



The American Recovery and Reinvestment Act of 2009:
A Guide for State and Local Governments

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Latham & Watkins LLP

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Authors:

Stuart S. Kurlander
+1.202.637.2169

Edward W. Correia
+1.202.637.2220

Gabriel K. Bell*
+1.202.637.2227

www.lw.com

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Introduction

President Obama signed the American Recovery and Reinvestment Act of 2009 (the ARRA) into law on February 17, 2009, advancing an ambitious plan to revitalize the nation's economy. This \$787 billion package seeks to stimulate economic growth through federal spending on such programs as education, energy, health care, housing, and transportation.

The ARRA provides funds for a wide array of public and private actors, including federal entities. This paper summarizes key opportunities for state, local, territorial, and tribal governments to secure federal support through the ARRA. This includes direct funding as well as opportunities to act as a conduit for funds to constituents. Many of the provisions in the ARRA increase funding for existing programs. This paper summarizes current law where appropriate, but assumes familiarity with such existing programs.

This paper is not intended as a comprehensive guide to any particular program, but is intended as a general summary of the law to help identify funding opportunities for further inquiry. Any organization or entity interested in a specific program or opportunity referenced in this paper should seek additional information from the relevant government agencies, and consult with competent counsel to determine applicable legal requirements in a specific situation.

Time is an important consideration in evaluating opportunities under the ARRA. By 45 days after the date of enactment (April 3, 2009), state governors (or in some cases, state legislatures) must certify that their states will request and use funds and that these activities will create jobs and economic growth. The ARRA emphasizes rapid expenditure by imposing deadlines for application and disbursement and granting priority to projects that can use funds quickly. Therefore, authorities that are able to take quick action will benefit most from the new funding. Any date contained in this paper is either explicitly set forth in the text of the ARRA or is calculated based on the number of calendar days from the enactment thereof. Dates determined by calculating the number of days from enactment of the ARRA are determined without regard to whether the date falls on a weekend or federal holiday and, therefore, are necessarily estimates. Legal counsel should be consulted to determine these dates with certainty.

Many provisions of the ARRA do not provide guidance on the distribution of funds provided therein. In the coming weeks, relevant government agencies will issue guidance regarding application and disbursement of funds under their jurisdiction.

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11. TECHNOLOGY AND SCIENCE

Broadband Technology Opportunities Program - \$4.7 billion [A.II; B.VI]

- The ARRA provides at least \$4.35 billion in funding for the National Telecommunications and Information Administration (NTIA) of the Department of Commerce to distribute under the Broadband Technology Opportunities Program (BTOP) for broadband deployment efforts. 47 U.S.C. §§ 1301 *et seq.* State, local, and tribal governments are eligible for funding, as are certain private organizations.
- Funding can be awarded for a wide range of projects, including acquisition of equipment, training, and support for schools, libraries, health care providers, community colleges and other community institutions; construction of broadband infrastructure; ensuring access for vulnerable populations.
- Of the \$4.35 billion, at least \$200 million is available for competitive grants to expand public computer center capacity, including at community colleges and public libraries. At least \$250 million is available for competitive grants for innovative programs to encourage sustainable adoption of broadband service.
- The Assistant Secretary of Commerce for Communications and Information must establish and implement the program “expeditiously” in consultation with the Federal Communications Commission. Applicants must provide assurances that funded projects will be completed within two years of receipt of funds. Applicants must provide at least 20 percent matching funds (absent a need-based waiver). All awards must be made before the end of FY 2010. The NTIA will award at least one grant in each state.
- In making awards, the NTIA will look for applications that provide the greatest affordability and speed of broadband service to the greatest population; and those that target broadband service for children, education, and health care delivery. Grantees will be subject to quarterly reporting requirements.
- The NTIA also will distribute up to \$350 million under the BTOP to establish the State Broadband Data and Development Grant program, and develop and maintain a national broadband inventory map. 47 U.S.C. § 1301 note.

Distance Learning, Telemedicine, and Broadband Program - \$2.5 billion [A.I]

- The ARRA provides additional funds for broadband infrastructure, available to local governments, utility districts, irrigation districts, and others. This will provide grants, loans and loan guarantees, as administered by the Department of Agriculture under the Rural Electrification Act. See 7 U.S.C. §§ 901 *et seq.*, and 918c.
- Any local government can apply for a grant or loan, provided 75 percent of the area to be served by the loan or grant is rural and without sufficient access to broadband service (as determined by the Secretary of Agriculture).

- The Secretary of Agriculture will give priority to applications: (1) from current or former borrowers under the Rural Electrification Act; that (2) deliver consumers a choice of more than one service provider; (3) provide service to the highest proportion of rural residents lacking broadband service; (4) demonstrate that if the application is approved, all project elements will be fully funded; (5) can be completed if the requested funds are provided; and (6) can commence promptly upon approval.
- However, project areas funded under this program may not simultaneously receive funding for broadband access under the BTOP program described above.

National Science Foundation Research and Related Activities - \$2.5 billion
[A.II]

- The ARRA provides \$2.5 billion in funding for "research and related activities" to the National Science Foundation (NSF). Funds will only be available until September 30, 2010. The NSF appears to have significant discretion in channeling the expenditure of these funds, but several programs are specifically designated to receive funding:
 - **\$400 million** for the Major Research Equipment and Facilities Construction program, which makes funding available to colleges and universities through competitive grants for the acquisition of research equipment, such as telescopes, observatories, and advanced computing systems.
 - **\$300 million** for the Major Research Instrumentation program, which makes funding available to state colleges, universities, and research museums for acquisition or development of major research instrumentation. Under previous solicitations, applications for funding to acquire general purpose computer networks were returned without further review, but proposals for computer networks required to perform specific research tasks were eligible. Previous grantees were subject to reporting requirements.
 - **\$200 million** for available for academic facilities modernization under the Academic Research Infrastructure Facilities Modernization Program. Under previous solicitations, funds were made available to colleges and universities to renovate and modernize existing facilities. This program does not fund new construction projects.

National Center for Research Resources - \$1 billion
[A.VIII]

- The National Center for Research Resources (NCRR), administered under the Department of Health and Human Services, National Institutes of Health, provides resources for medical and scientific research throughout the United States.
- The ARRA provides an additional \$1 billion to the NCRR for the construction, renovation, and repair of non-federal research facilities. In addition, § 481A of the Public Health Service Act (42 U.S.C. § 287a-1) allows state and local entities to compete for contracts for construction and renovation of these facilities.
- The ARRA allows the NCRR to use up to \$300 million of these funds to provide research equipment to recipients of NCRR grants.

- Furthermore, the ARRA also: (1) waives the cost-sharing and cost-limiting provisions of the Public Health Service Act for the additional \$1 billion in funds; (2) reduces the time period (from 20 years to 10 years) for which recipients of grants must assure the NCRR that the facility will be used for its original purpose; and (3) limits the federal government's ability to recapture the funds if the facility is not used for its original purpose. See Public Health Service Act §§ 481A(c)(1)(B)(ii), 481A(e), 481B, 481A(c)(1)(B)(i), 481A(f); 42 U.S.C. §§ 287a-2, 287a-3.

Health Information Technology

- See Health Care.

National Institute of Standards and Technology Research Facilities - \$360 million [A.II]

- The National Institute of Standards and Technology (NIST) in the Department of Commerce will distribute \$360 million to finance the maintenance, renovation, and new construction of research facilities. Of this sum, **\$180 million** will fund a competitive construction grant program for research science buildings. This funding has previously been used for projects, such as laboratories, test facilities, measurement facilities, and observatories, at public and state-controlled colleges and universities.

Weatherization and Energy Efficient Technology

- See Energy.

If you have any questions about this publication, please contact one of the authors listed below:

Stuart S. Kurlander

Washington, D.C.
+1.202.637.2169

Edward W. Correia

Washington, D.C.
+1.202.637.2220

Gabriel K. Bell*

Washington, D.C.
+1.202.637.2227

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Office Locations:

Abu Dhabi

Tel: +971.2.672.5002

Chicago

Tel: +1.312.876.7700

Frankfurt

Tel: +49.69.6062.6000

London

Tel: +44.20.7710.1000

Milan

Tel: +39.02.3046.2000

New Jersey

Tel: +1.973.639.1234

Orange County

Tel: +1.714.540.1235

San Diego

Tel: +1.619.236.1234

Silicon Valley

Tel: +1.650.328.4600

Washington, DC

Tel: +1.202.637.2200

Barcelona

Tel: +34.93.545.5000

Doha

Tel: +974.452.8322

Hamburg

Tel: +49.40.41.40.30

Los Angeles

Tel: +1.213.485.1234

Moscow

Tel: +7.495.785.1234

New York

Tel: +1.212.906.1200

Paris

Tel: +33.1.4062.2000

San Francisco

Tel: +1.415.391.0600

Singapore

Tel: +65.6536.1161

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Hong Kong

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Madrid

Tel: +34.91.791.5000

Munich

Tel: +49.89.20.80.3.8000

Northern Virginia

Tel: +1.703.456.1000

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Tel: +39.02.3046.2000

Shanghai

Tel: +86.21.6101.6000

Tokyo

Tel: +81.3.6212.7800

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