

STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

RANDALL J. MEYER, INSPECTOR GENERAL

**REPORT OF  
INVESTIGATION**



**AGENCY: OHIO REHABILITATION SERVICES COMMISSION  
FILE ID NO.: 2013-CA00012  
DATE OF REPORT: NOVEMBER 5, 2013**

## The Office of the Ohio Inspector General ... The State Watchdog

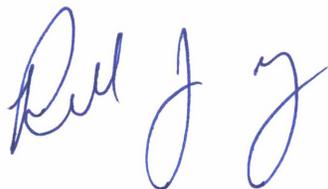
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Randall J. Meyer  
Ohio Inspector General



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**REPORT OF INVESTIGATION**

**FILE ID NUMBER:** 2013-CA00012

**SUBJECT NAME:** Independent Living – Older/Blind  
Vocational Rehabilitation Services to States

**POSITION:** American Recovery and Reinvestment Act of 2009  
(ARRA) Grants

**AGENCY:** Ohio Rehabilitation Services Commission  
(name changed to Opportunities for Ohioans with  
Disabilities Agency on October 1, 2013)

**BASIS FOR INVESTIGATION:** Initiative of the Ohio Inspector General

**ALLEGATIONS:** Failure to exercise adequate oversight of  
grant/contract requirements

**INITIATED:** June 11, 2013

**DATE OF REPORT:** November 5, 2013

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

The Ohio General Assembly enacted Ohio Revised Code §121.53, effective July 1, 2009, which created the deputy inspector general for funds received through the American Recovery and Reinvestment Act (ARRA) of 2009. This statute, part of H.B. 2 signed into law by former Governor Ted Strickland, required the Office of the Ohio Inspector General to monitor agencies' distribution of ARRA funds from the federal government and to investigate all wrongful acts or omissions committed by officers, employees, or contractors with agencies that received funds from the federal government under ARRA. In addition, the Office of the Ohio Inspector General was required to conduct random reviews of the processing of contracts associated with projects to be paid for with ARRA money.

As part of the Office of the Ohio Inspector General's monitoring of ARRA grants, in June 2012 a sample of contracts and required documentation was requested from the Ohio Rehabilitation Services Commission (ORSC).<sup>1</sup> Required documentation to be submitted by recipients of grant funds included monthly "deliverable" reports listing the number of consumers provided services under the grants. These documents appeared to demonstrate the grant recipients were not meeting the required goals as outlined in their contracts.

A preliminary inquiry was opened on February 19, 2013, to determine if the issues were isolated to the sample size selected or included other grant recipients. The findings indicated the problems were not isolated and a full investigation was opened on June 11, 2013.

## **BACKGROUND**

*The American Recovery and Reinvestment Act of 2009 (ARRA)*<sup>2</sup>

The American Recovery and Reinvestment Act of 2009 was passed by Congress on February 17, 2009. The intent of ARRA was:

to create new jobs and save existing ones, spur economic activity and invest in long-term growth, and foster accountability and transparency in government spending. These goals were to be achieved by providing \$288 billion nationally in tax cuts and benefits for working

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<sup>1</sup> Name changed to Opportunities for Ohioans with Disabilities Agency on October 1, 2013.

<sup>2</sup> Source: <http://recovery.gov>

families and businesses; increasing federal funds for entitlement programs, such as extending unemployment benefits by \$224 billion; making \$275 billion available for federal contracts, grants, and loans; and requiring recipients of ARRA funds to report quarterly on how they were using the money. Among other areas, ARRA funds were targeted at infrastructure development and enhancement.

From February 17, 2009, through December 31, 2012, the state of Ohio was awarded a total of \$8,765,133,886 in ARRA funds via 1,219 contracts, 8,233 grants and 49 loans. The majority of these ARRA awards went to supplement current programs.

### *Ohio Rehabilitation Services Commission<sup>3</sup>*

The Ohio Rehabilitation Services Commission was established to provide services to individuals with disabilities to achieve employment, independence, and disability determination outcomes. The commission is comprised of seven members appointed by the governor and confirmed by the Ohio Senate. At least three members must come from rehabilitation professions, including one member from the field of services to the blind. In addition, four members must have a disability, with two but not more than three, having received vocational rehabilitation services from a state agency or veterans' administration. The governor also appoints an administrator to oversee the daily operations of the commission. ORSC is funded through state and federal funding.

### *Independent Living – Older/Blind<sup>4</sup>*

On March 31, 2009, the Ohio Rehabilitation Services Commission was awarded an ARRA grant to provide independent living services and conduct activities that will improve or expand services to older individuals who are blind. The total amount of the grant award was \$1,392,958 and was provided through the U.S. Department of Education. Through a competitive bid process, ORSC awarded funds to nine entities. The grant required a 10-percent cash match from the entities at the time the funds were awarded. The grant period was from September 1, 2009, to June 30, 2010, and was later extended to June 30, 2011, for six entities receiving funding.

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<sup>3</sup> Source: Ohio Revised Code §3304.12, 3304.14 and 3304.16. Name changed to Opportunities for Ohioans with Disabilities Agency on October 1, 2013.

<sup>4</sup> Source: <http://recovery.gov>

*Vocational Rehabilitation Services to States*<sup>5</sup>

The Ohio Rehabilitation Services Commission was awarded an ARRA grant from the U.S. Department of Education as part of the Vocation Rehabilitation Services to States program on August 31, 2009. The total amount of the grant award was \$21,589,801. ORSC utilized the funding in a variety of ways, including:

- Awarded funding through a competitive bid process to 19 entities for a variety of vocational rehabilitation services targeted to youth, mental health consumers, ex-offenders and veterans. The total amount awarded was \$7.3 million with a grant period from September 1, 2009, to September 30, 2010, with some awards extended through 2011.
- Three contracts awarded through a competitive bid process to provide assistive technology and employment opportunities. The total amount awarded was \$800,000 with a grant period from July 1, 2010, to June 30, 2011.
- One contract awarded through a competitive bid process to provide statewide training, demonstration, and technical assistance related to customized employment. The total amount awarded was \$1.5 million with a grant period from July 1, 2010, to September 30, 2011.
- Interagency agreement with the Ohio Development Services Agency<sup>6</sup> totaling \$2 million to establish microenterprise opportunities for individuals with disabilities. This agreement ended September 30, 2011.
- Awarded one contract through a competitive bid process to conduct outreach to individuals who are deaf or hard of hearing. The amount awarded totaled \$250,000.
- Invested approximately \$4 million in new technology for a vocational rehabilitation case management system.
- Hired approximately 30 individuals on an intermittent basis to provide peer support for individuals seeking services through the agency.

As of June 30, 2012, all activities related to the grant were completed.

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<sup>5</sup> Source: <http://recovery.gov>

<sup>6</sup> Formerly known as the Ohio Department of Development.

## **INVESTIGATIVE SUMMARY**

As part of the monitoring of American Recovery and Reinvestment Act of 2009 grants received by the Ohio Rehabilitation Services Commission, the Office of the Ohio Inspector General requested and received the following: request for proposals (RFP) for all competitive-based grants; responses to the RFP for a select number of grant recipients; signed contracts and any amendments or extensions for the same select grant recipients; invoices; and any required reports to be submitted by the grant recipients. The RFPs stated entities were to provide figures regarding the number of individuals they anticipated providing services to and various goals to be achieved, including the number of jobs they planned on retaining or adding. These goals, or deliverables, were later incorporated into the signed contracts using terms such as “shall” or “agrees to provide.” However, the contracts did not state what would occur if the grant recipients failed to meet their goals.

To track if the grant recipients were achieving the goals as outlined in the contract, ORSC required monthly deliverable reports to be provided. The reports listed the goal, monthly figures and a year-to-date total. ([Exhibit 1](#)) A review of the final reports by the Office of the Ohio Inspector General for a sample size of seven grant recipients appeared to show they either failed to meet a few or all of their goals.

ARRA also required grantees to report on a quarterly basis the number of jobs retained or created through the use of grant funds. Each federal agency provided guidance on how to calculate the number of jobs and the format in which they were to be reported. As the grantee for ARRA funds, ORSC would be responsible for reporting these figures to the appropriate designated state or federal agency. Each quarter, the grant recipients would report to ORSC the number of hours each employee worked on matters involving the grant. The total hours by grant recipient would then be divided by the number of hours the federal government estimated a full-time employee would work that quarter. The result would be the number of full-time equivalent positions created or retained in a given quarter.

ORSC provided to the Office of the Ohio Inspector General spreadsheets for each quarter titled “Job Creation Report” that listed the number of hours, by employee, as reported by each grant

recipient. Also provided was a “Job Creation Tracking Report” listing the number of full-time equivalent positions created or retained as calculated by ORSC. A review of the figures for the same grant recipients selected by the Office of the Ohio Inspector General found instances where the grant recipients did not meet the job creation goals as outlined in their contracts.

To determine if these instances were isolated to the sample size selected or impacted all of the grant recipients, the Office of the Ohio Inspector General opened a preliminary inquiry on February 19, 2013. As part of the inquiry, the contracts and monthly deliverable reports for all competitively bid grants were obtained. The expanded review found other instances where it appeared the grant recipients did not meet the goals and/or job creation requirements as outlined in their contracts. As a result, an investigation was opened on June 11, 2013, to determine if the grant recipients failed to meet contract requirements and if there were any consequences for failing to do so.

#### *Monthly Deliverable Reports*

ORSC provided a template that grant recipients could use when preparing the monthly deliverable report. ([Exhibit 1](#)) In a review of the completed reports received by ORSC, the Office of the Ohio Inspector General noted the following:

- There was no indication on the reports to verify who prepared them and the date they were completed.
- There were no date/time stamps indicating when ORSC received the reports. Some reports did contain fax headers showing the date and time sent.
- Some grant recipient files were missing monthly reports. The tracking report provided by ORSC indicated reports had been received but the file did not contain the report.

The Office of the Ohio Inspector General asked ORSC officials if they maintained a separate tracking sheet showing the dates the reports were received and also asked for copies of the missing monthly reports. ORSC responded that they did not keep track of the dates the reports were received. They were able to provide some missing reports but others could not be located.

A review of emails obtained by the Office of the Ohio Inspector General show in December 2010, ORSC contacted grant recipients regarding missing monthly deliverable reports. While some grant recipients provided the missing reports, but only upon ORSC’s request, others informed ORSC they had already submitted them. One grant recipient replied, “all billing and deliverables reports have been submitted at least once, often twice; some even more times!” Another grant recipient stated, “I keep sending these...What is going on down there????” If these reports were sent, ORSC did not maintain copies and they were unable to locate them upon the Office of the Ohio Inspector General’s request. Other reports were not sent by the grant recipients on a monthly basis as required in the signed contracts.

**Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.**

The Office of the Ohio Inspector General compared the monthly deliverable reports to the deliverable goals as outlined in the contracts for 23 grant programs. The comparison found:

- Three grant recipients met all of the deliverable goals;
- Six grant recipients failed to meet some of the deliverable goals;
- Seven grant recipients failed to meet all of their deliverable goals; and
- It could not be determined if deliverable goals were met for seven grant recipients due to missing monthly reports. ([Exhibit 2](#))

Some of the recipients failed to meet their goals by wide margins. For example, the Greater Cincinnati Behavioral Health Center (GCBH) stated it would provide services for 144 consumers, place 53 in competitive employment, with 48 consumers achieving successful rehabilitations. However, the actual number of consumers served was 60, with 5 placed in competitive employment, and 4 achieving successful rehabilitations.

**Comparison between Deliverable Goals and Actuals for GCBH**

<b>Deliverable</b>	<b>Goal</b>	<b>Actual</b>	<b>Variance</b>
Serve Eligible Consumers	144	60	-84
Placement in Competitive Employment	53	5	-48
Successful Rehabilitations	48	4	-44

Even though the grant recipients were not meeting their goals, they continued to receive funding throughout the life of the contract. Every contract contained a termination clause, but failing to meet the deliverables was not specified as a reason for the contract to be terminated or payments to be delayed or canceled. By using terms such as “shall” meet or “agrees to provide,” it mandates the deliverables must be met in order to meet the full terms of the contract.

**Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.**

### *Job Figures*

ORSC also included the estimated full-time equivalent (FTE) positions to be created or retained by each grant recipient of Vocational Rehabilitation ARRA funds. While grant recipients of Independent Living-Older/Blind (IL/OB) funds included estimates in their RFP responses, these figures were not incorporated into the contract and, therefore, not reviewed by the Office of the Ohio Inspector General. Grant recipients reported hours worked in relation to the grant on a quarterly basis and ORSC converted the hours into the FTE positions based on guidelines provided by the appropriate federal grantor agency.

A recalculation of the FTE figures by the Office of the Ohio Inspector General compared to the job goals listed in the contracts found:

- Two grant recipients met the job goal;
- Nine grant recipients did not meet the job goal; and
- It could not be determined if job goals were met for six grant recipients. ([Exhibit 3](#))

Similar to the goals for the number of individuals to be served, ORSC included language stating the grant recipients “agree to create and/or retain” or “shall create and/or retain” the agreed upon job creation figures in the signed contracts. From the reports provided, it is evident some of the grant recipients did not meet this contract requirement.

**Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.**

### *Disbursements Compared to Contract Amounts*

The Office of the Ohio Inspector General obtained the amounts disbursed to each grant recipient from the federal “recovery.gov” website and compared them to the amount disbursed according to the state of Ohio’s accounting system, called OAKS.<sup>7</sup> Variances were found in all but one contract. After consulting with ORSC, it was determined the variances were due to the use of Single Payment Vouchers (SPV) at the beginning of the grant period. According the OAKS Financials Process Manual, SPVs are to be used “only for a refund or a subsidy payment” and “allow agencies to enter vouchers<sup>8</sup> without referencing a vendor” in OAKS.

While the grant funds are considered subsidy payments, the payments were to be made over 13 months, or longer if a contract extension was granted. The grant funds would not be paid out in one single payment, as would be the case when using a Single Payment Voucher. In addition, all of the grant recipients were already listed as vendors in OAKS. As the first payments were not made until November and the contracts were signed in September, there would have been ample time to have the grant recipients listed in OAKS if they were not already.

Once the variances were reconciled, a comparison between the final amounts disbursed was made against the amounts listed in the contract. This comparison found five instances where the amount disbursed was for more than what the contract allowed.<sup>9</sup> ([Exhibit 4](#)) As a result, ORSC overpaid \$52,622.82 than was allowed for in the applicable contracts.

**Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.**

### **CONCLUSION**

Pursuant to Ohio Revised Code §121.53, a review of American Recovery and Reinvestment Act of 2009 funds received by the Ohio Rehabilitation Services Commission was conducted. The review found several grant recipients failed to meet deliverable requirements for the number of

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<sup>7</sup> OAKS stands for the Ohio Administrative Knowledge System.

<sup>8</sup> A voucher is an authorization for a disbursement to be made to a named vendor for a stated amount.

<sup>9</sup> Another six grant recipients exceeded the contract amount by less than a \$1.00 and was due to rounding on the monthly amounts paid.

consumers to be served and job creation/retention figures as outlined in the contracts. The contracts were silent on exact consequences grant recipients would face if they failed to make progress in meeting their goals. ORSC should have taken steps once problems were noted to either work with the grant recipients to ensure objectives were met or cancel the contract and reallocate funding to other grant recipients who were on track to meet the requirements.

In February 2013, ORSC Executive Director Kevin Miller testified in front of the Ohio House of Representatives Health and Human Services Subcommittee on the ORSC proposed fiscal year 2014-2015 biennial budget. In response to a question from one of the subcommittee members regarding contract changes for service providers, Miller stated ORSC had started requiring providers to serve a certain number of individuals. These “deliverables” had been added to the agreements between ORSC and the providers. He further stated contracts have been terminated with those providers who were not meeting their targets “to avoid circumstances where unused federal funds would have to be returned.”<sup>10</sup>

The Office of the Ohio Inspector General found ORSC has revised their contract language and created a new department called the Division of Performance and Innovation to address these issues. This new division is “responsible for performance management, reporting accountability and integrity, and quality assurance of vocational rehabilitation programs through evaluation and monitoring practices.”

In addition to the deliverables issue, the Office of the Ohio Inspector General found five instances where the grant recipients were paid more than what the contract allowed. Some recipients were paid a combination of a pro-rated monthly administrative fee plus case management fees, reimbursed on a consumer-by-consumer basis. The case management fees are tracked by a budgeting process maintained in the electronic case management system but the administrative fees were tracked through the state of Ohio’s accounting system. As the two systems are not linked, this could have led to the additional amounts being paid.

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<sup>10</sup> Source: Gongwer Volume #82, Report #35, Article #2 – Thursday, February 21, 2013.

## **RECOMMENDATION(S)**

The Office of the Ohio Inspector General makes the following recommendations and asks the Ohio Rehabilitation Services Commission to respond within 60 days with a plan detailing how these recommendations will be implemented. The Ohio Rehabilitation Services Commission should:

- 1) Review the contract and determine if there are remedies available for collecting the amounts paid in excess of the contract amount. This could include granting credits on future invoices if these grant recipients are still vendors of ORSC.
- 2) Ensure the name and contact information of the person(s) responsible for preparing the deliverable reports are included on the form.
- 3) Ensure deliverable reports are date and time stamped when received and contain the signature of the ORSC employee(s) responsible for reviewing them.
- 4) Ensure future reports are submitted on time and consider adding specific contract language to address any penalties for failure to meet this requirement.

## **REFERRALS**

This report will be provided to the U.S. Department of Education as the federal grantor agency of the ARRA funds received by the Ohio Rehabilitation Services Commission. The report will also be provided to the Ohio Auditor of State as the agency responsible for the annual audit of the commission.

**[\(Click here for Exhibits 1 – 4 combined\)](#)**



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Rehabilitation Services Commission**  
**FILE ID #: 2013-CA00012**

**KEEPER OF RECORDS CERTIFICATION**

**This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.**

**Jill Jones**  
**KEEPER OF RECORDS**

**CERTIFIED**  
**November 5, 2013**

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