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United States
Department of
Agriculture

Food and
Nutrition
Service

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

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 June 22, 2009, the Office of Management and Budget (OMB) issued a memorandum (M-09-21) building on, clarifying, and modifying prior guidance regarding reporting requirements associated with ARRA financial assistance awards. In this memorandum, we summarize the portions of M-09-21 that materially alter guidance previously issued to TEFAP stakeholders or impose new reporting requirements. However, in cases where M-09-21 is too substantive to summarize effectively, we refer readers to relevant page numbers therein. Thus, we *strongly encourage* TEFAP State agencies and sub-recipients receiving ARRA funds to independently review M-09-21, which is included as an attachment, but can also be found at http://www.whitehouse.gov/omb/recovery_default/.

This memorandum does not reiterate previous ARRA guidance that was not materially altered by M-09-21. However, to the extent that they conflict, this memorandum supersedes our previous TEFAP ARRA guidance (see memoranda dated March 2 and May 20, 2009; and e-mail messages dated March 11, March 19, and June 30, 2009).

This memorandum also clarifies previous guidance regarding the applicability of ARRA's wage requirements to TEFAP, and provides information regarding a series of webinars that OMB conducted from July 20-23, 2009, discussing (and addressing questions regarding) M-09-21 and OMB's data collection system. One particularly important piece of information revealed during the webinars is that the date for TEFAP State agencies and sub-recipients that are delegated reporting responsibilities to begin registering for the OMB data collection system has been moved forward to August 17, 2009. OMB and FNS *strongly encourage* reporting entities to register as soon as possible to avoid potential delays.

Have there been any changes regarding the entities responsible for reporting? [pgs. 8-11]

Yes. While TEFAP State agencies remain *ultimately* responsible for reporting all data required by Section 1512 of ARRA, M-09-21 clarifies that they may delegate responsibility for reporting the data elements required from their sub-recipients to those

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same sub-recipients. Such delegations “must be made in time for the sub-recipient to prepare for the reporting, including registering in the [reporting] system.”

However, neither State agencies nor sub-recipients may delegate any reporting responsibilities to vendors. A “vendor” is defined as a “dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program.” Page 7 of M-09-21 lists other characteristics that can be used to determine whether an entity is a vendor.

**Have there been any changes
to the reporting requirements? [pgs. 6-12, 33-37]**

Yes, there are various changes.

1. In previous guidance, the definition of “first-tier sub-recipient” included *any* entity that receives ARRA funds directly from a TEFAP State agency. However, M-09-21 clarifies that vendors “are not awarded funds by the same means as sub-recipients and are not subject to the terms and conditions of the Federal financial assistance award.” Therefore, *all the data elements that must be reported for sub-recipients need not be reported for vendors.*
2. Nonetheless, per M-09-21, *certain* information regarding vendors that receive “any payments greater than \$25,000” must be reported. Specifically, if such a vendor provides goods or services to a TEFAP State agency, the agency must report *(A)* the vendor’s identity [by DUNS number], *(B)* amount of the payment, and *(C)* a description of what was obtained in exchange for the payment. If a vendor provides goods or services to a first-tier sub-recipient, then the vendor’s identity [by DUNS number] must be reported. If a vendor does not have a DUNS number, the State agency or sub-recipient must instead report the vendor’s name and headquarters zip code. In addition, certain information regarding the number and types of jobs created and/or retained by vendors must be reported (see below).
3. We previously instructed TEFAP States agencies to provide estimates of the number and types of jobs created and/or retained with ARRA funds by *sub-recipients, if such information was known.* However, M-09-21 now *requires collection and reporting* (in aggregate form) of information regarding the number and types of jobs *directly* created and/or or retained with ARRA funds by *sub-recipients and vendors.* M-09-21 also indicates that there should be *no attempt* to collect information or report on jobs that are created or retained *indirectly* (i.e., jobs that were *not directly* funded by ARRA monies).
4. M-09-21 also clarifies that TEFAP State agencies may aggregate reports of (A) sub-awards less than \$25,000 and (B) vendor payments less than \$25,000.

5. Lastly, M-09-21 clarifies that the quarterly data submitted through FederalReporting.gov must be cumulative, even if such data spans multiple fiscal years. For example, the report submitted on April 10, 2010 will not solely include information for January 1 through March 31, 2010, but information from February 17, 2009 (the date ARRA was enacted) through March 31, 2010.

What are the requirements regarding the quality reviews of the information collected through FederalReporting.gov? [pgs. 16-18, 24, 27-31]

Previously, we indicated that data collected through FederalReporting.gov must be submitted no later than the 10th day following the end of each quarter. M-09-21 clarifies that, while that deadline remains in effect, TEFAP State agencies and FNS must conduct a quality review of that data prior to its public release, which will occur on the 30th day following the end of each quarter. Although we provide a general summary of the review process below, we *strongly encourage* State agencies, and sub-recipients that are delegated reporting authority, to review pages 16-18, 24, and 27-31 of M-09-21 for a more complete understanding of that process.

1. **Days 1-10 (after the end of each quarter):** During this pre-submission period, TEFAP State agencies and sub-recipients that are delegated reporting authority must prepare their data for submission. Data *must* be submitted by the 10th day.
2. **Days 11-21:** TEFAP State agencies must review submitted data and make necessary corrections. During this time, FNS may review data submissions in “view-only” mode.
3. **Days 22-29:** FNS must conduct an active review, commenting and asking questions as appropriate. State agencies are unable to edit the data, unless and until FNS “unlocks” the data by commenting or asking questions. Thereafter, State agencies and sub-recipients must make appropriate edits. FNS also has the ability to annotate submitted data.
4. **Day 30:** The data is released to the public. Any inaccuracies discovered after day 30 will not be correctable until the next quarterly reporting period.

What are the consequences of not reporting and/or reporting inaccurate or incomplete information? [pgs. 15, 30-31]

Per M-09-21, “[F]ederal awards, like most legal contracts, are made with stipulations outlined in the award’s term and conditions. Non-compliance with the reporting requirement[s]...is considered a violation of the award agreement because awards made with Recovery funds have a specific term requiring such compliance...[t]he Awarding Agency may use any customary remedial actions necessary to ensure compliance, including withholding funds, termination, or suspension and debarment, as appropriate.”

How does a TEFAP State agency and/or sub-recipient register for www.FederalReporting.gov (i.e., the OMB data collection system)? [pgs. 19-21]

For step-by-step instructions on how to register for FederalReporting.gov, please see pages 19-21 of M-09-21.

How does a TEFAP State agency and/or sub-recipient submit data through [www.Federal Reporting.gov](http://www.FederalReporting.gov) [pgs. 21-23].

Pages 21-23 of M-09-21 describe three methods for submitting required data. Of these, we anticipate that two – keying the information directly into FederalReporting.gov and downloading, completing, and uploading an OMB-provided template (in the form of an Excel worksheet) to the site – will be the most user-friendly and cost effective methods. For additional information, please read pages 21-23 of M-09-21.

Could you clarify whether (and how) the wage requirements in Section 1606 of ARRA apply to TEFAP?

In an e-mail message, dated June 30, 2009, we clarified previous guidance regarding the applicability of the wage requirements in Section 1606 of ARRA to TEFAP. Specifically, we clarified that *all* contractors and subcontractors working on projects that receive *any* ARRA funds must 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 (the Davis-Bacon Act), *regardless of whether those projects involve buildings or works owned by a government entity.*

Did OMB provide any guidance after issuing M-09-21?

Yes. From July 20-23, 2009, OMB conducted a series of webinars discussing M-09-21 and OMB's data collection system. The webinars were intended for Federal agencies, prime recipients, and sub-recipients; and provided step-by-step descriptions of the reporting and review processes, clarified previous guidance, and provided some new information. For example:

1. If a sub-recipient is not delegated reporting responsibilities, it does not need to register with OMB's data collection system, and therefore does not need to obtain a Central Contractor Registration (CCR) number. However, sub-recipients that have not been delegated reporting responsibilities must nevertheless obtain a DUNS number.
2. TEFAP State agencies may choose to delegate reporting responsibilities to all, some, or none of its sub-recipients.

3. When a TEFAP State agency chooses to delegate responsibility for reporting *any* data elements to a particular sub-recipient, it must delegate responsibility for reporting *all* data elements required of that particular sub-recipient.
4. OMB intends to release the Excel version the template that can be used to upload reports into its data collection system in late July or early August.

OMB has posted audio recordings of the webinars and corresponding PowerPoint presentations at: <http://www.whitehouse.gov/recovery/webinartrainingmaterials/>. Due to the large volume of valuable information in the webinars, we ***strongly encourage*** TEFAP State agencies and sub-recipients to listen to the webinars and review the presentations, In particular, we would suggest the webinars held on July 22nd, which dealt with the reporting process from the prime recipient and sub-recipient perspectives; and the webinar held on July 23rd, which dealt with the quality review process.

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
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Attachments