September 15, 2011

The Honorable Darrell E. Issa  
Chairman, House Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, DC, 20515  

Dear Chairman Issa:

We write to express concerns about the potential unintended impacts of HR 2146, the Digital Accountability and Transparency Act (DATA Act) of 2011, on our nation’s research universities. Together, our associations represent the leading research universities in the United States.

As you are aware, HR 2146 would perpetuate many of the reporting requirements imposed by the American Reinvestment and Recovery Act (ARRA). While we recognize and appreciate the need to standardize and centralize government reporting to ensure government accountability and transparency, as currently written, HR 2146 fails to require federal agencies to eliminate and replace other similar reporting requirements they already require of our universities with the new DATA Act reporting requirements. As a result, HR 2164 will impose duplicative and costly additional reporting requirements on our universities, rather than reducing or streamlining existing ones. These redundancies will take time and resources from research and education without additional benefits.

Existing laws, regulations, and agency requirements already require much of the same reporting on federally sponsored scientific research grants and contracts as called for by HR 2146. Since the intent of the DATA Act is to promote the use of one central and standardized reporting system, then it should require that federal agencies phase out existing reporting requirements in favor of one reporting portal by which all federal and executive branch agencies receive this information. We recognize and agree with the need for good accountability practices and at the same time, we strongly believe that our universities should be required to report only once how they spend federal monies to the federal government.

To address our associations’ concerns, we fully endorse recommendations (copy attached) already made by the National Governors Association (NGA) and the National Association of State Chief Information Officers (NASCIO) to improve the DATA Act. Among other things, these recommendations suggest changes in the bill to ensure that it replaces, and does not duplicate, existing reporting requirements imposed upon states, our universities and other government grantees and contractors by federal agencies. The only additional change we would request is that universities and other non-profit recipients be allowed to set aside a portion (.5 percent) of the federal funds they receive to pay for the administrative costs that will be needed to comply with the new DATA Act reporting requirements. NGA and NASCIO recommend a similar set-aside for state and local governments, and this recommendation should be extended to universities and other non-profits.

Please feel free to contact us should you have additional questions. We hope that you will take our concerns seriously as you work to improve and seek Congressional passage of the DATA Act.

Sincerely,

Hunter R. Rawlings III  
President  
AAU

Peter McPherson  
President  
APLU

Anthony DeCrappeo  
President  
COGR
DATA Act –Recommended Changes

OVERVIEW
Governors agree with the long term purpose of the Act to consolidate and streamline the reporting of federal funds. However the shift toward data reporting standardization should keep in mind the costs and burden on federal grant recipients in addition to the overall goal of modernization, efficiency and accountability not just for federal agencies but also for recipients.

REPORTING
STANDARDIZATION TO ACHIEVE STREAMLINED REPORTING
While the Act strives to achieve standardization of data elements, it does not require that federal agencies utilize a central portal for obtaining data on their recipients. For example, without such standardization agencies will continue to require grant recipients to complete disparate federal forms which are detailed and laborious for the recipient in addition to the reporting now required by the FAST board. The Act should consolidate this duplicative reporting with the data being stored and tagged in a manner that federal agencies can pull from in order to achieve the information they desire for each program.

Recommendation: Congress should mandate uniform reporting in Section 3611/3615 of bill. As such, recipients would be required to report once to the board designated portal. Federal agencies should then be required to pull down the information they need from the data provided to the reporting portal.

STANDARDIZED DEFINITIONS
An important starting point in the achievement of efficient and effective grant reporting is the standardization of budget data elements and definitions. Standardizing and or cross-walking items such as salaries so they mean the same thing across programs and agencies will help recipients achieve better and more accurate reporting.

Recommendation: Provide the new FAST Board the authority to require Federal agencies to use a core set of data elements and definitions for grant reporting.

RECIPIENT REPORTING/FREQUENCY OF REPORTS
3602(b) (1). Reporting should be required no more than quarterly and the reporting should be on a month delay to accommodate state accounting systems and close out times.

Recommendation: 3602(b) (1): Recipients shall be required to report on a quarterly basis. Therefore information through September 30th would be submitted by November 1. Additionally, should the board determine that more frequent reporting is desirable, the board should be required to convey such need and reasoning to the Congressional committees of jurisdiction. Upon Congressional approval the board may issue, by rule, a more frequent timeline for recipient reporting.

RECIPIENT REPORTING/DATA ELEMENTS
Report information should be pre-populated by information previously collected by the federal agency.
**Recommendation:** Many of the data elements that a recipient would be required to report are already reported in both the grant application and or in the CCR Registration database. Such elements should be pre-populated by the federal agencies.

**FUNDING**
Accountability professionals and the equipment and data systems which are responsible for implementation and oversight are necessary components for successful implementation. It was recognized early on that the lack of funding for such professionals was a major oversight and shortcoming of the original Recovery Act.

**Recommendation:** Amend the DATA Act to include the following provision which would allow designated funding for implementation and oversight of reporting:

> STATE AND LOCAL GOVERNMENT AUTHORITY.—Notwithstanding any other provision of law, State and local governments reporting federal funds under this Act may set aside an amount up to 0.5 percent of such covered funds, in addition to any funds already allocated to administrative expenditures, to use for data collection and reporting requirements, including the establishment and use of information technology systems, auditing, contract and grant planning and management, and other administrative expenditures used to conduct planning and oversight to prevent, detect and investigate waste, fraud and abuse.

**FAST BOARD**
STATE AND LOCAL REPRESENTATION
The board is lacking any participation from state and local government. As state and local governments are by far the largest recipient of federal grants, it seems obvious that successful implementation of the DATA Act requires state and local input.

**Recommendation:** Amend the Act to include at least one state or local representative with a public finance/audit type background and the other as appropriately determined by the FAST from a slate of applicants.
Sec. 3622 (b)(4) two representatives of state and local government. Two individuals currently employed in a state or local government shall be allotted two seats. One individual shall have a background specifically in public finance and/or audit and the second individual will be selected from a publically solicited slate of candidates. Criteria will be determined by the board based on experience, qualifications, and other expertise.

**FAST BOARD AUTHORITY**
One of the largest impediments to timely Recovery Act reporting was differing guidance from separate agencies on identical topics. As such, the FAST Board should be given broad authority over federal agencies in terms of required reporting. The board should have the authority to require that federal agency guidance not be in conflict with board guidance on recipient reporting and that the agencies do not require additional reporting of recipients.

**Recommendation:** Section 3624 (e) Notwithstanding any other provision of law, the board shall have the authority to mandate standardized guidance and eliminate agency required
duplicate reports. Information related to specific programs, if complimentary and not duplicative, will not affected by this provision.

PENALTIES FOR NONCOMPLIANCE
A safe harbor should be provided to recipients to allow for smooth transition and implementation of the DATA Act.

Recommendation: Sec 3614 (b) shall be amended to allow a good faith effort safe harbor. Penalties in this section are not applicable for recipients that demonstrate a good faith effort to comply with the reporting requirements of this law. Good faith effort is to be defined by the FAST board taking into consideration all the facts and circumstances of non-compliance.

IMPLEMENTATION TIME LINE
The implementation timeline in the current draft of the DATA ACT leads one to believe that compliance with the requirements of the Act occur prior to the release of the implementation guidance. In order to properly align systems and change business process protocols a recipient will need significant lead time to comply.

Recommendation: Recipients should be required to comply with the requirements of the ACT 180 days after the implementation guidance is released.