



## **ASA Special Report: American Recovery and Reinvestment Act of 2009 The Stimulus Package**

On Feb. 17, 2009, President Barack Obama signed the \$787-billion “American Recovery and Reinvestment Act of 2009,” or the stimulus package. ASA worked hard to secure provisions that will help the construction industry lead the economic recovery, including critical construction funding, construction-related programs and tax relief. The new law promises to save or create two million construction jobs over the next two years.

### **Construction Investment**

The stimulus package provides more than \$135 billion in direct outlays for construction. The bulk of the funding will go to federal, state and local public entities for work stalled due to budget shortfalls, or start new, shovel-ready projects that will break ground within a few months. Funding breaks down as follows:

- Transportation: \$49.3 billion, including \$29.5 billion for bridge and highway construction, \$6.9 billion for transit programs, \$8.8 billion for high-speed rail investment and \$1.8 billion for airport improvement grants.
- Energy-efficiency and technological improvements: \$29.8 billion, including \$11 billion to improve the nation’s electrical grid, \$7.2 billion to expand broadband availability, and \$5 billion for home weatherization assistance programs in the states.
- Building construction and improvements: \$29.6 billion, including \$5.6 billion to the General Services Administration to rehab government buildings, \$7 billion to the Department of Defense for military housing and facility improvement, and \$8 billion for housing programs.
- Environmental and water infrastructure: \$21.4 billion, including \$5.6 billion for the Army Corps of Engineers and Bureau of Reclamation, \$7.4 billion for clean water programs, \$7.8 billion for environmental cleanup programs.

The law also includes \$8.8 billion in discretionary funds that states can use for the construction and renovation of schools.

In order to expedite the stimulative effect on the economy, a governor is required to accept funds allocated to their states within 45 days or the state legislature must decide whether to accept the funds. The law includes a goal that each state obligate 50 percent of its funds within 120 days. Transportation funds are distributed to states on a stricter schedule – the 120-day goal is a requirement for receiving the second half of allocations.

The law requires that all projects use American-made steel, iron and manufactured goods unless: (1) doing so would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of goods produced in the United States will increase the cost of the overall project by more than 25 percent.

### Initial Reports

The first quarterly recipient reports were due on Oct. 10, 2009. Recipients reported a total of 640,329 jobs created or saved by Recovery projects: 30,908 by federal contract awards, 607,919 by grants, and 1,503 by loans. According to recipient reports, \$158.7 billion (58 percent of funds) has been awarded, and \$38 billion (13 percent of funds) has been received.

## **Tax Provisions**

The “American Recovery and Reinvestment Act of 2009” provides more than \$287 billion in tax relief to individuals and businesses.

### Business

Businesses, and particularly smaller businesses, will enjoy tax breaks that mitigate losses and prompt investment in the future of the firm:

- Extension of increased small business expensing
- Bonus depreciation
- Small business capital gains exclusion
- Temporary reduction of S Corp built-in gains holding period from 10 to 7 years
- Expand work opportunity tax credit for disconnected youth and unemployed veterans
- 5-year carry-back of net operating losses for 2008 for small businesses with gross receipts of \$15 million or less (This program has been extended to 2009 losses.)
- Delayed recognition of certain cancellation of debt income over 10 years

### Energy Tax Incentives

These provisions will help governments, businesses and homeowners invest in making their property more energy efficient:

- Long-term extension and modification of renewable energy production tax credit
- Temporary election to claim the investment tax credit in lieu of the production tax credit
- Clean Renewable Energy Bonds (“CREBS”): \$1.6 billion
- Qualified Energy Conservation Bonds: \$2.4 billion
- Removal of dollar limitations on certain business and residential energy credits
- Tax credits for energy-efficient improvements to existing homes
- Tax credits for alternative fuel pumps
- Repeal subsidized energy financing limitation on the investment tax credit

### State and Local Governments

Tax provisions for state and local governments will stabilize income and help manage costs associated with administering taxes:

- One-year deferral of the 3 percent withholding requirement on government contractors
- De minimis safe harbor exception for tax-exempt interest expense for financial institutions
- Modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions
- Eliminate costs imposed on state and local governments by the AMT
- Qualified School Construction Bonds: \$11 billion
- Extension and increase in authorization for Qualified Zone Academy Bonds (QZAB): \$1.4 billion
- Tax credit bond option for state and local governments (a.k.a., “Build America Bonds”)
- Grants for low-income building construction and rehabilitation in lieu of tax credit
- Modify speed requirement for High-Speed Rail Exempt Facility Bonds

### Distressed Areas

Tax provisions for distressed areas will help stabilize those state and local economies struggling most:

- Tax exempt bonds and tax credit bonds to “recovery zones” (i.e., area with high unemployment, foreclosures, or poverty): \$25 billion
- Tribal Economic Development Bonds: \$2 billion

### Individuals

In addition to immediate increases in income for individuals, the following tax provisions will help small business owners and prompt investment in new homes:

- One-year (2008) AMT patch
- Increases \$7,500 first-time homebuyer credit to \$8,000 for homes purchased in 2009; removes requirement that credit be repaid (This provision was extended to May 1, 2010.)

- Employees with income less than \$125,000 for individuals or \$250,000 for couples and terminated involuntarily between Sept. 1, 2008 and Dec. 31, 2009 will qualify for a 65 percent subsidy for COBRA continuation health insurance for up to nine months after the date of termination or lay-off. Employers must apply to the Department of Labor for reimbursement of premiums paid on behalf of their former employees.

## **Other Construction-related Programs**

The stimulus law allocated additional funds and protections for two Small Business Administration (SBA) programs supported by ASA – the Surety Bond Guarantee Program and loan programs.

### SBA Surety Bond Guarantee Program

The law temporarily increases the upper limit of surety bonds that the SBA can guarantee, from \$2 million to \$5 million, allowing small businesses to compete for larger projects for which they might not normally be able to secure payment and performance bonds. The stimulus package also allocates an additional \$15 million to the SBA surety bond revolving fund to help expand the program's reach.

### SBA Loan Programs

SBA's two primary business loan programs, 7(a) and 504, help small businesses by guaranteeing bank loans and providing for long-term economic development, respectively. The stimulus law included several provisions to expand these programs:

- Fee Reductions – \$375 million to allow for temporary elimination of or reductions in the fees the SBA charges to lenders and borrowers in the loan programs, giving borrowers and smaller banks priority in receiving fee relief.
- Temporary Increase in SBA Guarantee Levels – The law allows the SBA to, on a case-by-case basis, temporarily raise the guarantee level (up to 90 percent) for 7(a) loans, other than loans made through the SBA Express program. Currently, the maximum guarantee levels are 75 percent for loans over \$150,000, and 85 percent for loans of \$150,000 or less.
- Business Stabilization Program – These new program will temporarily allow the SBA to (i) fully guarantee "stabilization" loans that cannot exceed \$35,000, and (ii) fully subsidize a small business borrower's interest payment on the stabilization loan. A borrower does not have to begin repaying the stabilization loan until 12 months after receiving it, and the loan must be paid in full within 5 years.
- Microloans – The law appropriates \$30 million for the SBA's microloan program, with \$24 million dedicated to microloan technical assistance and \$6 million for new microloans.

## **Oversight and Transparency**

The stimulus law includes unprecedented oversight and transparency provisions, including additional funding for agency inspectors general that will conduct investigations in instances of misconduct, additional progress reporting requirements, and the launch of a new Web site that will allow Americans to see how and when money is being used.

The site, [www.recovery.gov](http://www.recovery.gov), includes the full text of the law, timelines for disbursement, tracking on projects to which funds have been allocated, announcements on government action related to the stimulus and mechanisms for individuals to contact the Recovery Accountability and Transparency Board with questions and concerns about the impact of the law.

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