



MAY 20 2009

SUBJECT: The Emergency Food Assistance Program (TEFAP) Reporting Requirements under the American Recovery and Reinvestment Act of 2009 (ARRA)

**United States
Department of
Agriculture**

**Food and
Nutrition
Service**

**3101 Park
Center Drive**

**Alexandria, VA
22302-1500**

TO: Regional Directors
Special Nutrition Programs
NERO, SERO, MARO, MWRO,
MPRO, SWRO
Regional Director
Field Operations
WRO

Introduction

Please forward this memorandum to all State agencies that administer TEFAP.

On April 3, 2009, Office of Federal Financial Management, Office of Management and Budget (OMB) issued a memorandum (M-09-15) supplementing, amending, and clarifying prior guidance regarding ARRA implementation for financial assistance awards. On April 23, 2009, OMB also published interim final guidance in the Federal Register (April 23rd Guidance), codifying some OMB M-09-15 provisions. This memorandum and its two attachments summarize the provisions of OMB M-09-15 and the April 23rd Guidance that directly impact TEFAP State agencies and first-tier sub-recipients (i.e., typically food banks, community action agencies, contractors, etc.). Though both documents became effective on their dates of publication, OMB seeks comment on both. Thus, we encourage all TEFAP stakeholders to review OMB M-09-15 and the April 23rd Guidance at http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf and at http://www.whitehouse.gov/omb/assets/fedreg_2009/042309_recovery.pdf, respectively. Please note that the reporting requirements described herein only apply to administrative funds provided to TEFAP by ARRA.

Standard Award Terms and Conditions

(page 137, Appendix 9, of OMB M-0-90-15; and page 18451 of the April 23rd Guidance)

Per OMB M-09-15 and the April 23rd Guidance, all TEFAP ARRA funds are governed by standard award terms and conditions. Please read the standard award terms and conditions carefully (see Attachment #1), as they bind all State agencies receiving TEFAP ARRA administrative funds. To the extent that they conflict, the standard award terms and conditions supersede previous guidance issued by the Food and Nutrition Service (FNS).

Who Must Report?

(pages 20-21 of OMB M-09-15)

ARRA defines "recipient" as any entity that receives ARRA funds directly from the Federal government, other than individuals. Currently, ARRA reporting requirements apply only to prime non-Federal recipients. In our context, this means TEFAP State agencies. In States where one State agency has delegated responsibility for operating TEFAP to another State agency, the second State agency must be prepared to report on its use and distribution of ARRA funds as though it were the prime non-Federal recipient.

AN EQUAL OPPORTUNITY EMPLOYER

What Information Must Be Reported?
(pages 123-126 of OMB M-09-15, and 18449-18450 of the April 23rd Guidance)

State agencies must report on their use of TEFAP ARRA administrative funds, as well as any sub-awards to first-tier TEFAP sub-recipients. The data elements and detailed reporting instructions will be provided at www.FederalReporting.gov. However, Attachment #2 contains a summary of the data elements for your convenience.

How Should Jobs Created and Retained Be Reported?
(pages 22-24 of OMB M-09-15)

While there is no requirement that TEFAP ARRA administrative funds be used to create or retain jobs, States must report if they do. For each project, activity, or contract paid with TEFAP ARRA administrative funds, State agencies must report the *number* and *types* of jobs they (1) create and (2) retain per quarter. Job types may be described by title, broad labor category, or the State's existing practice for describing jobs, as long as the terms used are widely understood and explain the general nature of the work. "Jobs created" means positions that (1) did not previously exist or (2) previously existed but were unfilled, and are filled as a result of ARRA funding. "Jobs retained" means previously existing positions that were filled, and are retained as a result of ARRA funding. Please note that a job cannot be reported as both created and retained, and that only compensated jobs should be reported (i.e., do not report volunteers). If known, States should also address the number and types of jobs created and retained by sub-recipients.

State agencies should report jobs created and retained in full-time equivalent (FTE) format. FTEs are calculated by dividing total hours worked by the total number of hours in a full-time schedule, as defined by the State. For example, two full-time employees and one part-time employee working half-days would be reported as 2.5 FTEs in each calendar quarter. States are encouraged to provide information used to calculate their FTE figures.

States agencies are also encouraged to work with their Governors and State Workforce Investment Boards to facilitate the listing of all jobs generated through ARRA on their State Job Banks. Links to State job banks are available at the Department of Labor's Employment and Training Administration sponsored CareerOneStop Web site (www.jobbankinfo.org).

When Must TEFAP State Agencies Report?
(page 22 of OMB M-09-15)

TEFAP State agencies have two reporting deadlines. ARRA-specific quarterly FNS-667s (see Attachment #2) are due by July 10, 2009, and within 10 days of the end of each calendar quarter thereafter. All other information required by ARRA must be reported by October 10, 2009, and within ten days of every quarter thereafter.

The ARRA-specific FNS-667s due on July 10th and the ARRA report due on October 10th must cover cumulative activity since ARRA's passage, including all sub-awards (or modifications to existing awards) which utilize ARRA funding.

**How will TEFAP State agencies report?
(page 24-25 of OMB M-09-15)**

TEFAP State agencies will use two methods to report ARRA information. ARRA-specific quarterly FNS-667s will be submitted through the Food Programs Reporting System (FPRS). For other information required to be reported by ARRA, OMB intends to oversee development a central collection system, and is moving aggressively to ensure the system is ready by October 10, 2009. We expect the central collection system to be online and available no less than 45 days before October 10, 2009.

**Buy American and Wage Requirements
(pages 94-104, Appendix 9 of OMB M-09-15; pages 18452-18463, Subpart B of the April 23 Guidance; and page 18463, Subpart C of the April 23rd Guidance)**

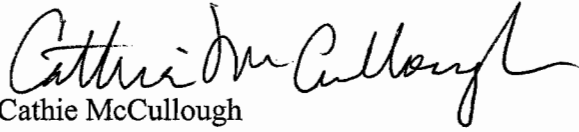
TEFAP activities will not typically fall under ARRA's Buy American and Wage Requirement provisions. ARRA's Buy American provision (Section 1605) indicates that, if ARRA funds are used to construct, alter, maintain, or repair a public building or public work, as defined in Section 1605 of ARRA and in the implementing guidance, all the iron, steel, and manufactured goods used in the project must be produced in the United States. In addition, as required in Section 1606 (the Wage Requirement provision), any State undertaking such projects must ensure that all laborers and mechanics employed by contractors and sub-contractors on projects funded (wholly or partially) with ARRA funds shall be paid an amount at least equal to the prevailing wage for similar work, per subchapter IV of chapter 31 of title 40 of the United States Code.

If a State agency intends to use TEFAP ARRA administrative funds to construct, alter, maintain, or repair one of its buildings, it should review Appendix 8 of OMB M-09-15 and Subparts B and C of the April 23rd Guidance and contact FNS for further assistance to determine the applicability of these two provisions.

**Reporting Wrongdoing
(page 51 of OMB M-09-15)**

Each State and sub-grantee receiving ARRA funds shall promptly refer any credible evidence that a principal, employee, agent, contractor, sub-grantee, sub-contractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds to an appropriate inspector general.

We hope you find this information useful. If you have any questions, please contact Rogelio Carrasco or Laura Castro at (703) 305-2662.



Cathie McCullough
Director
Food Distribution Division

Attachments

**Attachment #1: Standard Award Terms and Conditions
Governing All Awards of ARRA Funds
(pages 18449-18450 of the April 23rd Guidance)**

**Reporting and Registration Requirements under Section 1512 of the
American Recovery and Reinvestment Act of 2009, Public Law 111-5**

- (a)** This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (ARRA) and to report on use of ARRA funds provided through this award. Information from these reports will be made available to the public.
- (b)** The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by ARRA.
- (c)** Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with ARRA funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.
- (d)** The recipient shall report the information described in section 1512(c) using the reporting instructions and data elements that will be provided online at www.FederalReporting.gov and ensure that any information that is pre-filled is corrected or updated as needed.

**Attachment #2: Summary of Data Elements That
ARRA Requires To Be Reported
(page 18451 of the April 23rd Guidance)**

State agencies must report:

1. Total TEFAP ARRA administrative funds (1) received, (2) obligated and expended, and (3) remaining unobligated. State agencies must submit this information via quarterly FNS-667s that specifically account for TEFAP ARRA administrative funds. These ARRA-specific FNS-667s:
 - a) Are *in addition* to the FNS-667s submitted to track TEFAP administrative funds provided through the normal appropriations process,
 - b) Are due within 10 days of the end of each calendar quarter, starting with the third quarter of fiscal year (FY) 2009 (i.e., July 10), and
 - c) Will be submitted through the Food Programs Reporting System (FPRS).
2. A detailed list of projects and activities undertaken (wholly or partially) with ARRA funds. The list will include:
 - a) Project or activity name,
 - b) Description, and
 - c) Evaluation of completion status.
3. In cases where a State agency (or local government) invested TEFAP ARRA administrative funds in infrastructure (i.e., constructing, altering, maintaining, or repairing a public building or public work),
 - a) The purpose, total cost, and rationale for funding the infrastructure investment with such funds, and
 - b) Name of the person to contact at the State agency (or local government) to address any concerns regarding the investment.
4. Estimates of the number of jobs created and jobs retained by ARRA-funded projects and activities.

State agencies must also report on any sub-awards (i.e., sub-grants, sub-contracts, etc.) made with TEFAP ARRA administrative funds, and have discretion to decide how to collect such information. The information that must be reported includes, but is not limited to:

1. The name of the entity receiving the sub-award;
2. The amount of the sub-award;
3. The transaction type;
4. The funding agency;
5. The Catalog of Federal Domestic Assistance (CFDA) number;
6. The program source;
7. The location of the entity receiving the sub-award, including the city, State, and Congressional district;
8. The location of the primary place of performance under the award, including the city, State, and Congressional district;
9. A unique identifier of the entity receiving the award. Per the standard terms and conditions, this will be a CCR, which itself requires a DUNS number. Both of

these can be obtained free of charge. First-tier sub-recipients should immediately obtain a DUNS number (or update their existing DUNS record) and a CCR.

10. A unique identifier of the parent entity of the recipient (if any); and
11. The names and total compensation of the five most highly compensated officers of the entity, but *only if* the entity:
 - a) Received 80% or more of its annual gross revenues in Federal awards; and
 - b) \$25M or more in annual gross revenue from Federal awards.