



National Association of State Auditors, Comptrollers and Treasurers

May 1, 2009

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Ms. Marguerite Pridgen
Office of Federal Financial Management
Office of Management and Budget
Room 6025
New Executive Office Building
725 17th Street, NW
Washington, DC 20503

RE: Section 1512 Data Elements

Dear Ms. Pridgen:

On behalf of the National Association of State Auditors, Comptrollers and Treasurers (NASACT), we appreciate the opportunity to comment on the standard data elements that are being reviewed under emergency review procedures for use in complying with the reporting requirements under section 1512 of the American Recovery and Reinvestment Act of 2009 ("Recovery Act"). We applaud the Office of Management and Budget for developing a government-wide standard data set for use in collecting Section 1512 information.

General Comments

As has been voiced in previous comment letters to your office from NASACT concerning the Federal Funding Accountability and Transparency Act (FFATA), we are concerned about the requirement that recipients use a Dun & Bradstreet Universal Numbering System (DUNS) number as a unique identifier. We see no real way to prevent the issuance of multiple numbers and do not believe that the Dun & Bradstreet process for obtaining and deleting DUNS numbers has improved since the original 2003 directive.

We also reiterate that when a DUNS number that the federal government has on record for a state entity does not match the number being using by the state in a grant application, the application is unnecessarily rejected. We believe this could be problematic, particularly with the need to distribute ARRA funds expeditiously.

While we understand that the 10-day time frame for filing the quarterly Section 1512 reports is required by statute, we must note that this short time frame is insufficient to allow data validation prior to reporting, particularly where sub-recipient reporting is involved. Some states have also noted that their accounting systems cannot provide the needed financial information by the effective date. We believe that the reality of system capabilities and the desire for accuracy should take precedence; therefore, we request that OMB consider issuing guidance on how to address this issue including what steps to take when data validation identifies misstatements subsequent to the report submission.

We also have several concerns regarding the data and transmission process in relation to Recovery.gov. However, we realize that many of those issues may be addressed in the forthcoming "Data Architecture" document on which we will provide comment upon issuance.

Comments on Specific Data Elements

ARRA-C: See comments above.

ARRA-J: The instructions state "Mark appropriate box. Check 'yes' only if this is the final report for the project/grant period specified in Box 6." How can a box be marked when the data is transmitted electronically to the federal reporting website? What is Box 6? Will all of the data be transmitted in an electronic file?

Section 1 – Project/Activity Information

ARRA-1-03: This item allows Section 1512 reports to be prepared on the cash basis as well as accrual basis. We believe the accounting basis option could result in a lack of consistency in data and create comparison issues.

When reporting data element ARRA-1-02, does "actual cash received" mean the data element must be reported on a cash basis? Or, should it be reported using the same basis (cash or accrual) as data element ARRA-1-03? Will states be required to indicate whether figures are reported on a cash or accrual basis?

Clients participating in the Food Assistance (FA) program will receive an increase in their FA benefits because of ARRA. However, there is no "actual cash received" by the states for the FA benefits because the monthly benefits are credited directly to individual clients' electronic benefit cards. When benefits are issued to a client, a liability is created with Food & Nutrition Services (FNS). As clients spend their benefits, the funds are drawn from FNS and distributed to retailers. Are states required to report the actual amount issued to clients' electronic benefit cards even though the cash does not flow through the state?

There can be several months between the issuance and redemption of FA benefits by clients. If states are required to report the actual amount of FA benefits issued on Recovery.gov, are states required to report the actual FA benefits redeemed by individual clients via their electronic benefit cards? It is not uncommon for benefits to be issued and not used for several months. Due to the time lag involved in issuance and redemption of FA benefits, there would be a significant amount of time involved by states to calculate the ARRA/non-ARRA allocation of the redemptions. How do states calculate the ARRA portion of the redemptions?

ARRA 1-02 and ARRA1-03: The term "cumulative" should be better defined. Does cumulative refer to the quarter just ended or refer to a recipient's calendar quarter or fiscal year?

Section 2 - Project/Activity Information

ARRA-2-03: This item requires the evaluation of the status of the work that has been completed on the project or activity based on performance progress reports and other non-financial performance information.

States will be receiving public assistance ARRA funds that will be provided on an on-going basis to/for individuals. How should states address this data element for public assistance awards? Will this simply be based on the percentage of ARRA funds remaining to be spent? Or, is this data element not applicable to public assistance awards?

ARRA-2-04: This item requires estimates of the number of jobs created and jobs retained.

When reporting job retention, we suggest that respondents be required to specify if current jobs retained are the same or in addition to the previous quarterly reports. Otherwise duplication and reporting errors can occur. It is possible that some reports could contain only newly-retained jobs for a particular quarterly report (for example, a company with numerous divisions all participating at different times on a project) or it is also possible that they could continuously report the same jobs.

We request further clarification as to whether this requirement is applicable to public assistance awards where the purpose of the ARRA funds is to provide access to basic needs, not to create or retain jobs.

ARRA-2-05, ARRA-2-06 and ARRA-2-07: These items require the reporting of certain information for infrastructure investments made by state and local governments.

We believe that OMB should consider breaking down non-federal funds into multiple categories of public and private sector investment because people may want to know how much money was from the private sector and how much was from taxpayers at the state and local taxing levels. Also, by only providing one place for the total ARRA funding amounts, OMB risks creating a high-risk data element that could result in flawed data.

There will be those who only report funds from a single ARRA program for each project or activity and there will be those entities that report combined totals, and in some cases, may end up duplicating dollar amounts across multiple agency reports. We recommend either more specific instructions or multiple ARRA program fund lines.

If the prime recipient is the state, is the state also required to report these data elements on behalf of local governments? If yes, is this only for infrastructure investment projects where the local governments are sub-recipients of these ARRA funds from the state? Or, is this for all infrastructure investment projects at the local government level?

Section 3 – Subrecipient Information

Throughout this section the data elements and instructions refer to subrecipients, subcontractors, subawards and subcontracts. Subrecipient and vendor are defined in Circular A-133, Subpart A, Paragraph 105.

“A *subrecipient* is a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A *vendor* is a dealer, distributor, merchant or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization’s own use or for the use of beneficiaries of the Federal program.”

It would be helpful if OMB could clarify the type of awards/contracts for which Section 3 is applicable. For example, ARRA-3-01 requires the subrecipient DUNS number and ARRA-3-03 requires the subrecipient name, while ARRA-3-06 requires the amount of subcontract or subaward disbursed. Is all information in section 3 required regardless of whether there is a subrecipient or vendor relationship? If not, what data elements do not apply to vendor contracts?

ARRA-3-06 requires the cumulative amount of cash disbursed to the subawardee or subcontractor to be reported. ARRA-1-03 allows for cash or accrual basis reporting. Why does this requirement appear to switch to cash basis reporting for subrecipient disbursements when ARRA -1-03 allows either cash or accrual?

Section 4 – Subawardee or Subcontract Award Information – Aggregated

This section applies to subcontracts or subawards awarded to an entity other than an individual which in the previous tax year had gross income under \$300,000.

How should states obtain gross income information for entities that might be subject to the aggregated reporting section? Should this become standard language in the award documents? What are the states' responsibilities regarding the accuracy of this information?

ARRA-4-01 requires the submission of the number of subcontracts and subawards less than \$25,000 per award and awarded to individuals. Does this mean all individuals receiving public assistance funded partially with ARRA money should be included in this data element?

ARRA-4-02 requires the submission of the total cumulative amount of cash disbursed to subawardees/subcontractors for subawards/subcontracts less than \$25,000 per award and awarded to individuals.

Should this data element be reported using the same basis (cash or accrual) as in ARRA-1-03?

Section 3 and Section 4 data elements require reporting of certain information about subrecipients/subcontractors and the subawards/subcontracts funded with ARRA money. For example, data elements ARRA-3-06 and ARRA-4-02 require reporting of the total amount of the subcontract or subaward disbursed to the subrecipient/subcontractor. Data element ARRA-4-01 requires the total number of subcontracts and subawards less than \$25,000 per award and awarded to individuals to be accumulated and reported.

It is not clear whether or not Section 4 is in addition to Section 3. Specifically, a local governing or private business authority (for example) might be unclear under which section they should report if they had gross income under \$300,000 in the previous year but were awarded a project greater than \$25,000. We suggest that OMB either more clearly define what is desired here or create a third category for awards to entities or individuals with incomes less than \$300,000 per year. Otherwise, OMB is risking creating data reports with flawed data – either because it is duplicative, erroneous, or incomplete.

Additionally, per ARRA Section 5001(g)(2), *Additional Requirement for Certain States*, a state that requires its political subdivisions to contribute toward the non-federal share of expenditures under the state Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), is not eligible for an increase in its FMAP under subsection (b) or (c), or an increase in a cap amount under subsection (d), if it requires that such political subdivisions pay for quarters during the recession adjustment period a greater percentage of the non-federal share of such expenditures, or a greater percentage of the non-federal share of payments under section 1923, than the respective percentage that would have been required by the state under such plan on September 30, 2008, prior to application of this section. The state bills counties (political subdivisions) for certain services provided on a monthly basis. The counties are required to remit the local (county) share of the bills to the state while the state draws and retains the federal share. As a result of ARRA, the state will be receiving a higher percentage of federal funds, reducing the local share, to cover these same services. Therefore, the monthly bills to the counties will be less. Since the state does not pass on the ARRA money to the counties, does the state's responsibility for reporting the Section 1512 standard data elements end with Section 2? If not, how should the state report Section 3 and Section 4 standard data elements?

We sincerely appreciate the opportunity to provide comment on the standard data elements for report under Section 1512 of ARRA and look forward to a continued dialog on implementation of this important

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act. In preparing our comments, we consulted and conferred with the National Association of State Budget Officers Association, and it agrees with the points that we have raised in this letter. Should you have any questions or desire additional information, please contact Cornelia Chebinou, NASACT's Washington director, at (202) 624-5451 or cchebinou@nasact.org.

Best Regards,

A handwritten signature in black ink that reads "Thomas H. McTavish". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

Thomas H. McTavish
President