



# NATIONAL ASSOCIATION OF REGIONAL COUNCILS

## AMERICAN RECOVERY AND REINVESTMENT ACT

### SURFACE TRANSPORTATION

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 provisions important to surface transportation in Division A, the spending/appropriations portion, Title XII, Transportation and Housing and Urban Development. The provisions most important to regional planning organizations (including Metropolitan Planning Organizations) are on the following pages. For each of those programs, funding recipients will be required to perform a "Maintenance of Effort," as well as periodic reporting and other requirements:

#### Maintenance of Effort, Periodic Reporting and Other Requirements\*\*

CERTIFICATIONS	<ol style="list-style-type: none"> <li>1. The Governor has 30 days after enactment (March 17, 2009) to certify: the State will maintain its effort on funding for projects and the amount of funds the States plans to expend and on what projects from February 17-September 30, 2010 via submitted statement</li> <li>2. The Governor, Mayor or appropriate Chief Executive is required to certify that the investment is appropriate and lawful</li> </ol>
REPORTING	<p>Each grant recipient shall submit periodic reports after enactment:</p> <ul style="list-style-type: none"> <li>• 90 days (May 17, 2009)</li> <li>• 180 days (August 17, 2009)</li> <li>• 1 year (February 17, 2010)</li> <li>• 2 years (February 17, 2011)</li> <li>• 3 years (February 17, 2012)</li> </ul> <p>Each grant recipient shall track and report on the following:</p> <ul style="list-style-type: none"> <li>• Amount of federal funds appropriated, allocated, obligated and outlayed</li> <li>• Number of projects put out to bid and the amount of federal funds associated with such projects</li> <li>• Number of projects awarded contracts and amount of federal funds associated</li> <li>• Number of projects begun work under contracts and federal funds associated</li> <li>• Number of projects completed under contracts and federal funds associated</li> <li>• Number of direct and in-direct jobs created or sustained by federal funds provided under this appropriation and, to the extent possible, the estimated indirect jobs created or sustained in the associated supplying industries, including the number of job-years created and the total increase in employment since the date of enactment</li> <li>• Actual aggregate expenditures by each grant recipient for funding under the program from the enactment of this Act until 9/30/2010 as compared to the level of such expenditures that were planned to occur during such period</li> <li>• Grant recipients may ask FHWA, FTA, FRA and MARAD to prepare the reports on their behalf</li> </ul>
BUY AMERICA	<p>Requires that all iron, steel and manufactured goods be produced in the US. Allows for waivers (published in the Federal Register) if:</p> <ul style="list-style-type: none"> <li>• In public interest</li> <li>• items produced in the US are not sufficient or reasonably available in quantity or quality</li> <li>• domestic materials would increase the overall cost by 25 percent</li> </ul>
MISCELLANEOUS	<ul style="list-style-type: none"> <li>• Davis Bacon prevailing wage requirements apply</li> <li>• must use nonimmigrant workers for public works projects</li> <li>• contracts must be awarded using competitive bidding procedures</li> <li>• Must use immigrant workers or those nonimmigrants in compliance with H-1B dependent employer</li> <li>• Adequate resources will be given to expedite NEPA reviews</li> </ul>

\*\*If the State fails to maintain its effort it cannot receive redistributions under the August Redistribution for FFY 2011

## Supplemental Discretionary Grants for the National Surface Transportation System

TOTAL	\$1.5 billion in competitive grants for capital improvements (100% federal share; remain available until 9/30/2011)
ELIGIBLE RECIPIENTS	State and local governments or transit agencies
ELIGIBLE PROJECTS	<ul style="list-style-type: none"> <li>• Interstate rehabilitation</li> <li>• Improvements to rural collector road system</li> <li>• Reconstruction of overpasses and exchanges</li> <li>• Bridge replacements</li> <li>• Seismic retrofit projects for bridges</li> <li>• Road realignments</li> <li>• Public transportation projects in New Starts or Small Starts programs to expedite projects and their entry into revenue service</li> <li>• Passenger and freight rail projects</li> <li>• Port infrastructure investments</li> </ul>
USDOT REQUIREMENTS	<ul style="list-style-type: none"> <li>• Ensure equitable geographic distribution of funds and appropriate balance of urban and rural communities needs</li> <li>• Grants shall not be less than \$20 million and not greater than \$300 million</li> <li>• USDOT Secretary can waive the minimum grant size to fund significant projects in smaller cities, regions and States</li> <li>• Not more than 20% of funds can be awarded to projects within a single state</li> <li>• Cannot exceed \$200 million for paying subsidy and administrative project costs</li> <li>• Priority given to projects that can be completed within 3 years</li> <li>• Secretary to publish criteria on grant competition within 90 days of enactment (5/17/2009)</li> <li>• Projects selected must be announced no later than one year after enactment (2/17/2010)</li> </ul>
APPLICANT REQUIREMENTS	Funding applications must be submitted within 180 days of criteria publication (11/17/2009)
MISCELLANEOUS	USDOT Secretary may retain up to \$1.5 million of funds to transfer to FHWA, FTA, FRA and MARAD to fund the award and oversight of grants

## Federal Aviation Administration

TOTAL	\$1.3 billion (100% federal share)
FUNDING	\$200 million competitive grants for FAA infrastructure funding for facilities and equipment
ELIGIBLE PROJECTS	<ul style="list-style-type: none"> <li>• power systems</li> <li>• air route traffic control centers</li> <li>• air traffic control towers</li> <li>• terminal radar approach control facilities</li> <li>• navigation and landing equipment</li> </ul>
FAA REQUIREMENTS	<ul style="list-style-type: none"> <li>• Priority to projects that can be completed in 2 years (by 2/2012)</li> <li>• No more than 60 days after enactment (4/17/2009) the FAA Administrator must establish a process for applying, reviewing and awarding grants and cooperative and other transaction agreements, and requirements for record keeping for auditing purposes</li> <li>• Buy America provisions are required</li> </ul>
FUNDING	\$1.1 billion for discretionary Grants in Aid for airports (remain available until 9/30/2010; not subject to apportionment formulas, special categories or minimum percentages)
ELIGIBLE RECIPIENTS	airports
ELIGIBLE PROJECTS	<ul style="list-style-type: none"> <li>• Procurement, installation and commissioning of runway incursion prevention devices and systems</li> <li>• priority given to projects that can be completed within 2 years (February 2012)</li> <li>• Priority given to projects that supplement, not supplant planned expenditures (state and local sources included)</li> </ul>
FAA REQUIREMENTS	<ul style="list-style-type: none"> <li>• Award grants totaling not less than 50 percent of the funds made available within 120 days (4 months - 6/17/2009)</li> <li>• Award remaining grants no later than one year (February 17, 2010)</li> <li>• May retain up to 0.2% of funds for award and oversight of grants</li> </ul>

## Federal Highway Administration

TOTAL	<p>\$27.5 billion (100% federal share; remain available until 9/30/2010)</p> <ul style="list-style-type: none"> <li>• Funding to be available no later than 21 days after enactment (3/10/2009)</li> <li>• Funding is in addition to any FY2009 and 2010 funds</li> <li>• Funding not subject to obligation limitations</li> </ul>
FUNDING SET-ASIDES	<ul style="list-style-type: none"> <li>• \$550 million Indian Reservations and Federal Lands <ul style="list-style-type: none"> <li>- \$310 million Indian Reservation Roads Program</li> <li>- \$170 million Park Roads and Parkways Program</li> <li>- \$60 million Forest Highway Program</li> <li>- \$10 million Refuge Roads Program</li> <li>- priority given to capital investments and projects completed within 2 years (2/2011)</li> <li>- Secretary has authority to distribute unobligated funds after 1 year (2/2010)</li> </ul> </li> <li>• \$20 million transportation and technology training</li> <li>• \$20 million disadvantaged business enterprises bonding assistance</li> <li>• \$150 million US Territories</li> <li>• \$60 million construction of ferry boats and ferry terminal facilities</li> <li>• \$60 million competitive grants to States <ul style="list-style-type: none"> <li>- priority given to projects completed within 2 years (2/2011)</li> <li>- Secretary has authority to distribute unobligated funds after 1 year (2/2010)</li> </ul> </li> </ul>
FUNDING	<p>\$26.64 billion through Surface Transportation Program (STP)</p> <ul style="list-style-type: none"> <li>• 50% apportioned to States via STP distribution formula = \$13.32 billion</li> <li>• 50% apportioned to States via same ratio as obligation limit for FY2008 = \$13.32 billion</li> </ul>
FUNDING ALLOCATION & SUBALLOCATION	<ul style="list-style-type: none"> <li>• 30% suballocated within each State under STP formulas (no local/State match required): <ul style="list-style-type: none"> <li>- Urbanized areas of over 200,000 population</li> <li>- Areas under 20,000</li> <li>- Areas of less than 5,000 population</li> </ul> <p>TOTAL = approx. \$8 billion and <u>have 1 year to obligate</u></p> </li> <li>• 3% set-aside to each State for Transportation Enhancement Program - <i>programs attached</i> TOTAL = approx. \$800 million</li> </ul>
USE IT OR LOSE IT	<ul style="list-style-type: none"> <li>• Applies to States only - excludes suballocated funds</li> <li>• have 120 days to obligate 50% of funds</li> <li>• Unobligated balance will be redistributed to States in compliance</li> </ul>
ELIGIBLE PROJECTS	<ul style="list-style-type: none"> <li>• Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways and bridges</li> <li>• Capital costs for transit projects eligible for assistance</li> <li>• Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways</li> <li>• Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.</li> <li>• Highway and transit research and development and technology transfer programs.</li> <li>• Capital and operating costs for traffic monitoring, management, and control facilities and programs, including advanced truck stop electrification systems</li> <li>• Surface transportation planning programs</li> <li>• Transportation enhancement activities</li> <li>• Transportation control measures</li> <li>• Development and establishment of management systems</li> <li>• Participation in natural habitat and wetlands mitigation efforts, which may include participation in natural habitat and wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands; and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans</li> <li>• Passenger and freight rail</li> <li>• Port infrastructure</li> </ul>
USDOT REQUIREMENTS	<ul style="list-style-type: none"> <li>• Priority given to projects that can be completed within 3 years</li> <li>• Priority given to projects located within economically distressed areas - <i>definition attached</i></li> </ul>

## Federal Railroad Administration

TOTAL	\$9.3 billion (100% federal share)
FUNDING	\$8 billion capital assistance grants for high speed rail and intercity rail
USDOT REQUIREMENTS	<ul style="list-style-type: none"> <li>Funds remain available until 9/30/2012</li> <li>Priority given to projects that support intercity high speed rail service development</li> <li>60 days after enactment (4/17/2009) present Congress a strategic plan to for use of funds</li> <li>120 days after enactment (6/17/2009) to issue guidance on grant competition</li> <li>State Rail Plan requirement is waived</li> <li>Federal share at option of recipient up to 100%</li> <li>Wage rate laws apply</li> <li>Buy America requirements apply</li> </ul>
FUNDING	\$1.3 billion capital assistance grants to Amtrak <ul style="list-style-type: none"> <li>\$450 million for capital security grants</li> <li>\$845 million for repair, rehabilitation and upgrades</li> </ul>
USDOT REQUIREMENTS	<ul style="list-style-type: none"> <li>No funding can be used to subsidize Amtrak</li> <li>Funds shall be awarded 30 days after enactment (3/17/2009)</li> <li>Funds serve to supplement, not supplant planned expenditures</li> <li>Not more than 60% of funds for non-security activities in the Northeast Corridor</li> </ul>

## Federal Transit Administration

TOTAL	\$8.4 billion (100% federal share)
FUNDING	\$6.9 billion transit capital assistance grants via formula distribution <ul style="list-style-type: none"> <li>80% to urban areas = \$5.44 billion</li> <li>10% to rural areas = \$680 million</li> <li>10% to high growth, high density regions = \$680 million</li> <li>\$100 million in grants to transit agencies to reduce energy consumption and greenhouse gases</li> <li>\$16.9 million (2%) set aside for Indian Reservation Roads</li> </ul>
USDOT REQUIREMENTS	<ul style="list-style-type: none"> <li>Funds remain available until 9/30/2010</li> <li>Funds to be apportioned within 21 days of enactment (3/10/2009)</li> <li>Recipients will have 180 days to obligate 50% of funding and the remaining 50% 2 years later</li> <li>Wage rate laws apply</li> <li>Buy America requirements apply</li> </ul>
FUNDING	\$750 million for fixed guideway and modernization programs
USDOT REQUIREMENTS	<ul style="list-style-type: none"> <li>Funds remain available until 9/30/2010</li> <li>Funds cannot be commingled with any prior year funds</li> <li>Wage rate laws apply</li> <li>Buy America requirements apply</li> </ul>
FUNDING	\$750 million in capital investment grants - under New Starts and Small Starts programs
USDOT REQUIREMENTS	Funds remain available until 9/30/2010 Priority give to projects that are either under construction, or able to obligate funds within 150 days of enactment Cannot commingle with funds from any prior year <ul style="list-style-type: none"> <li>Wage rate laws apply</li> <li>Buy America requirements apply</li> </ul>

## Miscellaneous Transportation Provisions (from other Titles)

FUNDING	\$180 million Bureau of Land Management
ELIGIBLE PROJECTS	construction, reconstruction, decommissioning and repair of roads, bridges, trails and property and facilities, and for energy retrofits

FUNDING	\$589 million National Park Service
ELIGIBLE PROJECTS	<ul style="list-style-type: none"> <li>• repair and restoration of roads, construction of facilities (including energy retrofits)</li> <li>• equipment replacement</li> <li>• preservation and repair of historical resources</li> <li>• other critical infrastructure projects</li> </ul>

### ***Federal Highway Administration - Additional Details (as noted on Page 2)***

#### **Transportation Enhancement (TE) Activities:**

The list of qualifying TE activities provided in 23 U.S.C. 101(a)(35) have 12 categories of eligible projects for transportation enhancement funds. TE funds may be used for direct educational expenses for surface transportation workforce development, training, and education, provided the activity specifically benefits eligible TE activities. Direct costs include training costs, conference and registration fees, and travel costs, but not salaries. Each project activity must demonstrate a relationship to surface transportation.

1. Provision of facilities for pedestrians and bicycles.
2. Provision of safety and educational activities for pedestrians and bicyclists.
3. Acquisition of scenic easements and scenic or historic sites (including historic battlefields).
4. Scenic or historic highway programs (including the provision of tourist and welcome center facilities).
5. Landscaping and other scenic beautification.
6. Historic preservation.
7. Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).
8. Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).
9. Inventory, control, and removal of outdoor advertising.
10. Archaeological planning and research.
11. Environmental mitigation to address water pollution due to highway runoff; or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.
12. Establishment of transportation museums.

#### **Economically Distressed Definition:** (42 USC 3161)

(a) Project shall be located in an area that, on the date of submission of the application, meets 1 or more of the following criteria:

(1) Low per capita income The area has a per capita income of 80 percent or less of the national average. (2) Unemployment rate above national average The area has an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate. (3) Unemployment or economic adjustment problems The area is an area that the Secretary determines has experienced or is about to experience a special need arising from actual or threatened severe unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions. (b) Political boundaries of areas An area that meets 1 or more of the criteria of subsection (a) of this section, including a small area of poverty or high unemployment within a larger community in less economic distress, shall be eligible for assistance under section 3141 or 3149 of this title without regard to political or other subdivisions or boundaries. (c) Documentation (1) In general A determination of eligibility under subsection (a) of this section shall be supported by the most recent Federal data available, or, if no recent Federal data is available, by the most recent data available through the government of the State in which the area is located. (2) Acceptance by Secretary The documentation shall be accepted by the Secretary unless the Secretary determines that the documentation is inaccurate. (d) Prior designations Any designation of a redevelopment area made before the effective date of the Economic Development Administration Reform Act of 1998 shall not be effective after that effective date.