

**National Governors Association
National Conference of State Legislatures
The Council of State Governments**

February 4, 2010

DOE Desk Officer
Office of Information and Regulatory Affairs
Office of Management and Budget (OMB)
New Executive Office Building
Room 10102
725 17th Street, NW Washington, DC 20503

Frank Norcross, EE-2K
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-1290

Re: Department of Energy, Proposed Emergency Agency Information Collection, (FR Doc. 2010-1057)

Dear DOE Desk Officer and Mr. Norcross:

On behalf of the undersigned state organizations, we wish to express our concerns with the Department of Energy's (DOE) proposal to require monthly reporting for recipients of Energy Efficiency and Conservation Block Grant (EECBG) ARRA funds; the DOE's "Reporting on Jobs Creation Estimates by Recipients of Grants, Loans and other forms of Federal Assistance" guidance; and the implementation of monthly reporting for both the State Energy Program (SEP) and the Weatherization Assistance Program (WAP).

As you know, more than \$240 billion in ARRA funds are flowing to or through state and local jurisdictions to help speed the nation's economic recovery. This level of involvement requires extensive cooperation and collaboration between all levels of government in order to ensure funds are spent quickly and appropriately and with a focus on preventing waste fraud and abuse.

While we share the Department's interest in tracking spending and job creation, we continue to be frustrated by federal delays in answering critical questions that prevent states from expending ARRA funds. Specifically, despite numerous requests, we are still waiting for a Davis Bacon wage determination for residential projects funded through the SEP and the EECBG and a decision by the Department regarding waivers from the Buy American requirements. Without resolution of these issues at the federal level the additional reporting sought by the Department will do nothing to speed the expenditure of funds or hasten the creation of jobs through these programs.

Moreover, as expressed below, the proposed emergency agency information collection requirements will hinder state efforts to achieve ARRA's goals without adding any appreciable benefit to the Department and should not be implemented.

The information requested is inconsistent with OMB guidance. We do not see why the data being reported on a quarterly basis pursuant to OMB's December 18, 2009 guidance is insufficient for the DOE's purposes or how the additional reporting requirements are consistent with OMB guidance.

We strongly disagree with DOE's contention in the proposed rule that "The information collection is being conducted in a manner that is consistent with OMB guidelines." As noted below, not only is the requirement that states and localities report hundreds of additional data points inconsistent with OMB's intent to simplify reporting requirements, the collection of non-federally funded Full-Time-Equivalents invites criticism that recipients are using subjective calculations to 'inflate the numbers' to make ARRA

look better. One of OMB's goals with its new guidance was to move away from subjective criteria to improve the job calculation:

Previous guidance required recipients to make a *subjective judgment* [emphasis added] on whether a given job would have existed were it not for the Recovery Act. The updated guidance eliminates this *subjective assessment* [emphasis added] and defines jobs created or retained as those funded in the quarter by the Recovery Act.

Therefore, the best way to minimize the collection burden on states and localities is for DOE to follow OMB's guidance. We strongly urge you to require only the reporting of verifiable FTEs funded with ARRA money.

The agency underestimates the burden of the proposed collection of information on state and local governments. Even if there is some value in having the information the department is seeking on a monthly basis, we disagree that the value of that information exceeds the level of burden it places on state and local recipients. The department's proposal would require state and local governments to collect a significant amount of new data. For instance, DOE proposes that states report five weatherization data points each month, and the Department's nationwide goal is 30,000 homes weatherized per month. Building off from DOE's cost/burden calculation, 30,000 divided evenly among the states, five territories and the District of Columbia is 535 homes per jurisdiction. Therefore, each month, just for weatherization, the average state must compile information on all 535 projects into the five reporting metrics required by DOE while at the same time, assembling another 26 metrics for quarterly reporting to DOE.

For SEP, the numbers are even more daunting. While the program received \$1.8 billion less than Weatherization, state energy offices would be required to report on far more metrics, including 40 monthly data points and nearly 100 quarterly data points. Similar figures apply to the EECBG, some of which will be reported directly by local governments who face similar if not more challenging capacity and reporting issues.

DOE has estimated the proposal's annual number of burden hours for states at 3 hours per month and \$120. We believe this projection grossly underestimates the proposal's true hours and costs. To begin, as noted above, DOE is requiring states and localities report on hundreds of new data points. States have designed new computer programs and systems to automate the unprecedented reporting requirements of ARRA. If DOE proceeds with its proposals for new data points on a monthly timeframe, state systems will have to be reprogrammed or changed increasing the initial burden of the requirements beyond what DOE projects.

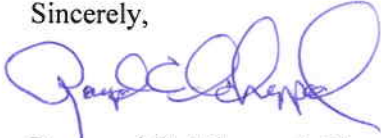
More importantly, DOE's proposed requirements must be viewed as part of the comprehensive reporting process required by ARRA. Over half of the states are central reporting states for Section 1512 reporting purposes, meaning that reports flow through a central system with its own level of verification and validation. Adding reporting requirements on recipients therefore translates into additional hours at each level of government responsible for collecting information.

States also have made it clear that from a capacity standpoint their personnel are already fully dedicated to implementing ARRA programs and meeting quarterly reporting requirements. Any additional requirements or responsibilities therefore will diminish the amount of time state officials can spend implementing the programs and meeting existing requirements. Even if recipients could meet DOE's new requirements, were other agencies to follow DOE's lead and require additional new information regarding their ARRA-funded programs, the compound effect on recipients would quickly become overwhelming and threaten ARRA implementation.

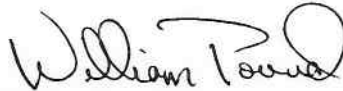
In addition, a significant amount of the State Energy Program money is going directly to homeowners as energy efficiency or renewable rebates. It is impractical to require individual homeowners to estimate and report people-hours of clean energy jobs created or retained. It is also unclear how the new reporting requirements will apply to the thousands of ARRA contracts and hundreds of millions of dollars already in force.

We appreciate the opportunity to comment on the DOE's proposals regarding the WAP, SEP and EECBG. We urge you to work with us as partners in ARRA implementation by refraining from requiring new reporting requirements.

Sincerely,



Raymond C. Scheppach, Executive Director
National Governors Association



William Pound, Executive Director
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David Atkins, Executive Director
The Council of State Governments