

4.4 Are there terms and conditions, beyond standard practice, that must be included in contract agreements under Recovery Act?

Contracting Officers must incorporate the FAR Recovery Act clauses from Federal Acquisition Circular 2005-32 into all solicitations and new and amended contracts and task orders. Contracting Officer must also incorporate the Special Terms and Conditions – Acquisition (Attachment 4) into all new and amended contracts and task orders to ensure contractor compliance with the requirements of the Recovery Act not covered by the FAR clauses.

4.5 Are there actions, beyond standard practices, that agencies must take related to oversight and audit of contracts awarded under Recovery Act?

Additional audits may be required for contracts using Recovery Act funds. Incurred cost audits should be performed during the closeout process. There will also be additional oversight from outside of DOE. The Recovery Accountability and Transparency Board, established by the Act, Congress and the Office of Management and Budget will oversee and monitor implementation of the Recovery Act through periodic reporting on the use and expenditure of funds.

4.6 Can Recovery Act funds be used in conjunction with Interagency Agreements?

Interagency Agreements may be used to transfer the funds to another agency. Interagency Agreements must spell out the assignment of agency roles and responsibilities to fulfill the unique requirements of Recovery Act. These include, but are not limited to, report development and submission, accurate and timely data reporting, and special posting requirements to agency web sites and Recovery.gov. Planning is essential to ensure work performed under the Interagency Agreement supports the goals of the Recovery Act. If there will not be job creation or retention, a different method of obtaining the services should be considered.

DOE may accept fund-in Interagency Agreements, including those under the Work for Others program, with Recovery Act dollars if the above items are addressed. However, special consideration should be given as to whether or not the acceptance of work funded by the Recovery Act meets the goals of the Act. If new personnel will not be hired, it is not appropriate to accept funds from another agency.

4.7 What are the special Buy American requirements?

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council will issue an interim rule (FAR Case 2009-008) amending the FAR to implement the Recovery Act with respect to the Buy American provision, section 1605. Section 1605 prohibits the use of funds appropriated or otherwise made available by the Act for any project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. The law requires that this prohibition be applied in a manner consistent with U.S. obligations under international agreements, and it provides for waiver under three circumstances: (1) iron, steel, or relevant