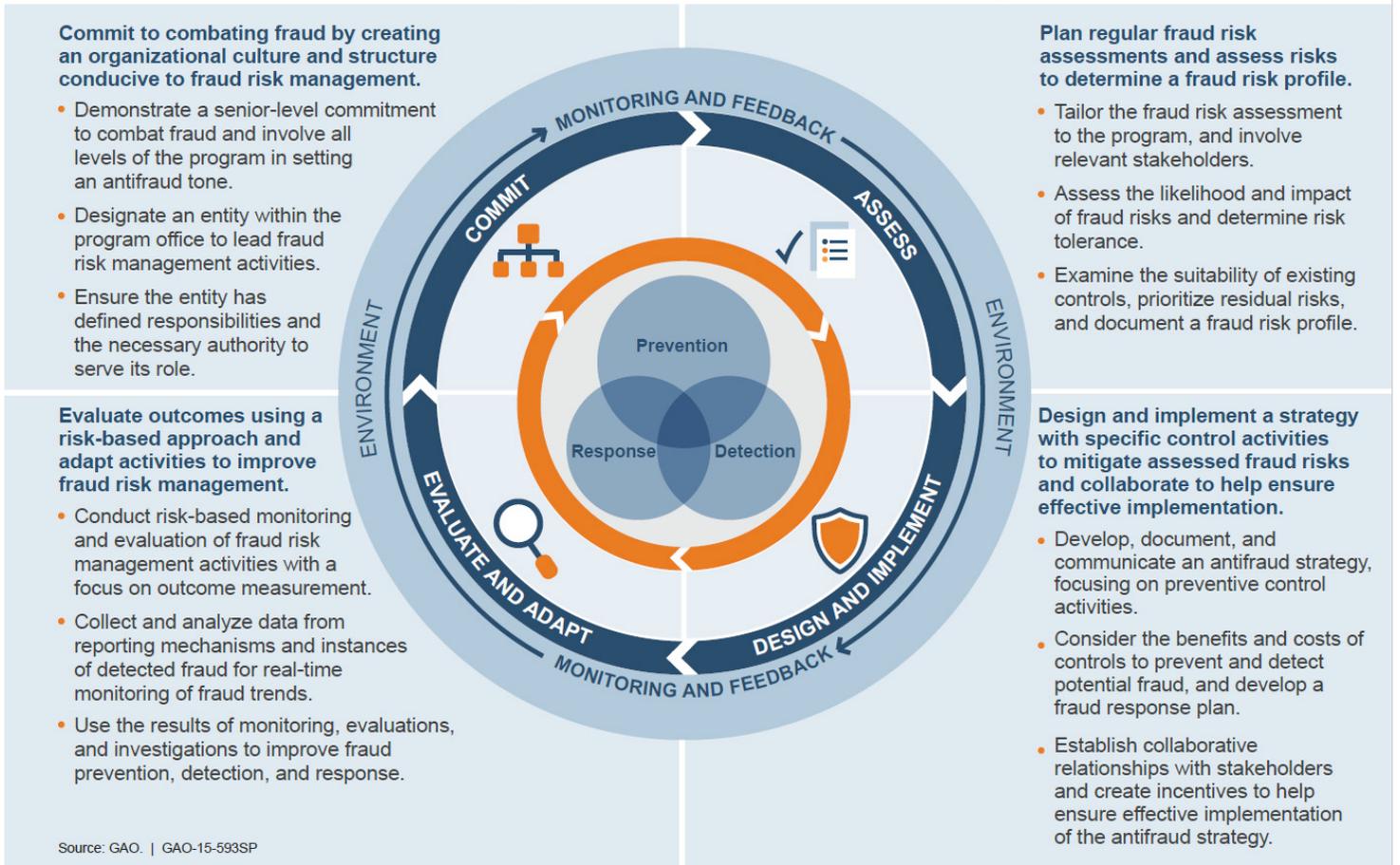
C. MANAGING FRAUD RISKS

Fraud poses a significant risk to the integrity of government programs and erodes public trust in government. Each Recovery Program Participant, along with its Accountability Officer, has a responsibility to ensure program integrity. Recovery Program Participants and their Accountability Officers should take a strategic, risk-based approach to managing improper payments and risks, including fraud. The GAO has provided an instructive framework for managing fraud risks in federal programs, which is illustrated below. The full report is available [here](#).

This framework includes: (1) a commitment to combating fraud by creating an organizational culture and structure focused on fraud risk management; (2) regular fraud risk assessments; (3) the design and implementation of fraud mitigation strategies; and (4) evaluating resulting outcomes using a risk-based approach, and adapting to improve fraud risk management.

For COVID-19 Recovery Funds and COVID-19 Recovery Programs, Recovery Program Participants and their Accountability Officers should consider the following factors, as well as any other factors specific to their specific program, organization, or funding source.

The Fraud Risk Management Framework and Selected Leading Practices



Commitment to Combating Fraud: Management must set the tone in program integrity and anti-fraud approach and involve all levels of personnel in these efforts. A commitment to combatting fraud may include a review of the internal units or individuals tasked with program integrity functions to determining whether sufficient, competent staff is allocated to these efforts, or whether additional personnel can be re-allocated to assist, while keeping in mind budgetary constraints. The entity should develop a strategic plan to combat fraud, prioritizing high-risk areas. Program staff should be trained on the importance of monitoring for potential waste, fraud, and abuse and the consequences for any employee who engages in inappropriate conduct.

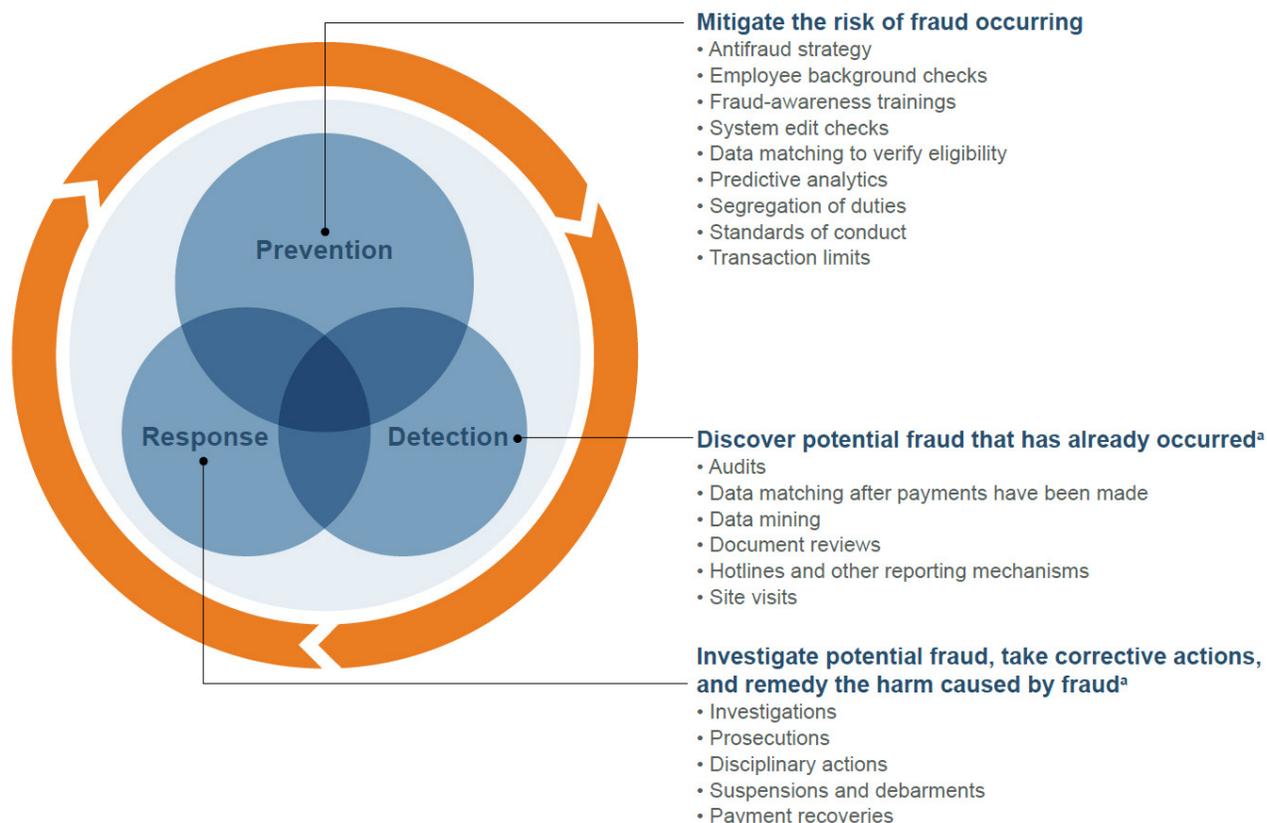
Risk Assessments: Factors may include the amount of money being disbursed to a particular category of sub-recipient; whether federal or state guidelines provide sufficient guardrails for such funding (i.e., discretionary vs. restrictive); organizational culture; prior audits and audit findings; lessons learned from prior disasters; organizational capacity and expertise; sub-recipient internal control weaknesses; technological capacity and potentially outdated financial management systems; barriers to reporting; and input from the individuals/unit that will be disbursing funds or administering the program.

Design and Implement Fraud Mitigation Strategies: Recovery Program Participants should

focus on preventative control activities, fraud indicators and detection, and a fraud response plan. Fraud indicators can include unsupported or unauthorized transactions, missing or altered documents, significant related party transactions, inadequate or absent internal controls, and insufficient oversight of third-party vendors. Preventative control activities to prevent and detect fraud might include: data analytics, which could include data matching activities or identification of outliers, fraud awareness campaigns, and reporting mechanisms for suspected fraud (e.g., hotline). Recovery Program Participants should also be aware of the following potential indicators of fraud: data mismatches, unsupported or unauthorized transactions, missing or altered documents, outlier transactions, significant related party transactions, inadequate or absent internal controls, and insufficient oversight of third-party vendors. Recovery Program Participants should have a plan for responding to identified instances of fraud, and ensuring a prompt and consistent response, with referrals to the Taskforce, the State Comptroller, the Office of the Attorney General or law enforcement, as applicable.

EXAMPLES OF CONTROLS AND ACTIVITIES TO PREVENT, DETECT AND RESPOND TO FRAUD

Source: GAO's *A Framework for Managing Fraud Risk in Federal Program*



Source: GAO. | GAO-15-593SP

Evaluating Outcomes: Utilize the results of monitoring, audits, evaluations and any investigations conducted to enhance prevention and detection of waste, fraud, and abuse.

Accountability Officers should immediately report to the State Comptroller and the Office of the Attorney General any incidents of suspected fraud in the disbursement of COVID-19 Recovery Funds.

CONCLUSION

Recovery Program Participants must be aware of all applicable state and federal requirements when disbursing COVID-19 Recovery Funds or administering COVID-19 Recovery Programs. Failure to adhere to applicable federal and state guidelines could result in money being clawed back by the federal government. It could also result in adverse findings by the State Comptroller and other oversight bodies.

Most importantly, compliance is necessary to ensure that vital public funding is used for proper purposes to aid residents, businesses and governments in the State of New Jersey in our joint effort to recover from the pandemic.

APPENDIX

- [EO 166](#)
- [GORR website](#)
- [OSC website](#)
- [OSC Training Presentation](#)
- [OSC Training Materials](#)
- [Integrity Monitor Guidelines](#)
- [U.S. Treasury Guidance](#)
- [U.S. Treasury FAQs as of August 10, 2020](#)
- [U.S. Treasury website](#)
- [OIG-CA-20-021](#)
- [OIG-CA-20-025](#)
- [OMB website](#)
- [OMB 20-21](#)
- [OMB 20-26](#)
- [GAO's Green Book](#)
- [GAO A Framework for Managing Fraud Risks in Federal Programs](#)
- [Uniform Guidance](#)
- [Civil Rights Presentation](#)
- [United States Chief Financial Officer's Council website](#)
- [NJ OMB website on Uniform Guidance](#)
- [Oversight.gov website](#)

NOTICE OF EXECUTIVE ORDER 166 REQUIREMENT FOR POSTING OF WINNING PROPOSAL AND CONTRACT DOCUMENTS

Principal state departments, agencies, and independent state authorities must include the following notice in any solicitation:

Pursuant to Executive Order No. 166, signed by Governor Murphy on July 17, 2020, the Office of the State Comptroller (“OSC”) is required to make all approved state contracts for the allocation and expenditure of COVID-19 Recovery Funds available to the public by posting such contracts on an appropriate state website. Such contracts will be posted on the state’s COVID-19 Transparency website.

The contract resulting from this [RFP/RFQ] is subject to the requirements of Executive Order No. 166. Accordingly, the OSC will post a copy of the contract, including the [RFP/RFQ], the winning bidder’s proposal and other related contract documents for the above contract on the state’s COVID-19 Transparency website.

In submitting its proposal, a bidder/proposer may designate specific information as not subject to disclosure. However, such bidder must have a good faith legal or factual basis to assert that such designated portions of its proposal: (i) are proprietary and confidential financial or commercial information or trade secrets; or (ii) must not be disclosed to protect the personal privacy of an identified individual. The location in the proposal of any such designation should be clearly stated in a cover letter, and a redacted copy of the proposal should be provided. A Bidder’s/Proposer’s failure to designate such information as confidential in submitting a bid/proposal shall result in waiver of such claim.

The state reserves the right to make the determination regarding what is proprietary or confidential and will advise the winning bidder/proposer accordingly. The state will not honor any attempt by a winning bidder/proposer to designate its entire proposal as proprietary or confidential and will not honor a claim of copyright protection for an entire proposal. In the event of any challenge to the winning bidder’s/proposer’s assertion of confidentiality with which the state does not concur, the bidder/proposer shall be solely responsible for defending its designation.



State of New Jersey, COVID-19
Compliance and Oversight Taskforce