



NATIONAL ASSOCIATION OF REGIONAL COUNCILS

AMERICAN RECOVERY AND REINVESTMENT ACT

TRANSPARENCY & ACCOUNTABILITY

On Tuesday, February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009, a federal economic recovery package, which intends to stimulate economic growth, sustain and create jobs, improve our nation's infrastructure, and assist States and local governments.

The funding in this Act is set up as an emergency designation to fulfill emergency requirements and needs. Funds from this Act will have no effect on funds from the 2009 Continuing Resolution (PL 110-329) and is in addition to amounts otherwise appropriated for the fiscal year. All funds will be made available for obligation until September 30, 2010 unless otherwise stated. The law contains several provisions for transparency and accountability in Division A, the spending/appropriations portion.

General Reporting Requirements

Within 10 days of the receipt of funds

The recipient must report (herein Recipient Reports) to the appropriate agency:

1. Name of project
2. Description of project
3. Evaluation of completion status
4. Estimate the number of jobs created or retained (<http://www.recovery.gov/?q=content/estimated-job-effect>)
5. For infrastructure investments made by state and local governments:
 - The purpose
 - Total cost
 - Rationale for funding
 - Name of the point of contact, should there be questions
6. Detailed information on any subcontracts or subgrants awarded by the recipient

Within 30 days after the end of each calendar quarter

The federal agency must report the information contained in the Recipient Reports (see above) on www.recovery.gov.

Within 30 days after enactment (3/19/09)

These reports will be required within 30, 60, 120, 180 days, and 1 and 3 years

Each grant recipient shall submit periodic flash reports to the appropriate federal agency on how the funds have been used. These reports will be collected by the federal agencies and transmitted to Congress. These flash reports are to include:

1. Amount of federal funding appropriated, allocated, obligated and outlayed
2. Number of projects put out to bid under the funding and the amount of federal funding associated with such contracts
3. Number of projects awarded to contract and the total amounts of federal funding associated
4. Number of projects where work has begun and the federal funds associated
5. Number of projects completed and the federal funds associated
6. Number of jobs created or sustained by the federal funds associated, including information on:
 - Job sectors
 - Pay levels
7. Actual aggregate expenditures by each grant recipient from non-federal sources as compared to the levels that were planned to occur from enactment through 9/30/10

Within 180 days of the receipt of funds:

Any recipient of funds must provide the information required in the Recipient Reports (see above) to the appropriate federal agencies.

General Certification Requirements

In General

Governors, mayors or other chief executives who accept economic recovery funds on behalf of their state and local government agencies must certify that the infrastructure investment is an appropriate use of taxpayer dollars.

This information must then be posted on a website and linked to www.recovery.gov.

This certification must include:

1. A description of the investment
2. Estimated total cost
3. Amount of federal funds to be used

Special considerations for to include in the description of the investment

Prevailing Wage - Grantees must pay contractors and subcontractors prevailing wages as required by the Davis Bacon Act.

Buy America - Additionally, unless there is an insufficient amount available or overall project costs will increase by 25%, the projects must use American iron and steel for project construction, alternation, maintenance or repair of public building or public works effort.

If the Governor declines funding through this Act

The Governor of each state must certify within **45 days** that the state will request and use funds provided. If not, the state legislature can also adopt a concurrent resolution to certify funds, which will allow distribution to local governments, councils of government, public entities and public-private entities within the state either by formula or at the state's discretion.

A state or local agency may not receive infrastructure investment money from this Act unless the appropriate certifications have been made.

Other Important Provisions

- No funds appropriated may be used by any State or local government or private entity for any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.
- Funding cannot be used for nonimmigrant workers, unless in compliance with H-1B dependent employer.
- Funding recipients must register with the Central Contractor Registration database or complete other registration requirements as determined by Office of Management and Budget (OMB).
- National Environmental Policy Act (NEPA) - Adequate resources within this bill must be devoted to ensuring that applicable environmental reviews under the NEPA are completed on an expeditious basis and that the shortest existing applicable process under the NEPA shall be utilized. The President shall report to the Senate Environment and Public Works Committee and the House Natural Resources Committee every 90 days following the date of enactment until September 30, 2011 on the status and progress of projects and activities funded by this Act with respect to compliance with NEPA requirements and documentation.
- Contracts must be awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.