

Association of State Drinking Water Administrators

**SUMMARY OF PORTIONS OF
AMERICAN RECOVERY & REINVESTMENT ACT OF 2009
January 15, 2009 Version**

TITLE I: GENERAL PROVISIONS

Overview

- Purpose: to preserve and create jobs; to assist those most impacted; to increase economic efficiency through technological advances in science and health; to invest in transportation, environmental protection, and other infrastructures; and to stabilize state and local government budgets.
- Quick Start Activities: For infrastructure investment, preference is given to activities that can start and be completed quickly based on the following goal:

Using “at least 50 percent of the funds for activities that can be initiated not later than 120 days after enactment.”

Awards

- Formula Grants: Shall be awarded not later than 30 days after enactment (or where appropriations are not available at the time of enactment) not later than 30 days following availability of appropriation unless expressly provided otherwise in this Act.
- Competitive Grants: Shall be awarded not later than 90 days after enactment (or where appropriations are not available at the time of enactment) not later than 90 days following availability of appropriation unless expressly provided otherwise in this Act.
- New Programs: Each time period stated above may be extended up to 30 days for grants for which funding was not provided in 2008.

Binding Commitments

Each recipient shall:

- a) enter into contracts or other binding commitments not later than 1 year after enactment (or not later than 9 months after the grant is awarded) for at least 50 percent of the funds awarded.
- b) enter into contracts or other binding commitments not later than 2 years after enactment (or not later than 21 months after the grant is awarded) for the remaining funds.

- Any funds not obligated or committed as outlined above shall be recovered by the appropriate Federal agency and redistributed to other recipients able to meet the original 120 day commitment. This section applies specifically to State and Tribal Assistance Grants (STAG) as awarded by US EPA.
- All funds shall remain available for obligation until September 30, 2010.

Prohibited Uses

- None of these funds may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

Accountability/Transparency

- Each Federal Agency shall publish certain information on a new Federal website “Recovery.gov” that includes: a plan for using the available funds; and all announcements for grant competitions, allocations of formula grants, and competitive grant awards made.

Federal, state, and local governments awarding infrastructure funds shall:

- a) Notify the public of funds obligated by posting notifications on Recovery.gov
- b) Each notification shall include a description of the infrastructure funded; the purpose of the project; total cost of the project; rationale for making the award; the name of a contact person should there be questions or concerns (and the email address if the contact person is a Federal official).

*State and local governments must also have a **certification from the Governor**, Mayor, or other chief executive, as appropriate, that the infrastructure investment has “received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars.*

- All grants awarded to states and local governments for “operational purposes” must also publish the intended use of the funds (including the number of jobs created and/or sustained” on Recovery.gov.
- A new Federal Recovery Act Accountability and Transparency Board is created with seven members taken from Departments of Education, Energy, Health & Human Services, Transportation and “others.” The chair shall be the Chief Performance Officer of the President. The Board shall have oversight of all spending and actions under this Act to prevent waste, fraud, and abuse.

Reviews and Reports

- Any Inspector General of any Federal department or agency shall review any concerns raised by the public about specific investments made under this Act.

- The Comptroller General shall conduct bimonthly reviews and prepare reports on the use by selected states and localities of funds made available under this Act.

Special Contracting Provisions

- Federal Acquisition Regulations shall apply to all contracts awarded. Preference is given to fixed-price contracts through the use of competitive procedures. Any non-fixed-price contracts not awarded through competitive procedures shall be posted in a special section on Recovery.gov.

Recovery.Gov/IG & GAO

- The Act creates a new website, Recovery.gov, that shall provide: detailed data on contracts awarded, including information on competitiveness, solicitations, award processes; monthly printable reports on funds made available; and a means for the public to provide feedback of the performance of the contracts awarded.
- Title I also contains certain other provisions related to funding various Inspector General offices, whistleblower protections for Federal and nonfederal employees, and rights of GAO and IG staff to have access to contract information held by state and/or local government entities.

TITLE II:

- **Rural Development Programs:** contains a subheading called “Rural Community Advancement Program.” This is a 3 part section as follows. ((The statutory references for all three programs are Sections 306, 310, and 381 of the Consolidated Farm and Rural Development Act.)
 - \$1.1 billion is for rural community facility direct loans (The facility loans are for health care facilities, fire, public safety buildings, etc. and do not specifically list water or wastewater treatment plants as eligible);
 - \$2 billion is for business and industry guaranteed loans (The business loans appear to be principally for new private industry growth in rural area; again, water and wastewater infrastructure is not specifically listed); and
 - \$2.73 billion is for rural water and waste disposal direct loans. These funds are for communities with populations of less than 10,000. They are to fund drinking water and wastewater treatment infrastructure, “with priority given to smaller and poorer communities.” The goal is to use this level of funding to “provide an additional 3.4 million rural households with new or improved service.” There is no specific reference to these funds being targeted for a 3rd party provider nor is there delineation between allocations for water vs. wastewater project needs. This language and funding level appears only in the bill and is not mentioned in the report language.

- Section 306(a) of the Consolidated Farm and Rural Development Act is further referenced in both the legislative and report language by stating that **\$400 million is available for rural water and waste disposal direct loans and \$1.1 billion is available for rural water and waste disposal grants.** The language goes on to provide unusual caveats to state that these amounts “*shall be transferred to, and merged with, the appropriation for ‘Rural Housing Service, Rural Community Facilities Program Account, Rural Business-Cooperative Service, Rural Business Program Account, and Rural Utilities Service, Rural Water and Waste Disposal Program Account.’*” A further caveat provides that priority will be given to applications that demonstrate that all project elements will be fully funded, if the application is approved; and that all activities can be completed, and will commence promptly upon receipt of an award.
- A separate section funds the Natural Resources Conservation Service at \$350 million for “watershed and flood prevention operations.” These are defined (report language) as flood prevention and water quality improvement projects including dams to “reduce flood risk and provide agricultural irrigation and water supply and infrastructure to clean polluted water.” However, \$175 million of the total is for backlog floodplain easement projects. *There is a possibility that some of these funds could go to rural water – but not very likely.*
- The remainder of the title applies to rural housing, utilities, food, and nutrition allocations.