



American Recovery and Reinvestment Act of 2009

A Review for Civil Engineers

In its *2009 Report Card for America's Infrastructure*, the American Society of Civil Engineers (ASCE) reported in January that the nation needs to invest approximately \$2.2 trillion over the next five years to maintain our infrastructure in good condition. Even with current and planned investments from federal, state, and local governments in the next five years, the "gap" between the overall need and actual spending will total more than \$1 trillion by 2014.

Acting in response to the present economic emergency, the Obama administration and Congress completed work on a \$787 billion emergency economic recovery package less than a month after the new administration took office. Included in the American Recovery and Reinvestment Act (P.L. 111-005) were approximately \$100 billion in infrastructure investments designed to create jobs quickly.

ASCE welcomes the additional funding for infrastructure as a means to create jobs and for the renewed commitment to improving the nation's public works. The recovery package, however, must be viewed as simply a down payment toward improving the nation's infrastructure. While the investments offered in the stimulus are significant, the infrastructure investment gap identified in the *Report Card* is still greater, and much is left to be done over the coming years.

The American Recovery and Reinvestment Act (ARRA) targets economic growth through two paths: direct fiscal expenditures, or appropriations, and through tax incentives. ASCE has compiled a summary of both the appropriations and tax provisions of the package that relate directly to major infrastructure investments, federal capital building projects, and engineering practice that are the focus of the *Report Card*.

For more information, please visit ASCE's Government Relations website at <http://www.asce.org/govrel>, or contact us with specific questions at govwash@asce.org or 202-789-7850.

Ongoing processes of the recovery will be tracked on ASCE's website. Information on other provisions of the bill can also be tracked at a new government website <http://www.recovery.gov>

Appropriations Summary

ARRA imposes few deadlines for expenditures of the funds. Assume that there is no statutory deadline for all following items, unless specifically stated.

Department of Agriculture

Forest Service – The ARRA provides \$650 million for priority road, bridge and trail maintenance, including related watershed restoration and ecosystem enhancement projects.

Natural Resources Conservation Service - provides leadership in a partnership effort to help America's private land owners and managers conserve their soil, water, and other natural resources.

ARRA invests the following amounts to restore the infrastructure in small watersheds across the nation:

- \$145 million to invest in structural and non-structural watershed infrastructure improvements.
- \$50 million to rehabilitate aging flood control infrastructure, with an emphasis on projects that are in the greatest danger of failing and threatening public safety.

Rural Utilities Service - assists rural utilities expand and keep their technology for systems such as electricity, telephone, water and waste disposal services up to date. The stimulus invests \$1.38 billion for water and waste disposal facilities in rural areas. Priority for awarding funds must be given to those projects that can demonstrate the ability to begin as soon as approved.

Department of Commerce

Economic Development Administration (EDA) - leads the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. The agency does this through grants or “investments” to government entities and eligible non-profits to create jobs and generate private investment.

ARRA invests \$150 million in EDA Assistance programs with priority given to “areas of the nation that have experienced sudden and severe economic dislocation and job loss due to corporate restructuring.”

National Institute of Standards and Technology - promotes U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life.

ARRA invests:

- \$360 million for the construction of new facilities and maintenance of existing facilities;

- \$180 million reserved for the construction of science research buildings; and
- \$220 million for scientific and technical research.

National Science Foundation

The National Science Foundation is the funding source for approximately 20 percent of all federally supported basic research conducted by America's colleges and universities.

ARRA invests:

- \$400 million for the construction of major facilities and research equipment, with all funds to be available until Sept. 10, 2010;
- \$2.5 billion for research and related activities;
- \$200 million available for academic research facility modernization.

U.S. Army Corps of Engineers – Civil Works

The recovery package invests a total of \$4.6 billion for water resources projects that may be obligated quickly; that will result in high, immediate employment; and that will provide a useful service without additional funding. The bill authorizes the Corps of Engineers to carry out unlimited reprogramming of all funds appropriated under the Act.

ARRA directs the Corps to spend the funds for the following:

- \$2 billion for construction;
- \$375 million for projects on the Mississippi River and tributaries;
- \$2.075 billion for operation and maintenance;
- \$25 million for investigations to carry out studies for future projects; and
- \$100 million for the cleanup of closed military bases under the Formerly Utilized Sites Remedial Action Program (FUSRAP).

To ensure the funds are being invested in accordance with the legislation's intent, the Corps must report to Congress quarterly on the progress of projects funded under the recovery package. The first report is due April 3, 2009.

While the Senate bill contained language establishing project funding priorities, this provision was left out of the final bill. Additionally, another Senate proposal to fund levee inventories and inspections under the requirements of the Water Resources Development Act of 2007 was not retained in the final bill.

Department of the Interior

Bureau of Reclamation - largest wholesaler of water in the country bringing water to more than 31 million people, and providing one out of five Western farmers with irrigation water for 10 million acres of farmland that produce 60% of the nation's vegetables and 25% of its fruits and nuts.

ARRA provides \$1 billion for water and related resources infrastructure. Similar to the provisions in the Corps' funding, the Interior Department must report to Congress quarterly on the progress of projects funded under ARRA.

The legislation allows for:

- \$50 million of the funds to be used for the Central Utah Project;
- \$50 million for the California Bay-Delta Restoration Project; and
- Not less than \$10 million shall be used for a bureau-wide inspection of canals program in urbanized areas.

The first report is due April 3, 2009. There is no statutory deadline for expenditures imposed, but no project funded by the Act will be eligible for future appropriations.

Bureau of Land Management is responsible for carrying out a variety of programs for the management and conservation of resources on public lands managed by the federal government. ARRA invests \$180 million for the construction of roads, bridges, and trails on Bureau lands.

Bureau of Indian Affairs - provides services to approximately 1.7 million American Indians and Alaska Natives. ARRA invests \$450 million for construction projects, including improvements and repairs to buildings, roads, schools, and jails on Tribal lands.

U.S. Fish and Wildlife Service (FWS) - dedicated to the conservation, protection, and enhancement of fish, wildlife and plants, and their habitats. ARRA includes \$115 million for the construction of roads, buildings, energy conservation projects, and habitat restoration on FWS lands.

National Park Service – preserves and maintains public lands designated for their historic or natural significance. ARRA provides \$835 million for the construction and rehabilitation of major buildings, roads, and historic sites.

U.S. Geological Survey - focuses on biology, geography, geology, geospatial information, and water, and is dedicated to the timely, relevant, and impartial study of the landscape, natural resources, and natural hazards. \$140 million is included in ARRA for construction, repair, and restoration of buildings; upgrades and replacement of stream gages, seismic and volcano monitoring systems, and map activities; and deferred maintenance.

The Department of Education

State Fiscal Stabilization Fund – ARRA creates the stabilization fund for states and provides \$53.6 billion. The law reserves 18 percent of the fund for public safety programs and a portion of this may be used "for modernization, renovation, or repair of public school facilities and institutions of higher education facilities" at the discretion of state officials. It is not yet determined how much of the total will be devoted to school infrastructure.

Department of Energy

ARRA provides \$4.5 billion for electricity delivery and energy reliability to modernize the nation's transmission grid. Investments to build more than 3,000 miles of new or modernized transmission lines will create jobs immediately and lower the number of power outages, increase reliability, and allow for the transmission of electricity from renewable sources.

Department of Energy's Office of Science: ARRA provides \$1.6 billion for research in such areas as climate science, biofuels, high-energy physics, nuclear physics and fusion energy sciences.

Advanced Research Project Agency-Energy (ARPA-E): The ARRA provides \$400 million to support high-risk, high-payoff research into energy sources and energy efficiency in collaboration with industry.

General Services Administration (GSA)

ARRA invests a total of \$5.55 billion for the Federal Buildings Fund. Specifically the bill invests:

- \$750 million for the construction of federal buildings and federal courthouses;
- \$450 million for a new headquarters building for the Department of Homeland Security;
- \$300 million for the construction of border stations and land ports of entry; and
- \$4.5 billion to upgrade federal buildings to become high-performance green buildings.

The first \$5 billion must be obligated by the GSA no later than September 30, 2010, with the remaining \$55 million to be obligated by September 30, 2011.

Department of Homeland Security

U.S. Customs and Border Protection (CBP) - ARRA invests \$420 million for the planning, management, design, alteration, and construction of land ports of entry owned by the CBP.

U.S. Coast Guard – ARRA invests \$142 million for the alteration or removal of obstructive bridges that are determined to be ready for construction.

The Department of Homeland Security must report to Congress on a plan for spending the funds by April 3, 2009.

Environmental Protection Agency (EPA)

ARRA invests funds to preserve and restore the nation's natural resources through a variety of methods. Specifically, the bill devotes:

- \$4 billion for the Clean Water Act State revolving Loan Fund (SRF) program.
- \$2 billion for the Safe Drinking Water Act SRF program.

Funds must be allocated to projects ready for construction by February 17, 2010. EPA must reallocate all SRF funds for any project not under contract by February 17, 2010. The bill waives the 20 percent matching requirement in current law for loans from both SRF programs. At least 50 percent of all SRF funds must be used for grants, negative-interest loans, or loan forgiveness.

Additionally, ARRA invests:

- \$600 million for Superfund to clean up hazardous waste sites on the National Priorities List;
- \$200 million for the Leaking Underground Storage Tank Trust Fund;
- \$100 million for brownfields grants.

Department of Transportation

Federal Aviation Administration - \$1.1 billion is invested for grants to airports to provide capacity and safety improvements under the Airport Improvement Program. The money is to remain available until September 30, 2010. Project sponsors must demonstrate to the Department of Transportation that the project can be completed by February 17, 2011.

Federal Highway Administration – ARRA invests \$27.5 billion for roads, bridges, and other Federal Aid Highway Program infrastructure. The money is to remain available until September 30, 2010. Priority will be given to projects that can be completed by February 17, 2012. All funds not obligated by a state by February 17, 2010, will be given to another state by the Department of Transportation.

Federal Railroad Administration – to improve, expand and modernize the nation's intercity passenger rail system, ARRA dedicates \$8 billion for high-speed rail. The money is to remain available until September 30, 2012. The Department of Transportation must report to Congress by April 18, 2009, on its strategy for building high-speed passenger rail systems funded by the Act.

Additionally, \$1.3 billion goes to Amtrak, with a maximum of 60 percent to be used for the Northeast Corridor (Boston-Washington, D.C.) infrastructure. The money is to remain available until September 30, 2010. All funds must be committed to projects no later than March 19, 2009.

Federal Transit Administration – ARRA invests significant funds for modernizing and expanding the nation’s transit systems to ease congestion and reduce greenhouse gas emissions. Specifically, the legislation invests:

- \$6.9 billion for capital assistance grants. The funds are to remain available until September 30, 2010. All funds must be apportioned for obligation to projects by March 10, 2009. Fifty percent of all unobligated funds will be redistributed to other projects no later than August 16, 2009.
- \$750 million for fixed guideway infrastructure investments, including track and buildings. The funds are to remain available until September 30, 2010. All funds must be apportioned for obligation by March 10, 2009. Fifty percent of all unobligated funds will be redistributed to other projects by the Department no later than August 16, 2009.
- \$750 million for capital investment grants for new starts and small projects already under construction or nearly ready to begin construction. The funds are to remain available until September 30, 2010. Priority is to be given to projects already under construction or that will begin construction by July 17, 2009.

Discretionary Competitive Grants – ARRA created a special discretionary competitive grant program and invested \$1.5 billion for a new program to fund large transportation projects of all modes with costs between \$20 and \$300 million.

The Secretary of Transportation may allocate \$200 million of these funds for the Transportation Infrastructure Finance and Innovation Act credit assistance program. The Secretary must develop regulations for the program within 90 days of the law’s enactment, project applications are due in 180 days after the regulations are produced, and project awards must be made within one year of the law’s enactment. The grants will be available for all surface transportation systems that will have a significant national, regional, or metropolitan impact. The funds must be balanced between urban and rural projects and distributed equitably on a geographic basis. Funds are to remain available through September 30, 2011.

Maintenance of Effort – 30 days after enactment of the law, individual governors must certify states will maintain their effort on transportation investment. States must submit a statement identifying state funding plans on the date of enactment of the bill in the area of transportation through FY 2010. States failing to maintain their transportation efforts will be prohibited from participating in the FY 2011 redistribution of federal highway funds.

Tax Provisions Summary

Three Percent Fee Withholding

The Tax Reconciliation Act of 2006 requires all federal, state, and local governments that award more than \$100 million in property or services contracts annually to firms in the private sector to withhold three percent of the contract payment to close the “gap” of unpaid income taxes. The withholding provision would apply to all contract payments made after December 31, 2010. ASCE strongly opposes this law believing it rests an unreasonable burden on firms providing engineering services.

In an ASCE-supported action, the House version of ARRA repealed the three percent withholding provision outright, however, the Senate bill delayed the deadline from December 31, 2010, to December 31, 2011. Congress adopted the Senate amendment, and the three percent withholding will begin with all contract payments above the regulatory threshold beginning January 1, 2012.

High-Speed Intercity Rail Facility Bonds

The Internal Revenue Code (IRC) allows taxpayers to deduct interest on income from state or local bonds. While bonds on private activity are generally taxed, those that are issued for the construction of high speed rail enjoy the same tax-exempt status as municipal bonds. However, previous regulations only allowed the exemption on systems that operate at speeds in excess of 150 miles – severely limiting the exemption’s potential savings to buyers. ARRA, however, removed the restriction and now the exemption applies to any high speed rail system that *may* operate at 150 mph. The provision took effect February 17, 2009.

Qualified School Construction Bonds

ARRA created a new form of tax-credit bonds called “qualified school construction bonds.” The bonds require that one hundred percent of the proceeds from the bond issue go to the construction, rehabilitation, or repair of public schools or to buy land on which to build a qualified school building. ARRA sets a national limit of \$5 billion for the calendar years 2009 and 2010 for qualified school construction bonds. Bond holders will receive a tax credit rather than a deduction from their taxes. The provision applies to all school bonds issued beginning January 1, 2009.