



Notes on Transparency, Labor Standards, and Local Content Requirements in the Final Version of the American Recovery and Reinvestment Act of 2009

Principles of Recovery:

“(a) STATEMENT OF PURPOSES.—The purposes of this Act include the following:

- (1) To preserve and create jobs and promote economic recovery.
- (2) To assist those most impacted by the recession.
- (3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.
- (4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
- (5) To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases.”

Preference for Quick-Start Projects:

“SEC. 1602. In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.”

Unprecedented Accountability: An historic level of transparency, oversight and accountability will help guarantee taxpayer dollars are spent wisely and ensure that Americans can see the results of their investment.

- There are **no earmarks** or pet projects.
- In many cases, funds are distributed to existing initiatives with proven track records and with tough accountability measures already in place.
- How funds are spent, all announcements of contract and grant competitions and awards, and formula grant allocations must be posted on a special website created by the President. It must also include the names of agency personnel to contact with concerns about infrastructure projects.
- Public notice of funding must include a description of the investment funded, the purpose, the total cost, and why recovery dollars should be used. Governors, mayors, or others making funding decisions must personally certify that the investment has been fully vetted and is an appropriate use of taxpayer dollars. This information will also be placed on the internet.
- The Council of Economic Advisors must report quarterly on the results for the American economy.
- A Recovery Act Accountability and Transparency Board will be created to review management of recovery dollars and provide early warning of problems. The board is made up largely of Inspectors General.
- The Government Accountability Office and the Inspectors General are provided additional funding and access for special review of recovery funding.
- State whistleblowers who report fraud and abuse are protected.

- Requires certification by governor that: “(1) the State will request and use funds provided by this Act; and (2) the funds will be used to create jobs and promote economic growth”

Prevailing wage requirement [p. 189]:

“SEC. 1606. Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.”

‘Buy American’ Provision [p. 189]:

“Sec. 1604. Use of American Iron, Steel, and Manufactured Goods. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. (b) Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that--

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron, steel, and the relevant manufactured goods are not produced in the United States if sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written jurisdiction as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements”

Additional preference for contracting with firms owned by people with disabilities [p. 190]:

“SEC. 1608. REFORM OF CONTRACTING PROCEDURES UNDER EESA. Section 107(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is amended by inserting “and individuals with disabilities and businesses owned by individuals with disabilities.”

Incentive for hiring unemployed veterans and disconnected youth [p. 223]:

Sec 1221: “[Tax] CREDIT ALLOWED FOR UNEMPLOYED VETERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR 2010”

IN GENERAL.—Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart

(B) DEFINITIONS.—For purposes of this paragraph—

(i) UNEMPLOYED VETERAN.—The term ‘unemployed veteran’ means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

(I) having been discharged or released from active duty in the Armed Forces at any time during the 5-year period ending on the hiring date, and (II) being in receipt of unemployment

compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.

(ii) DISCONNECTED YOUTH.—The term ‘disconnected youth’ means any individual who is certified by the designated local agency— (I) as having attained age 16 but not age 25 on the hiring date, (II) as not regularly attending any secondary, technical, or post-secondary school during the 6- month period preceding the hiring date, (III) as not regularly employed during such 6-month period, and (IV) as not readily employable by reason of lacking a sufficient number of basic skills.”

Extends Trade Adjustment Assistance [p. 253]

- Extends Trade Adjustment Assistance to service sector and public workers, as well as workers in other sectors, who lost their jobs because of increased imports or factory shifts to certain foreign countries.
- Provides employment, case management, and training services to affected workers. Provides \$718 million for training of affected workers.
- Extends health care and other benefits during transition for workers displaced by trade.
- Creates a Trade Adjustment Assistance grant and technical assistance program for communities impacted by trade.
- Establishes a \$50 million Community College and Career Training grant program to provide training to workers affected by trade.
- Establishes a \$50 million Sector Partnership Grant program to carry out three-year projects to strengthen and revitalize industries and sectors and create employment opportunities for dislocated workers. Grants may be used to identify needed skills, identify training gaps, train new workers and retrain existing workers, develop training partnerships, and assist firms in meeting their training needs.

Application of certain labor standards to projects financed with certain tax-favored Bonds [p. 250]:

Present Law

The United States Code (Subchapter IV of Chapter 31 of Title 40) applies a prevailing wage requirement to certain contracts to which the Federal Government is a party.

Description of New Requirements:

The recovery bill provides that prevailing wage shall apply to projects financed with the proceeds of:

1. any new clean renewable energy bond issued after the date of enactment;
2. any qualified energy conservation bond issued after the date of enactment;
3. any qualified zone academy bond issued after the date of enactment;
4. any qualified school construction bond issued; and
5. any recovery zone economic development bond

Apprenticeship hiring tied to GSA Construction funds [p. 88]:

“Provided further That not to exceed \$3,000,000 of the funds provided shall be for on - the - job pre - apprenticeship and apprenticeship training programs registered with the Department of Labor, for the construction, repair, and alteration of Federal buildings”

Requirement for rate decoupling and energy efficient building standards tied to Energy Efficiency and Conservation Block Grants [p. 33 of Conference Committee Report]:

“The Secretary shall make grants under this section in excess of the base allocation established for a State under regulations issued pursuant to the authorization provided in section 365(f) of such Act only if the governor of the recipient State notifies the Secretary of Energy in writing that the governor has obtained necessary assurances that each of the following will occur:

- (1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the State regulatory authority has ratemaking authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers’ incentives to use energy more efficiently.
- (2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:
 - (A) A building energy code (or codes) for residential buildings that meets or exceeds the most recently published International Energy Conservation Code, or achieves equivalent or greater energy savings.
 - (B) A building energy code (or codes) for commercial buildings throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1–2007, or achieves equivalent or greater energy savings.”

Requirement for companies receiving TARP funding to hire American workers [p. 191]:

“Sec. 1610. Hiring American workers in companies receiving TARP funding.

(a) Short Title- This section may be cited as the ‘Employ American Workers Act’.

(b) Prohibition-

(1) IN GENERAL- Notwithstanding any other provision of law, it shall be unlawful for any recipient of funding under title I of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) or section 13 of the Federal Reserve Act (12 U.S.C. 342 et seq.) to hire any nonimmigrant described in section 101(a)(15)(h)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(i)(b)) unless the recipient is in compliance with the requirements for an H-1B dependent employer (as defined in section 212(n)(3) of such Act (8 U.S.C. 1182(n)(3))), except that the second sentence of section 212(n)(1)(E)(ii) of such Act shall not apply.

(2) DEFINED TERM- In this subsection, the term ‘hire’ means to permit a new employee to commence a period of employment.”