



CARES Act Flash Report

Lessons Learned for CARES Act Awards

The DOI received

\$756 million

under the CARES Act to respond to impacts from the coronavirus:

- **\$453 million** for the Bureau of Indian Affairs
- **\$157.4 million** for DOI operations (Office of the Secretary)
- **\$69 million** for the Bureau of Indian Education
- **\$55 million** for the Office of Insular Affairs
- **\$12 million** for the Bureau of Reclamation (BOR)—water resources
- **\$8.1 million** for the BOR policy and administration
- **\$1 million** for the Office of Inspector General
- **\$500,000** for the BOR—Central Utah Project Completion Act

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provided the U.S. Department of the Interior (DOI) with \$756 million to support the needs of DOI programs, bureaus, Indian Country, and the Insular Areas.

The DOI will award most of its CARES Act funding through contracts and financial assistance agreements (such as grants and cooperative agreements). Our past work demonstrates that these awards are a vulnerable area for the DOI.

Moreover, awards made as part of emergency response are riskier than normal because they are awarded quickly and often without competition and have a higher purchase threshold than other acquisitions. In addition, each emergency situation presents its own unique characteristics and has the potential to grow rapidly in size, scope, or complexity.

For all these reasons, awards under the CARES Act will need careful management and administration, particularly given the amount of money that will be awarded and the pace at which it will be awarded. To date, \$437.1 million, or 58 percent, has been obligated.

In this report we present lessons learned and risks identified in our prior work—both audits and investigations—that the DOI should consider as it makes awards and provides oversight under the CARES Act. We have found that the following factors are important for successful oversight, even of funds restricted to specific recipients or purposes:

- Ensuring sufficient workforce capacity
- Ensuring use of the appropriate award vehicle (contract vs. grant vs. cooperative agreement)
- Maximizing competition in the source selection process
- Ensuring background research and risk assessments of potential recipients
- Monitoring documentation and use of funds by recipients
- Reviewing recipients' performance and financial reports



Award Selection

Selecting the appropriate award vehicle depends on the following factors:

- What goods or services are needed
- Whether the project is expressly exempted by statute from any Federal requirements
- Whether the goods or services are for the direct use or direct benefit of the bureau
- Whether the goods or services primarily benefit the bureau's mission
- How much Federal involvement in the work is anticipated
- Whether the recipient and the bureau will both be substantially involved in doing the work

Ensuring Sufficient Workforce Capacity

The CARES Act established requirements for increased reporting for agencies and award recipients, detailed spending plans, and identifying and tracking of charge card transactions. The CARES Act also requires that all appropriations be obligated by September 30, 2021, and emphasizes speedy awards and implementation. These circumstances are causing a surge in workloads.

In a 2010 report on the oversight of stimulus funds under the American Recovery and Reinvestment Act, we noted that successful implementation of the Act would depend on an acquisition workforce that was sufficient in number and had the necessary skills and strategies to address any challenges or shortfalls. Several bureaus stated they did not have enough contract staff to award and administer Recovery Act contracts. Other bureaus identified concerns in meeting Recovery Act requirements while managing awards made under annual appropriations.

Key Action: Successful planning, administration, and monitoring of awards will be critical in complying with existing laws and new CARES Act requirements. Effective and efficient administration of this funding depends on an acquisition workforce that is large enough and has the skills necessary for these types of procurements.

Ensuring Use of the Appropriate Award Vehicle

Our past work has identified instances of bureaus using incorrect award vehicles in their procurements.

In a 2019 evaluation, we found that after a bureau failed to put a contract in place for operation and maintenance services for a water treatment research plant, the bureau instead issued a cooperative agreement for the work. We determined that this was an inappropriate award vehicle to fund operation and maintenance activities.

In a 2016 review of a bureau program, we found that similar contracts managed from different offices included different language and terms for price adjustments. The bureau's price adjustment processes were unsupported and did not ensure that the rates paid were the best value. In addition to these contracts, the bureau issued cooperative agreements for related work that should have also been contracts. Further, the cooperative agreements included specified rates rather than reimbursing actual expenses (as required by Federal regulations). This resulted in inaccurate claims and allowed for potential profits, which is not allowed under a cooperative agreement.



CARES Act spending to date:

- **\$2.4 million** obligated on contracts
- **\$431.9 million** obligated on financial assistance agreements
- **\$2.8 million** in other obligations (e.g., supplies, purchase cards, and orders)

OIG Audit Planning

We use risk attributes to help select for review the award recipients we identify as higher risk. Some factors we consider that increase risk include:

- Lack of Federal award experience
- Poor past performance on other Federal awards
- Many subrecipients
- Cost-reimbursement type agreements (as opposed to firm-fixed-price)
- Multiple or large-dollar agreement modifications
- Work scope in one of the GAO's high-risk areas
- Work scope in one of the DOI's targeted management challenge areas
- Awards that are high-profile or made quickly for disaster response or emergency relief
- Awards made without competitive bidding

Key Action: Acquisitions staff will need to understand the award types and requirements to ensure best use of CARES Act funds.

Maximizing Competition in the Source Selection Process

In past reviews we have found inappropriate use of sole-source awards, which are considered higher risk than competitive awards. Sole sourcing can be a useful tool to quickly make awards in emergency situations, but there is a risk of overreliance. Proper justification of sole-source awards ensures they are not used to circumvent competition and make awards to less-qualified bidders or related parties, which can lead to waste and inadequate accountability.

In a 2015 audit of a scientific research program, we found that a bureau bypassed requirements for competition and public notice. Specifically, we reviewed 48 agreements totaling more than \$13 million and found that 44 were sole-source agreements that had been announced only in the research network. Further, we found that 28 (or 58 percent) of the 48 agreements had inadequate or missing sole-source justifications.

In a 2013 program audit, we found missing justifications for sole-source awards totaling nearly \$1.4 million, and we questioned more than \$1 million of that amount. Further, the award recipients avoided dollar thresholds and additional procurement requirements by using purchase orders for more than \$1 million in goods and services that should have been charged directly to existing contracts. We also found that individuals with apparent or actual conflicts of interest were allowed to apply for, evaluate, manage, or benefit from Federal funding. Undisclosed conflicts of interest between key parties were at the core of 23 grants totaling roughly \$16 million. We concluded that we had no assurance that prices paid were optimal or that Federal funds were equally available to all potential bidders.

Key Action: Maximizing use of competition in making CARES Act awards can help ensure reasonable prices, improve recipient performance, and promote accountability for results.

Ensuring Background Research and Risk Assessments of Potential Recipients

In past reviews we have recommended background research and risk assessments to help ensure the DOI does not make awards to recipients who have been suspended or debarred, do not have the experience to handle the particular award, or have significant past performance problems.



According to a recent study, organizations lose about 5 percent of their revenue each year to fraud (in Government, “revenue” equates to the money received and then spent, for example on contracts and financial assistance awards). Using this analysis, an estimated \$37.8 million of the DOI’s CARES Act funds would be vulnerable to fraud. This amount does not account for funds susceptible to waste or mismanagement.

The same study found that 43 percent of the initial detection of fraud is via tips, and that organizations with fraud awareness training gathered 56 percent of tips through formal reporting mechanisms, compared to 37 percent for organizations without such training. We have been giving fraud awareness training for years and will make CARES Act-specific training available across the DOI.

In a 2014 audit of funds related to Hurricane Sandy relief and recovery efforts, we found that inadequate background research resulted in the bureau paying extreme markups—ranging from 417 percent to 1,035 percent—for heavy equipment rentals on three contracts under the same contractor. We found no evidence that contracting staff identified ordinary fair-market value for these equipment rentals during the bidding phase. The bureau should have recognized how extreme the contractor’s markups were and expanded its efforts to find potential bidders.

We also learned that same contractor had no prior experience with Federal contracts and was unfamiliar with the Federal Acquisition Regulation. They had no apparent segregation of financial and accounting system duties and did not have any written accounting policies or procedures. The bureau’s contractor selection process was flawed and should have identified these risk factors.

In a 2016 audit, we found insufficient documentation of the bureau’s pre-award steps for a cooperative agreement. The bureau did not properly assess the agreement’s risk level and did not adequately support its decision not to compete the award. The award recipient was a small company that had never received a Government contract or grant, had no internal controls, and had never worked in the agreement’s area of expertise. Bureau staff improperly completed the internal risk assessment form, resulting in a low risk score. We were unable to determine the value of the services provided by the recipient, and we questioned as unsupported the entire \$256,100 paid and identified \$2,123 in duplicate costs claimed.

In a 2019 investigation, we found that a debarred contractor created four companies through family members and another associate and improperly obtained Federal contracts from 2013 to 2015 with total value of over \$5 million. In October 2018, he pleaded guilty to one count of wire fraud and one count of conspiracy to defraud the United States. He was later sentenced to 10 months of confinement, 36 months of supervised release, and a \$300 assessment.

In another 2019 investigation, we found that a bureau contract specialist steered three contracts to a vendor because of a personal relationship, a violation of Federal ethics regulations. The contract specialist left the DOI after learning of our investigation.

Key Action: For CARES Act acquisitions, attention to the pre-award steps will help bureaus identify recipients or activities that require additional monitoring and focus limited monitoring resources on the awards that require the most oversight. Proper background research on bidders also ensures that awards are not made to debarred or related parties.



Monitoring Documentation and Use of Funds by Recipients

In past reviews we have found insufficient documentation by award recipients, which often results in questioned costs. Lack of support for costs claimed can indicate that moneys have been misused, misappropriated, or even embezzled.

A Closer Look at Questioned Costs

Our audits identify the following types of questioned costs:

- Unsupported costs are costs that either have no documentation or the documentation is not adequate.
- Unallowable costs are costs that are prohibited by the terms and conditions of a Federal award (such as costs for lobbying or entertainment).
- Ineligible costs are costs that are not related to the award or program being audited.
- Unreasonable costs are costs that exceed what would be paid by a prudent person in the same circumstances.
- Funds to be put to better use are amounts that could be used more efficiently.

In a 2018 audit of a tribal transportation program, we found that a tribe's accounting system and procedures were not configured to manage Federal funds. Specifically, the tribe commingled all funds received, so tracking its funding by agreement or allocating expenses by project—which are important and required steps for such funding—was impossible. Commingling can therefore result in unallowable costs being charged to Federal awards. We found similar commingling of funds in a 2015 audit of a different tribe, which deposited funds from two DOI agreements in an account that also received deposits unrelated to the agreements. Further, the account was used to pay unauthorized expenses.

In the same 2018 audit mentioned above, we also found more than \$7,000 in unallowable purchases made with agreement funds, such as a holiday party and gifts. The bureau did not review the tribe's financial status reports in a timely manner or identify these unallowable purchases.

In both previously mentioned 2014 audits related to Hurricane Sandy relief and recovery efforts, we found insufficient or incorrect documentation for costs claimed for property or equipment rental. In one audit, we found that equipment inspection reports were not completed and the contractor was billing for 8 hours of daily use for equipment that was in fact not used for that length of time. In the other audit, we found that subcontractors were billing and being paid for equipment without sufficient supporting documentation. We also questioned whether the rates the subcontractor billed for equipment rentals were reasonable. In a comparison of the rates billed for four equipment items to the daily rental rates charged by market competitors for similar items, we determined that the subcontractor charged an average markup of 293 percent.

In a 2015 investigation, we uncovered a fraud scheme by the executive director of a State marine resources agency. We determined that the executive director and his son misused Federal funds, including DOI funds, as part of a conspiracy to defraud the Government. The two men pleaded guilty to multiple fraud charges and were ordered to pay joint restitution to multiple Federal agencies.

In a 2019 investigation (different from the two mentioned previously), we found that a contractor did not fully compensate its subcontractor for construction services on two projects at a national park. The contractor



Required reports:

- Single Audit: Organization-wide audit required annually for recipients of Federal award dollars
- Federal Financial Report, or SF-425: Required at least annually, to submit financial information about individual Federal awards

Other reports that may be required:

- Program reports on progress toward goals and objectives
- Project status reports that summarize financial or narrative information about the project
- Final performance report on or before the end of the period of performance

submitted false payment applications to the bureau, certifying that the subcontractor had been paid for its work when it had not. The contractor pleaded guilty to making false statements and was sentenced to 22 months in prison and 3 years of supervised release and ordered to pay restitution totaling \$135,507.

Key Action: Acquisitions staff will need to thoroughly monitor recipient use of CARES Act funds to ensure that expenditures are allowable, reasonable, and have been appropriately documented.

Reviewing Recipients' Performance and Financial Reports

In past reviews we have found instances of insufficient bureau review of performance and financial reports (including SF-425s) submitted by award recipients.

In the 2018 audit of a tribal transportation program cited above (under “Monitoring Documentation and Use of Funds by Award Recipients”), we found that the bureau did not complete timely reviews of financial status reports or identify errors in the reports when reviewed. Bureau officials told us that they did not review reports submitted by the tribe in 2013 and 2014 until the fall of 2016. They also told us they had difficulty reviewing the financial reports because they were not familiar with how to review them and had not received training.

In a 2019 audit of four tribal agreements, we found deficient review of financial status reports submitted by another tribe. The bureau staff responsible for financial oversight told us they were not trained or qualified to review financial status reports and relied on the tribe’s single audit and accounting records. The tribe made mathematical errors on its SF-425s that resulted in an underreporting of expenses. Bureau staff told us they did not have written procedures or guidance to aid them in their SF-425 reviews.

Key Action: Accurate and timely review of performance and financial reports will be key to successful management of CARES Act awards.
