



Intergovernmental Communication and the Recovery Act

July 28, 2010

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Summary

The implementation of the accountability and transparency requirements within the *American Recovery and Reinvestment Act of 2009* helped to promote increased communication between the Federal government and states as well amongst states themselves. While full solutions were not ultimately realized for many issues, the increase in communication between the Federal government and states enabled each to gain a better understanding of the implementation issues that each side was faced with. As the Recovery Act winds down and implementation of the *Federal Funding Accountability Transparency Act* and the *Affordable Care Act* begin, it is essential that the lessons learned and benefits accrued from the increased communication continue to be employed.

Not Letting a Crisis Go to Waste

The *American Recovery and Reinvestment Act of 2009 (Recovery Act)* allocated nearly \$250 billion in additional federal funding to states. These funds were to be subjected to detailed transparency and accountability reporting requirements never before implemented by the federal government. As it became clear to both the Federal government and states that coordination and partnership would be necessary for successful implementation, a number of state associations including NASBO, NGA, NASACT, NASCIO, and NASPOⁱ came together and requested that the Office of Management and Budget (OMB) work with both states and key state associations in order to effectively implement the Recovery Act. During the next 7 months before reporting began in October 2009 and in the 9 months since, the Recovery Act has helped to foster movement toward a more open and communicative atmosphere between both the federal government and states as well as between individual states, while also providing important lessons currently being used in the implementation of the *Federal Funding Accountability Transparency Act (FFATA)* and *Affordable Care Act (ACA)*.

Partnering with OMB

In an effort to facilitate implementation coordination, OMB, key state associations and other national groups began regular communication in order to provide a forum and sounding board for the implementation of the Recovery Act. These calls allowed for a back-and-forth discussion with OMB, the Government Accountability Office (GAO), and the Recovery Accountability and Transparency Board (Recovery Board). The discussions that took place allowed states and the federal government to engage directly with each other over such implementation issues as sub-recipient and vendor reporting, batch reporting, job calculations, and the specific programs that required recipient reporting. A month before the first reporting period, a larger conference call was held between states, OMB, and representatives of the administration. While the topics covered were similar to the calls that had been regularly occurring, the group involved was significantly larger, which reinforced the sense that while there was anxiety with the development of the recipient reporting system, the implementation of the Recovery Act was leading to significantly higher

levels of interaction between states and federal government.

A specific area that demonstrates this increase in intergovernmental communication was the issue of how states could recoup costs associated with setting up and maintaining a reporting system that could comply with the strict accountability and transparency requirements of the Recovery Act. In response to numerous requests, OMB issued guidance in May 2009ⁱⁱ, which allowed for states to recoup 0.5 percent of the total amount of Recovery Act funds received through the Supplemental Statewide Cost Allocation Plan (SWCAP) process. With the hope of implementing this guidance as quickly as possible, a new subgroup was formed between OMB, the Division of Cost Allocation within the Department of Health and Human Services (the agency responsible for approving annual SWCAP submissions), and representatives from state associations and specific states. Following numerous conference calls throughout spring and summer 2009, it became apparent that specific restrictions on individual programs would make implementing this guidance difficult. Although a complete solution was never fully realized, the fact that states and the Federal government were engaged in direct problem-solving communication showed that the Recovery Act was having initial positive signs regarding intergovernmental communication. Hopefully in future years, strong communication between the federal government and states will provide solutions to future problems raised.

States Working Together

There also was a significant increase in state-to-state communication about Recovery Act implementation issues. In order to update the state recovery leads on many of the key decisions made by the federal government during spring 2009, email list serves were developed by a number of state associations. Weekly conference calls were held so that state Recovery Act leads could communicate among themselves on

implementation issues. The benefits of this increased communication was easily seen when following the January 2010 reporting period it was discovered that the reporting system had accidentally created duplicate reports for certain awards. By taking time each week to discuss how each state was able to determine what awards were duplicates, the states were able to work with the Recovery Board to remove the duplicate awards. The Recovery Board was then able to create reporting software that was better equipped to detect duplicate awards; hence, the mistake became a learning situation.

Additionally, following the October 2009 reporting period, NGA hosted two meetings in November 2009 and March 2010 of state Recovery Act leads in Washington D.C. that provided the Federal government and states the opportunity to discuss Recovery Act implementation issues. Following the November meeting, NGA developed specific task forces, including a jobs task force, which was given the responsibility of developing solutions on the issue of calculating jobs created or saved by Recovery Act funds. A second group, the data model task force, was created to determine how to best increase the functionality and efficiency of federalreporting.gov. OMB and the Recovery Board adopted a number of recommendations made by these groups. Both state and federal officials have acknowledged that the April and July 2010 reporting periods were significantly smoother.

The meetings also allowed states to communicate directly with the federal government on a number of concerns. One particular issue during the March 2010 meeting was the Department of Energy's decision to move to monthly reporting for the weatherization program. Numerous states noted that the resources required for monthly reporting were quite difficult given the state fiscal environment. While monthly reporting was eventually given the green light, the state Recovery Act leads meeting and subsequent conference calls gave the federal government and

states a detailed understanding of the positions put forth by each side.

Employing Lessons Learned from ARRA with the Implementation of FFATA and the ACA

The substantial increase in intergovernmental communication has allowed for the development and execution of some of the strongest transparency and accountability measures ever implemented surrounding federal appropriations. The key will be ensuring that benefits of this increased communication continue in the next stage of federal spending transparency. On April 6, 2010, OMB released initial guidanceⁱⁱⁱ for federal grant recipients on how the *Federal Funding and Transparency Act* (FFATA) would come into full effect on October 1, 2010. Although further guidance with a more specific layout of the reporting system has yet to be released, the federal government and states appear to be taking the experiences gained during the Recovery Act and applying them to implementing FFATA. OMB has already reached out to states and state associations with the hope of developing a reporting system that builds on the positive aspects of federalreporting.gov. Additionally, the effects of the growth of communication between states and the federal government are also being seen in the buildup to full implementation of the *Affordable*

Care Act (ACA). Many states have set up a healthcare lead or “czar” to help organize their state’s implementation. Also, the federal government and states are engaging in weekly conference calls to resolve implementation issues. Additionally, a meeting for state healthcare leads and federal officials was held in Washington D.C. in June 2010 to discuss the healthcare overhaul, while a second meeting, scheduled for September 2010, will focus on the new state based insurance exchanges.

States have continually noted that increased transparency on government spending is a worthy goal which they support, as long as the federal government maintains a level of communication that allows for the effective and efficient implementation of any accountability requirements. While Recovery Act recipient reporting has many months left to go and FFATA reporting has not yet begun, the implementation of the transparency and accountability requirements regarding Recovery Act funding has helped to foster a much more open and communicative atmosphere between the federal government and states.

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ⁱ The National Association of State Budget Officers (NASBO), National Governors Association (NGA), National Association of State Auditors, Comptrollers, and Treasurers (NASACT), National Association of State Chief Information Officers (NASCIO), and the National Association of State Procurement Officials (NASPO)

ⁱⁱ Office of Management and Budget, *Payments to State Grantees for Administrative Costs of Recovery Act Activities* (2009), M-09-18, http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-18.pdf

ⁱⁱⁱ Office of Management and Budget, *Memorandum for Senior Accountable Officials Over the Quality of Federal Spending Information, 2010*, http://www.whitehouse.gov/omb/assets/open_gov/OpenGovernmentDirective_04062010.pdf