MEMORANDUM

To: Apollo staff, State and Local Affiliates
From: Elena Foshay
Date: January 30, 2009
RE: American Recovery and Reinvestment Act of 2009 – Opportunities for Cities and States

This memo attempts to answer some critical implementation questions related to the stimulus package. It begins with a brief summary of the elements included in the package to date, with the understanding that the specifics will likely change somewhat before the final bill is signed into law. It continues with answers to a few frequently asked questions, followed by a brief discussion of some strategies for taking advantage of the stimulus package at the state and local level. This memo is just the beginning of the discussion around implementation – state and local governments and community advocates should continue to follow the progress of the bill and engage in critical conversations and planning efforts in the ensuing months.

Current Status of the Bill

The American Recovery and Reinvestment Act of 2009 was introduced by the House of Representatives on January 26. The Senate just released its own version of the bill (not discussed here), and the two houses will need to reconcile their bills before sending a final version to the President for signature. This memo focuses on the House version of the bill, with the assumption that many of its provisions will end up in the final law.

Summary - American Recovery and Reinvestment Act, as introduced by the House of Representatives

The American Recovery and Reinvestment Act of 2009, as introduced by the House of Representatives on January 26, contains $550 billion in investments and $275 billion in tax incentives, including over $114 billion in incentives for clean energy and/or green job creation – and more if investments in construction, highway maintenance, and other infrastructure projects are included. Clean energy investments fall into these broad categories:

- Energy efficiency
- Renewable energy
- Energy infrastructure

- Transportation and transit
- Brownfield remediation, land and water conservation
- Research and development
- Workforce development

The investments included in each of these areas clearly have the potential to spur significant development and large-scale deployment of clean, energy-efficient technologies. Done right, they can provide widespread opportunities for employment for Americans in both rural and urban areas. Whatever the final bill contains, it is clear that Congress and the Obama administration hope the clean energy economy can help move America out of its fiscal crisis.

Following are more details about the House version of the Act:

Energy Efficiency

Energy efficiency programs, funded at approximately $50 billion, are the largest beneficiary of the clean energy programs outlined in the House version of the American Recovery and Reinvestment Act. This is also the portion of the Act that most clearly devolves clean energy money down to the states and local governments. The majority of this investment goes toward construction and retrofitting of public buildings, including schools, low-income housing, health centers, research labs, military facilities, and other government buildings. The Act also funds the Energy Efficiency and Conservation Block Grant Program, authorized in the 2007 Energy Independence and Security Act (EISA), to help state and local governments make investments that conserve energy and reduce carbon emissions; it also contains funding for retrofits carried out through State Energy Program offices. Finally, the Act leverages $5 billion in loans to help institutions implement sustainable energy infrastructure projects.

The Act includes a number of provisions targeted specifically toward low-income families. First, the Act places priority on upgrades to publicly-subsidized low-income housing in both rural and urban areas. Additionally, it dramatically expands the Weatherization Assistance Program to help low-income homeowners reduce their energy costs. To alleviate the affects of rising energy costs, the Act increases funding for LIHEAP, which offers direct assistance for energy bills to low-income families. The Act also provides funding for customer rebates for the purchase of energy efficient appliances.

These sections will clearly create many construction jobs across the country. **While prevailing wage standards apply to laborers and mechanics working on projects funded all or in part by the Recovery Act, the bill still lacks other labor standards such as local hire requirements or linkages to green job training programs in the construction sector**. There are two exceptions to this rule:

1. The section devoted to high-performance green schools, which prioritizes opportunities for YouthBuild program participants to work on the projects.

2. Another exception refers to Housing and Urban Development funding for energy efficient retrofits of low-income housing, which prioritizes projects that provide employment opportunities for unemployed and low-income persons.

Most notable is the sheer number of construction and repair projects mentioned throughout the bill that are *not* tied to energy efficiency standards or labor standards beyond prevailing wage. Funding for building rehabilitation and construction projects is allocated to the Department of Defense, Department of Agriculture, Centers for Disease Control, National Institute of Health, Bureau of Indian Affairs, Department of Education, and the National Science Foundation. None of these projects prioritize energy efficiency improvements or green building standards, linkage with training programs, or preference for locally-produced building materials beyond iron and steel.

Renewable Energy

One of the issues facing many renewable energy companies is that they can no longer reliably access the Production Tax Credit (PTC), once the major public incentive for wind and solar projects, because of the credit liquidity crisis. The Act expands opportunities for business investors in renewable energy by extending the Production Tax Credit and allowing renewable electricity producers to elect the Investment Tax Credit in lieu of the PTC. The Act also allows credits to offset taxes paid over the previous five years and removes some limits on ITC investment amounts.
The Act provides additional support to businesses and utilities by authorizing an additional $1.6 billion in Clean Renewable Energy Bonds (CREBs) to finance construction and expansion of renewable energy generation facilities.

The Act further aims to reinvigorate renewable energy production and transmission through a Department of Energy (DOE) temporary loan guarantee program that leverages approximately $80 billion in loans for these projects. The program is intended to provide adequate capital for construction of a new generation of renewable energy projects and to make improvements to the nation’s transmission system. This section also includes a specific mention of prevailing wage requirements for all projects receiving support from the loan guarantee program, in addition to the standard which applies to the entire bill. The Act provides additional funding through the DOE for energy efficiency and renewable energy research, development, demonstration, and deployment. Funding is specifically targeted toward biomass and geothermal projects, as well as solar, hydroelectric, and combined heat and power projects.

At the same time, though industrial efficiency is arguably one of the most critical pieces of an American clean energy strategy, only a relatively small amount ($500 million) is set aside for DOE grants to fund industrial efficiency projects that demonstrate the viability of capturing waste energy and using it to generate electricity. And no money is allocated to the thousands of component manufacturers currently located in the U.S., which have the potential to produce parts for the growing renewable energy, energy efficiency, and efficient vehicle sectors.

Energy Infrastructure

The transmission grid, the backbone of the electricity system, is a big winner in this bill. The Act provides almost $11 billion for electric grid upgrades, including matching funds for the Smart Grid Investment Program and support to the Bonneville Power Administration and the Western Area Power Administration, to expand the viability of incorporating renewable energy into the grid. **Part of this funding goes toward job training programs in the public utilities sector to prepare the necessary workforce, though there is no mention of prioritizing union apprenticeships or other certified training programs.** The Act also provides significant funding for Carbon Capture and Sequestration demonstration projects, such as the FutureGen project in Central Illinois.

Transportation and Transit

The Recovery and Reinvestment Act makes a variety of significant investments in both public transit and transportation infrastructure. In the Act, transportation funding is weighted toward highway projects, with approximately three-quarters of the funding going to highway construction ($30 billion of approximately $40 billion in overall transportation funding). The bulk of the funding allocated to transit goes toward programs to help cities and metropolitan areas purchase new vehicles; unfortunately, of the approximately $6.5 billion allocated to these programs, only $400 million includes specific requirements that the new vehicles be efficient and/or use alternative fuel (and again, no money is authorized to help U.S. manufacturers retool or scale up to supply this new vehicle market). The Act provides other funding for capital investments in new fleet vehicles and new commuter rail and light rail, as well as supporting improvements in inter-city passenger rail services; it also includes funding to modernize existing transit systems, including renovations to stations, security systems, computers, equipment, structures, signals, and communications.

Though bridge and highway repair are arguably the highest transportation priority in a country with crumbling infrastructure, the Act provides only about $200 million for ready-to-go investments in bridge repairs; however, as previously stated, the Act provides significant funding to highway and bridge construction projects, some of which could be targeted toward maintenance and repair.

Finally, the Act funds research, development, and manufacturing of advanced vehicle batteries and battery systems to power these vehicles, as authorized in the 2007 Energy Bill.

An important note about the transit and transportation section is that **most of this money will flow through existing channels, meaning that it will go directly to the state Departments of Transportation** to disburse to state and local projects. Some advocates, including many members of the T4 America coalition (of which Apollo is a part), have expressed concerns that this will result in spending that is heavily weighted toward new highway construction and other large-scale "shovel-ready" projects at the expense of smaller repair or local transit projects.

Land and Water Conservation

The Recovery and Reinvestment Act makes a number of relatively small (about $2 billion in total) investments in brownfield remediation, including cleaning up and redeveloping Superfund sites, former military bases, and idle mines. The goal of each of these investments is to return contaminated lands to productive use. The Act also invests in both water and land conservation, including fish and wildlife habitat restoration, watershed rehabilitation, and safe and clean drinking water projects, as well as providing support for National Park and Forest Service projects. By far the largest of these programs is the Clean and Drinking Water State Revolving Funds, funded at $8 billion in the Act.

Research and Development

The Apollo Alliance has consistently emphasized the need to scale up federal investments in the research, development and deployment activities that will anchor the longer-term clean energy future, and potentially lead to American-made products that can be exported to other countries working to reduce their carbon emissions. The Recovery and Reinvestment Act makes significant investments in a wide array of research and development activities through a number of different federal agencies.

The Act designates a total of over $1 billion toward the construction of new laboratories and other research facilities, which will create new jobs for technicians and advanced researchers. It also provides significant support for a wide array of research priorities. The Department of Energy receives support for research into the physical sciences, including funds to the Advanced Research Projects Agency - Energy (ARPA-E) to support innovative high-risk, high-payoff research of energy efficiency and alternative energy sources. The US Geological Survey, NOAA, and NASA all receive funding for scientific research on climate change and its impacts on the environment. The National Institute of Standards and Technology receives support for coordinating research efforts around green building standards, smart grid, and other technologies. The National Science Foundation receives support for research into fundamental science and engineering. The military receives funding for research into renewable energy power systems for military bases and weapons stations.

In addition to these, the National Institute of Technology and Standards receives funding for the Technology Innovation Program, which speeds the development of high-risk research targeted to address key societal challenges. To help bring these new technologies to market, the Manufacturing Extension Partnership network receives support for providing technical assistance to manufacturers and other businesses. This entire section of the bill is interesting in that it drives funding mainly to federal agencies and labs, rather than to states and cities for eventual re-granting to individual companies.

Workforce Development

In the section of the bill most directly responsive to work Apollo and others have been doing over the past few years, the Recovery and Reinvestment Act provides a number of funding opportunities for creating green job training and service corps programs. To begin, the Recovery Act provides some funding to Job Corps programs, to prepare young people for work performing energy efficiency upgrades. The Act also provides funding for training of utility workers in conjunction with Smart Grid projects.

The Act also provides $500 million to fund job training in the renewable energy and energy efficiency industries as defined by the Green Jobs Act. **The bill does NOT, however, fund the Green Jobs Act.** Instead, it creates a competitive grants program whose design is at the discretion of the Secretary of Labor. This means that no specific priority is given to multi-stakeholder partnerships or to labor-management training programs. Additionally, there is a strong likelihood that the Green Jobs act will not be included in the Senate version of the bill. The Green Jobs Act is significant in that it was written by green jobs advocates with job quality standards and career pathways in mind, and provides a clear role for labor-management partnerships and union apprenticeship programs in implementing training programs.

The remaining sections of the Act focused on worker training are not aimed specifically at preparing job seekers for green-collar industries, but the funds can certainly be funneled toward these types of programs. For example, the Act increases, by more than $2 billion, Workforce Investment Act funds targeted toward under-served populations such as youth, people with disabilities, displaced workers, and Older Americans. At the same time, the Act invests in improving science and math education at the K-12 and university levels, to prepare students for careers in advanced fields, many of which will be directly relevant to the emerging clean tech industry.

Finally, the Act supports, to the tune of about $250 million, the expansion of national service programs such as Americorps and YouthBuild. These programs give young people hands-on experience serving their communities while teaching valuable job skills. Opportunities to perform community service can be linked to other stimulus investments, such that young people assist in performing energy efficient retrofits in low-income housing, or in brownfield remediation.

Labor Standards

While the American Recovery and Reinvestment Act promises to create or retain over 3.5 million jobs, there are few clear standards attached to guarantee that these jobs will be good jobs – or, for that matter, whether they will be American jobs. As previously mentioned, **the Act as introduced does include a requirement that prevailing wage be paid to all laborers and mechanics employed on projects funded in any part by**

the federal government. It also requires that all iron and steel used for any construction, maintenance, or repair project funded by the Act be produced in the United States. And the Act provides some support to the Department of Labor for enforcing "worker protection laws" as recovery projects and unemployment insurance investments are carried out.

While including these standards in the final bill would represent a significant victory, there are other important elements still missing. To begin, the Act lacks broader wage level guarantees, local hiring or apprentice hiring requirements, and preference for domestically-produced materials beyond iron and steel. It also lacks any kind of formal linkage between job training investments and jobs created through stimulus projects, such that participation in training programs provides no guarantee of accessing employment.

Transparency

The Recovery and Reinvestment Act contains an historic level of transparency, oversight and accountability that will help guarantee taxpayer dollars are spent wisely and Americans can see results from their investment. In most instances, funds are distributed through existing formulas to programs with proven track records and accountability measures already in place. **All announcements of contract and grant competitions and awards, as well as reports on how funds are spent, will be posted on a new website** (**www.recovery.gov**). Program managers will also be listed so the public knows who to contact and hold accountable.

Public notification of funding must include a description of the investment funded, the purpose, the total cost and why the activity should be funded with recovery dollars. 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 will also be placed on the recovery website.

A Recovery Act Accountability and Transparency Board will be created to review management of recovery dollars and provide early warning of problems. The seven member board includes Inspectors General and Deputy Cabinet secretaries. Additionally, federal and state whistleblowers who report fraud and abuse are protected and the Government Accountability Office and the Inspectors General are provided additional funding and access for special review of recovery funding.

Apollo Concerns

Though the stimulus bill has some strong green-collar jobs provisions, a number of Apollo priorities are conspicuously absent from the bill. We are currently working with our partners and with elected leaders to make sure that important elements of our agenda are included in the final bill.

Right now, **billions in the bill are slated to construction projects for military bases, health care facilities, schools, and other institutions - but with no requirement that these projects be done in an energy efficient or green manner**. Billions more are directed to public projects and to tax incentives for businesses with no job standards or labor protections attached. We must work to make sure that federal funds for infrastructure, manufacturing, and construction are spent in a way that moves America toward oil independence and broadly shared economic prosperity.

The Act also lacks sufficient investment in domestic manufacturing. Stable funding for component manufacturing, such as the $50 billion loan guarantee program that was included in the Stabenow/Brown bill, would support the retooling and expansion of manufacturing facilities to produce renewable energy component parts and energy efficient products and materials. This would create and retain large numbers of manufacturing jobs, particularly in places hardest hit by the economic crisis. We feel that the Act must also include guarantees that products and materials used in completing construction and infrastructure projects come from domestic manufacturers. Without such guarantees, a large portion of the manufacturing employment and economic benefits of the stimulus investment will go overseas.

The Act also fails to invest in large-scale, multi-building energy efficiency retrofit projects. Such projects can achieve the economy of scale necessary to attract union contractors that pay good wages and can hire from local apprenticeship programs. They also have a greater impact because they put public money to use while leveraging private investment dollars.

On a more general note, we are concerned about the sheer size of the bill and the difficulty states and cities will have holding contractors accountable while trying to spend vast amounts of money quickly. The administration will put heavy pressure on state and local governments to get these contracts signed as soon as possible; it will be up to state and local advocates to continually push for job quality standards, best value contracting, subsidy accountability, and the other “high road” measures that Apollo and our affiliates have long embraced.

FAQs

What is the timeline for implementation?

In general, funds made available by the Act will remain so until September 30, 2010. As soon as the bill is signed into law, federal agencies will have 30 days to award formula grants, 90 days to award competitive grants, and 120 days to award grants to programs that were not funded in 2008 (and are therefore considered new). All grant funding awarded must be used within two years of the initial contract date.

How will stimulus dollars flow to states and cities?

All stimulus dollars will flow through existing formulas and processes. Details vary by program, so it is critical that advocates read relevant sections of the bill carefully to find the references to existing bills, and then search out those bills to fully understand the funding process. For example, the Green Jobs Act funding will go through direct grants from the Department of Labor, whereas the Energy Efficiency and Conservation Block Grant money will go to states and cities based on a formula allocation, and then be distributed from there.

Much of the funding allocated to states will flow through governors' offices, as established by existing formulas. This includes Workforce Investment Act funds, Weatherization Assistance Program funds, and transportation funds. State fiscal stabilization funds aimed at state Departments of Education will also flow through Governors' offices.

In the particular case of the Energy Efficiency and Conservation Block Grant program, 68% is allocated to city and county programs using a population-based formula developed by the Department of Energy; 28% is allocated to states, which are then required to pass 60% of those funds through to cities and counties not receiving direct formula funding; 2% is allocated to tribal programs; and 2% is allocated for DOE competitive grants for non-formula cities and counties.

In anticipation of the mammoth task of making sure stimulus dollars are used effectively, some states are setting up new agencies to oversee and manage state-level recovery programs. We have heard, for instance, that Wisconsin is setting up an entire state administrative body to manage Recovery act funds. The Act includes some portion of each allocation to assist with such administration and management efforts.

What kinds of programs will the stimulus package support?

The stimulus package explicitly supports only existing programs, or programs with an existing authorization that have not yet been funded. Within this requirement, however, state agencies administering funds can choose to support new local programs that fit within existing rules and regulations. For example, the Apollo Alliance pushed hard to get a supplement to the Energy Efficiency and Conservation Block Grant program that would be targeted specifically at large-scale, multi-building private retrofit projects, which was seen as a new program that couldn't be funded through the Act. However, a city could certainly use its EECBG funding to start a local retrofit project of this type.

The Act also specifies that preference will go toward projects that can begin quickly, with at least 50% of funds going toward projects that can begin within 120 days. It requires that recipients of grant funds use them in a way which maximizes job creation and economic benefit. As such, the package does not include planning grants to support the development of new local and regional initiatives.

Opportunities for State and Local Affiliates

There are a number of actions that Apollo state and local affiliates can take to prepare for taking advantage of stimulus opportunities:

- Know the processes and entities through which your Governor's or Mayor's office plans to administer funds. If a state agency is being created, find out the process for selecting agency staff, and look for staff allies.

- Find out which task forces are being created, or whether existing task forces will be involved in developing state or local recovery priorities and strategies. Get involved with these task forces wherever possible.

- Start developing multi-stakeholder green job training partnerships as supported by the Green Jobs Act. Begin mapping green 'pathways out of poverty,' and identifying labor force data or program gaps, as detailed in *Greener Pathways* and *Green-Collar Jobs in America's Cities*.

- Make sure that labor, businesses, and community organizations are represented on all task forces, committees, and other administrative boards.

- Find ways to attach job quality standards and linkage to training programs through discretionary funds, in RFP processes at the state level, and in program planning and implementation at the local level. Project-level agreements such as Community Benefits Agreements (CBAs) may be the best way to attach these standards in many cases. Both Good Jobs First and the Partnership for Working Families have a number of useful resources available on their website, including policy examples and model CBAs. Good Jobs First also just released a report entitles *High Road or Low Road? Job Quality and the Green Economy*, which details some of the challenges and successes in creating quality green jobs.

- Look for opportunities to integrate infrastructure investment, economic development, and workforce development strategies and programs. For example, funds for construction and renovation of public buildings could be combined with job training funds to create a program which improves energy efficiency and trains disadvantaged populations in the building trades. Preference could be added for locally-produced building materials, which would support local businesses and manufacturing jobs.

- Look for creative ways to use funds in a way that achieves your clean energy, good jobs goals. For instance, Weatherization Assistance Program money is generally spent on a house-by-house basis with no coordinated links to local job training programs. But perhaps advocates could work with cities to aggregate these funds to create a block-by-block retrofit program in a low-income area, and take advantage of the resulting scale of the project to require linkages to a green jobs corps or other green career ladder program.

- Develop criteria for evaluating proposed recovery projects. The New York Apollo Alliance, for example, has developed a set of criteria for evaluating the environmental and economic performance of Recovery Act proposals.[1] Under these criteria, projects receiving stimulus grants must:
    - Create employment for a wide spectrum of workers, ranging from low-skilled labor to highly skilled labor.
    - Support local employment opportunities. Outsourcing occurs not only when jobs are sent overseas, but also when labor is imported into an area with a trained and ready labor pool that can, and should, be employed.
    - Create jobs that provide good wages, health care benefits, and paid time off.
    - Promote employment in environmentally sustainable areas, such as building retrofits, brownfield redevelopment, and urban forestry.
    - Promote the maintenance and retrofitting of existing infrastructure, such as mass transit, roads, and bridges, rather than the building of new systems.

[1] Urban Agenda. *Federal Economic Stimulus Package and New York City* (2009). Available at: http://www.urbanagenda.org/nycapollo/fedstimulus.htm