

DATA Act –Recommended Changes

OVERVIEW

Organizations representing state governments agree with the long term purpose of the Act to consolidate and streamline the reporting of federal funds. However the shift toward data reporting standardization should keep in mind the costs and burden on federal grant recipients in addition to the overall goal of modernization, efficiency and accountability not just for federal agencies but for the recipient as well.

Most people would agree that dedication to accountability and transparency of Recovery Act funds was a landmark effort that achieved remarkable results. Constant communication and a shared vision of results and outcomes were among the cornerstones of implementation success. Applying these same principles to the entire universe of federal funds can optimize the success of the DATA Act.

During the 7 months between enactment and implementation, the Recovery Act helped to foster a more open and communicative atmosphere between both the federal government and states as well as between individual states. Direct engagement between states and the federal government, whether it was large conference calls, informal discussions, or recorded webinars, seemed to take place nearly every week. Such engagement revolved around countless topics including sub-recipient and vendor reporting, batch reporting, job calculations, and additional funding for compliance costs. While solutions and compromises were reached in numerous areas, not every issue was fully resolved. Although an agreement was never reached regarding providing additional funding for compliance costs, the numerous conference calls held on this topic helped both sides to understand the issues. This understanding has led us to develop language, discussed below, that should help to solve this issue within the DATA Act.

REPORTING

STANDARDIZATION TO ACHIEVE STREAMLINED REPORTING

While the Act strives to achieve standardization of data elements, it does not require that federal agencies utilize a central portal for obtaining data on their recipients. In other words, the act does not seem to achieve streamlined, efficient use of data. For example, without such standardization agencies will continue to require grant recipients to complete disparate federal forms which are detailed and laborious for the recipient in addition to the reporting now required by the FAST board. For example, without such changes a state health agency will continue to submit CMS-64 to the Department of Health and Human Services while reporting the same spending to the transparency board. The Act should consolidate this duplicative reporting with the data being stored and tagged in a manner that federal agencies can pull from in order to achieve the information they desire for each program.

Recommendation: We would highly encourage mandating uniform reporting in Section 3611/3615 of bill. As such, recipients would be required to report once to the board designated portal. Federal agencies should then be required to pull down the information they need from the data provided to the reporting portal.

STANDARDIZED DEFINITIONS

An important starting point in the achievement of efficient and effective grant reporting is the standardization of budget data elements and definitions. Standardizing and or cross-walking items such as salaries so they mean the same thing across programs and agencies will help recipients achieve better and more accurate reporting.

Recommendation: Provide the new FAST Board the authority to require Federal agencies to use a core set of data elements and definitions for grant reporting.

RECIPIENT REPORTING/FREQUENCY OF REPORTS

3602(b) (1). Reporting should be required no more than quarterly and the reporting should be on a month delay to accommodate state accounting systems and close out times.

Recommendation: 3602(b) (1): Recipients shall be required to report on a quarterly basis. Therefore information through September 30th would be submitted by November 1. Additionally, should the board determine that more frequent reporting is desirable, the board should convey such need and reasoning to the Congressional committees of jurisdiction. Upon Congressional approval the board may issue, by rule, a more frequent timeline for recipient reporting.

RECIPIENT REPORTING/DATA ELEMENTS

Report information should be pre-populated by information previously collected by the federal agency.

Recommendation: Many of the data elements that a recipient would be required to report are already reported in both the grant application and or in the CCR Registration database. Such elements should be pre-populated by the federal agencies.

FUNDING

Accountability professionals and the equipment and data systems which are responsible for implementation and oversight is a required necessary component for successful implementation. The success of Recovery Act reporting and the resulting small level of fraud and abuse can be attributed not only to the work to the Recovery Accountability and Transparency Board but to the level of commitment and dedication of the accountability and oversight professionals at the state and local levels. It was recognized early on that the lack of funding for such professionals was a major oversight and shortcoming of the original Recovery Act.

Recommendation: Amend the DATA Act to include the following provision which would allow designated funding for implementation and oversight of reporting:

STATE AND LOCAL GOVERNMENT AUTHORITY.—Notwithstanding any other provision of law, State and local governments reporting federal funds under this Act may set aside an amount up to 0.5 percent of such covered funds, in addition to any funds already allocated to administrative expenditures, to use for data collection and reporting requirements, including the establishment and use of information technology systems, auditing, contract and grant planning and management, and other administrative expenditures used to conduct planning and oversight to prevent, detect and investigate waste, fraud and abuse.

FAST BOARD

STATE AND LOCAL REPRESENTATION

The board is lacking any participation from state and local government. As state and local governments are by far the largest recipient of federal grants, it seems obvious that successful implementation of the DATA Act requires state and local input. We believe for the new board to serve as an effective entity it should include at a minimum two slots for state representatives. Under the Recovery Act, OMB worked very closely with the state and local governments to get feedback and help implementing the reporting requirements of the Act. Ongoing input through participation on the board will assure effective implementation and development of ongoing guidance for recipients.

Recommendation: Amend the Act to include at least one state or local representative with a public finance/audit type background and the other as appropriately determined by the FAST from a slate of applicants.

Sec. 3622 (b)(4) two representatives of state and local government. Two individuals currently employed in a state or local government shall be allotted two seats. One individual shall have a background specifically in public finance and/or audit and the second individual will be selected from a publically solicited slate of candidates. Criteria will be determined by the board based on experience, qualifications, and other expertise.

FAST BOARD AUTHORITY

One of the largest impediments to timely Recovery Act reporting was differing guidance from separate agencies on identical topics. As such, the FAST Board should be given broad authority over federal agencies in terms of required reporting. The board should have the authority to require that federal agency guidance not be in conflict with board guidance on recipient reporting and that the agencies do not require additional reporting of recipients.

Recommendation: Section 3624 (e) Notwithstanding any other provision of law, the board shall have the authority to mandate standardized guidance and eliminate agency required duplicate reports. Information related to specific programs, if complimentary and not duplicative, will not be affected by this provision.

PENALTIES FOR NONCOMPLIANCE

A safe harbor should be provided to recipients to allow for smooth transition and implementation of the DATA Act.

Recommendation: Sec 3614 (b) shall be amended to allow a good faith effort safe harbor. Penalties in this section are not applicable for recipients that demonstrate a good faith effort to comply with the reporting requirements of this law. Good faith effort is to be defined by the FAST board taking into consideration all the facts and circumstances of non-compliance.

IMPLEMENTATION TIME LINE

The implementation timeline in the current draft of the DATA ACT leads one to believe that compliance with the requirements of the Act occur prior to the release of the implementation guidance. In order to properly align systems and change business process protocols a recipient will need significant lead time to comply.

Recommendation: Recipients should be required to comply with the requirements of the ACT 180 days after the implementation guidance is released.

CONCLUSION

Working toward a streamlined and efficient process for reporting federal funds will assist in the efforts to achieve better accountability and transparency of taxpayer dollars. However, filing multiple reports with various federal agencies as well as with the FAST board only perpetuates siloed systems which is inefficient and unnecessary. We strongly feel that addressing the noted concerns appropriately will significantly enhance a successful implementation and outcomes consistent with the proposed intent of the Act.

For more Information or questions, please contact:

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