

GAO has requested the following information regarding New York State's monitoring of Federal State Fiscal Stabilization Funds:

Corrective Action Plan Follow-Up: Explain how the State will ensure that sub-recipients adhere to corrective action plans if it is determined that Federal funds were used inappropriately.

General Provisions

Each State agency charged with administering the ARRA SFSF funds has an audit function that performs fiscal and programmatic audits on funds administered by the agency. Agencies have developed comprehensive monitoring plans and protocols to ensure that the ARRA funds will be used consistent with State and Federal laws and within the purposes of the ARRA. In addition, agencies have the authority to delay funds to sub-recipients if it is discovered that funds are being misused or used in a manner inconsistent with the law or intended purpose.

In addition, the New York State Office of the State Comptroller (OSC) has statutory authority to audit the spending of all public entities in the State that can supplement the efforts of each agency's audit function if necessary. OSC also has authority to control all payments made through the State to both public and private sub-recipients, and may delay funding if warranted. Finally, if any instance of fraud or abuse is discovered, the New York State Attorney General has statutory authority to initiate legal proceedings against the sub-recipient(s). Federal agencies also have authority to audit the ARRA funds and recoup funds if necessary.

New York State Education Department (NYSED)

As the lead State agency for submitting the State's 1512 reporting data and the agency responsible for administering the largest portion of ARRA SFSF Education and Government Services funds, the New York State Education Department (NYSED) has established protocols for monitoring sub-recipients, as described in the State's monitoring plan.

In regard to ensuring that funds are used appropriately -- during the application phase, NYSED staff reviewed each application and budget to ensure that the intended uses of the Federal funds were in compliance with State and Federal laws. If discrepancies were found, the NYSED staff requested revisions to the applications. Changes were required before the application could be approved and the sub-recipient could begin to claim Federal funds.

During monitoring visits, if sub-recipients are found to be doing something that is inconsistent with State or Federal laws or expectations and is inconsistent with what the district reported for 1512 requirements, NYSED will send a letter describing the problem and required corrective action. Sub-recipients have the opportunity to respond and their response is incorporated in a final monitoring letter. NYSED requires school districts and other sub-recipients to implement corrective actions at the next application or quarterly report, whichever occurs first.

For NYSED audits of SFSF, Title I and IDEA funds, NYSED is conducting fiscal audits of the use of ARRA funds. SED communicates any audit exceptions to the district. The district has an opportunity to respond and a final audit report is prepared with the district's response attached. The district is also

required to submit a Board approved corrective action plan to the Department within 90 days, and to the extent practicable the implementation of corrective actions must be begun no later than the end of the next fiscal year.

In regard to ensuring that sub-recipients are correctly reporting 1512 data -- NYSED has developed a three-pronged strategy to ensure compliance with ARRA reporting requirements:

1. Make the reporting task easy by retrieving many data elements from available databases and thus reducing the burden on sub-recipients;
2. Provide good information and training on ARRA reporting in order to win compliance with reporting requirements; and
3. Determine noncompliance through established monitoring procedures and take steps as appropriate on case-by-case basis.

First, NYSED has developed a streamlined reporting system that captures expenditures from NYSED's payment offices, institutional information from NYSED's institutional database, and data from the sub-recipients themselves. NYSED can provide all of the 99 data elements that OMB has asked ARRA fund recipients to provide and needs to collect only a small number of data from sub-recipients each quarter using a web-based reporting tool. This approach increases compliance and data quality.

Second, NYSED has further increased compliance through the implementation of clear training, guidance, and regular communication including notices to school districts and other ARRA fund recipients. NYSED has implemented news feeds on its ARRA website to help sub-recipients keep up with new information.

Results show these first two strategies have been successful. NYSED has completed ARRA quarterly reports for 2009—quarters 3 and 4—and is in the process of completing the quarterly report for 2010—quarter 1. Results for these first two reporting quarters show that NYSED was largely successful in winning compliance from almost 1,000 ARRA fund recipients responsible for submitting over 3,000 reports. For example, for 2009-Quarter 3, ARRA sub-recipients submitted 90 percent of 3,160 reports successfully to the Department and the Department approved 77 percent and forwarded them to federalreporting.gov. For 2009-Quarter 4, ARRA sub-recipients submitted 94 percent of 3,164 reports successfully to the Department, and the Department approved and forwarded 94 percent to federalreporting.gov.

Third, for those sub-recipients that consistently fail to comply with reporting requirements, NYSED will review circumstances on a case by case basis and implement consequences. NYSED is in the process of developing a method to delay funding to noncompliant sub-recipients in the same manner as is done with other Federal grants. The concept is that sub-recipients who have repeatedly failed to submit a “good-faith” report by the deadline (generally the last day of the quarter) will have to wait until the next quarter to submit cumulative reporting information. NYSED will implement procedures to publicly display non-compliant reporters and to delay funds until sub-recipients submit all necessary ARRA reporting data and the Department approves these reports.

**Division of the Budget (DOB) - Monitoring For:
State University of New York (SUNY)
City University of New York (CUNY)
Higher Education Services Corporation (HESC)**

As the State entity designated as the monitoring agent for the use of ARRA SFSF Education and Other Government Services funds by SUNY/CUNY/HESC, the Division of Budget (DOB) has established protocols for monitoring these fund recipients, described in the submitted monitoring plan(s).

In terms of ensuring the proper and appropriate use of ARRA SFSF funds, DOB will rely on three essential aspects of the programs within each entity that received such funding.

1. History of Programs

- a. SUNY/CUNY: Community College Base Operating Aid is a program with an over thirty year history within New York State. The State provides approximately 40 percent of the allowable costs of operating the 36 community college campuses, with additional funding provided through local sponsor support and student tuition payments.
- b. HESC: HESC administers the Tuition Assistance Program (TAP) for the State of New York and has done so for over thirty years. TAP provides tuition relief for NYS students according to a stringent set of guidelines that takes into account both economic and academic conditions. Campus fiscal officers provide HESC with lists of eligible students (called "rosters") and HESC then makes awards to campuses in lieu of student tuition payments.

2. Established Monitoring Protocols

- a. SUNY/CUNY: As an established and essential component of the State and City university systems, the operations of the community colleges fall under the aegis of the risk-based auditing systems currently in place at both institutions. In addition, as part of its statutory mission, the New York State Office of the State Comptroller (OSC) regularly audits the financial operations of all aspects of SUNY and CUNY, including the community colleges.
- b. HESC: Awards made through the TAP program are annually audited by OSC on the basis of past audit findings, significant year-to-year growth in TAP eligible populations, and upon the recommendation of the State Education Department (SED), HESC and the U.S. Department of Education.

3. Control of Funds

- a. In the unlikely event that funds are misused, the State has various mechanisms by which future funding streams could be restricted until corrective actions are taken or misused funds are recovered.

Division of Housing and Community Renewal (DHCR)

As described in the monitoring plan, if sub-recipients are found to be using funds in a manner that is inconsistent with State or Federal law or expectations and inconsistent with what was reported for 1512 requirements, DHCR will send a letter describing the problem and required corrective action. Sub-recipients (contractor and vendors) will have the opportunity to respond to the letter and their responses will be incorporated in a final monitoring letter.

For DHCR audits of Government Services Funds, DHCR will communicate any audit exceptions to the contractor/vendor. The contractor/vendor has an opportunity to respond and a final audit report is prepared which has the contractor/vendor response attached. The contractor/vendor is also required to submit an approved corrective action plan to DHCR within 90 days, and to the extent practicable, the implementation of corrective actions must be begun no later than the end of the next fiscal year. If contractor/vendor fails to implement the corrective actions, DHCR will withhold funds from the contractor/vendor.

In regard to ensuring that contractors/vendors are correctly reporting 1512 data, DHCR has developed a strategy to ensure compliance with ARRA reporting requirements which includes:

1. Providing a reporting template that has direction and is programmed with formulas to correctly calculate job creation;
2. Providing information and training on ARRA reporting in order to win compliance with reporting requirements; and
3. Continuing to monitor and taking steps as appropriate on a case-by-case basis.

For those contractors/vendors that consistently fail to comply with reporting requirements, DHCR will review circumstances on a case-by-case basis and implement consequences. DHCR will implement procedures to delay funds until contractors/vendors have submitted all necessary ARRA reporting data and DHCR approves these reports.

The Office of Internal Audit will have a role in reviewing compliance with ARRA requirements by:

1. Identifying risks associated with functions responsible for disbursing ARRA funds;
2. Identifying procedures and controls in place to detect/deter/prevent fraud;
3. Reviewing monitoring activities related to project progress reports and contract payments;
4. Reviewing corrective actions taken on any exceptions to the ARRA requirements;
5. Evaluating controls in place by testing/sampling contract payments, timely report submission process, validity of report data; and
6. Ensuring procedures are being adhered to in relation to the ARRA requirements.

DHCR's internal audit function will also be responsible for ensuring compliance with ARRA requirements. The following steps will be incorporated into DHCR's audit plan when reviewing ARRA activities:

1. Review contracts to ensure requirements are clearly stated and to ensure awards are in accordance with Federal and State requirements.
2. Identify any checklist of items to be completed prior to approving vouchers for payment. Review documentation to justify payments.
3. Conduct periodic on-site visits to subcontractor's work locations to review their records and documentation.
4. Implement testing and analysis techniques when preparing a risk analysis & audit planning process. Consider the impact of ARRA funds in this process.
5. Provide Fraud Awareness training for Internal Audit staff that includes techniques for detecting, deterring and preventing fraud.

In December 2009, Internal Audit conducted a quality assurance review of DHCR's 1512 ARRA Reporting process. The purpose was to ensure reporting is adequate to meet the State's quality assurance objectives and that reporting requirements and procedures are being adhered to. DHCR assessed the following:

1. Reporting mechanisms in place to collect required data to meet ARRA requirements;
2. Data quality controls to ensure reporting is consistent, complete and accurate; and
3. Whether the agency is submitting timely reports to fulfill reporting requirements.

Risk Assessment: *Explain if the State used a risk assessment methodology to determine which sub-recipients to review more thoroughly.*

New York State Education Department (NYSED)

NYSED's Office of Audit Services (OAS), with guidance from the U.S. Education Department's American Recovery and Reinvestment Act (ARRA) Waste, Fraud and Abuse (WFA) team, has developed a method of assessing the risk associated with sub-recipients administering SFSF, ARRA Title I, and ARRA IDEA funds. The purpose of the methodology is to quantify the risk based on certain factors related to the sub-recipient's fiscal condition, timeliness of reporting, results of external audits, and results of A-133 single audits of Federal funds.

OAS captures a great deal of information on sub-recipients. The information is gathered as part of the office's role in analyzing the fiscal condition of school districts, summarizing relevant audit information for the Regents Subcommittee on Audit and in administering single audit responsibilities for NYSED.

OAS examined 37 data elements which capture some aspect of the sub-recipients' fiscal performance. OAS then discussed the relative significance of the data elements as they relate to the risk of sub-recipients poorly administering the ARRA funds. This was done through discussions in the ARRA WFA team meetings as well as discussions among OAS staff. Based on its significance, a weight was assigned to each of the key factors. Sub-recipients with the greatest number of risk factors were considered high risk in administering ARRA funds.

Factors included the following: (not in any order of significance) - amount of ARRA funds received for SFSF, Title I and IDEA, undesignated fund balances, Federal stimulus funds as a percent of sub-recipients' budget, statements from financial audits and results from New York State Comptroller (OSC) internal control audits (all school districts have been audited by OSC), timeliness in submitting financial statements, single audit (A-133) and corrective action plans (if applicable), number of audit findings, and Title I and IDEA Single audit findings.

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The Division of Budget review methodology included the selection of a subset of community college campuses that received the most funds through ARRA SFSF grants, the central administering entities of both university systems, and a random sampling of campuses that received SFSF Education and Other Government Services funds. The offices of the Higher Education Services Corporation and several universities (to be chosen at a later date) will be reviewed to ensure that TAP award rosters match TAP payments. A formal risk assessment methodology was not utilized due to an interest in reducing duplicative actions by multiple State agencies.

Division of Housing and Community Renewal (DHCR)

DHCR will conduct a risk-based audit assessment to determine which sub-recipients to site-visit and/or audit. The risk assessment will be based on, but not be limited to, various factors such as late reporting to the agency of key reports and fiscal data. The agency will attempt to visit all agencies that receive funding, within the constraints of available staffing and time. If there are additional concerns following the site visit, DHCR will utilize its audit and internal controls unit to ascertain whether there has been any instances of waste, fraud, or misuse of Government Service Funds.

Provide Actual Spending Data: See attached table, updated through April 23, 2010.