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**THE AMERICAN RECOVERY AND
REINVESTMENT ACT OF 2009**

**OPPORTUNITIES FOR FEDERAL
GRANTS, LOANS AND OTHER SUPPORT FOR
BROADBAND PROJECTS**

ADDITIONAL BROADBAND FUNDING OPPORTUNITIES

In addition to the ARRA's provisions that explicitly provide opportunities for funding of broadband projects, the Act includes a vast amount of funding in areas that may produce opportunities for creative uses of broadband connectivity of the Internet.

I. TRANSPORTATION INFRASTRUCTURE FUNDS

\$27.5 billion for highways
\$8.4 billion for transit
\$8.0 billion for high speed rail
\$1.3 billion for Amtrak
\$1.5 billion for National Surface Transportation Discretionary Grants
\$48.1 billion

Highway/rail/transit infrastructure improvements may provide fresh opportunities to deploy broadband facilities in rights of way, particularly in aid of the development of for high speed rail and intercity rail projects, and Intelligent Transportation Systems.

Intelligent Transportation Systems ("ITS") use technology to enable operating agencies and private users to keep transportation systems performing as efficiently and safely as possible. Examples include, traffic signal upgrades and optimization, traffic adaptive signal control, transit signal priority, ramp metering, closed-circuit television, dynamic message signs, open road tolling, pavement sensors, transit AVL/CAD, and traffic incident management programs. As such, ITS have broadband communications requirements.

A. **Administration:** Funding is primarily administered by individual state departments of transportation, pursuant to individual state rules and the national Surface Transportation Program of the federal Highway Administration.

B. **Eligibility:** Other than rail related projects, funding is generally restricted to state entities and political subdivisions.

- In order for a transportation infrastructure project to obtain funding it should be included in the relevant metropolitan Transportation Improvement Program (TIP) or Statewide Transportation Improvement Program (STIP).
- Potential applicants should coordinate with their respective Metropolitan Planning Organizations (MPO) or State Department of Transportation (State DOT)

C. Eligible services:

- Broad flexibility for transportation related activities including: construction, paving, bridges, transit pedestrian, bikes, research, training, planning, enhancements, operations, ITS, traffic signals, intersections, and safety.
- Priority to projects that generate significant improvements in safety/mobility

D. Federal grant share – 100% (no match requirement)

E. Grant Applications – state dependent.

F. Examples of Project Grants:

- In St. Cloud, Minnesota, a \$320,000 transportation stimulus grant was utilized for a traffic-monitoring software upgrade. St. Cloud operates the system pursuant to a joint powers agreement with the county and the Minnesota Department of Transportation.
- In South Carolina, a \$1 million stimulus grant was utilized to install fiber optic lines along interstate routes to connect existing field devices (cameras and VMS) which were operating on dial-up circuits.
- In Utah, a \$6.2 million stimulus grant was utilized to install fiber for interconnecting traffic signals; ITS expansion; and signal detection upgrades.

II. SMART GRID INVESTMENT PROGRAM

Provides \$4.5 billion for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid. The provision seeks to foster widespread deployment of demand side management equipment, and to enhance the overall efficiency, cost-effectiveness, security and reliability of the nation's electric grid pursuant to the smart grid provisions of Title XIII of the Energy Independence and Security Act ("EISA")(42 U.S.C. § 17381 – 17386).

- The development of a "Smart Grid" electric system involves the application of digital technologies to enable real-time coordination of information from generation supply

resources, demand resources, and distributed energy resources. Smart Grid technology utilizes wireless sensor networks, software, and computing to enable utilities to see how much and where energy is being consumed, and if there are problems or blackouts in the network. Businesses and homeowners will be able to see how much energy they've consumed and adjust their consumption habits accordingly.

- As envisioned, two-way connected smart meters will be installed in every home and business. Smart meters will pave the way for real-time pricing, where energy is priced at different rates depending on the time of day and how much demand there is for the electricity. Utilities can use real-time pricing to improve management of loads on the grid, while home owners can use it to cut their monthly energy bills.
- An integral component of the successful deployment of a smart grid is the ubiquitous availability of a communications network.

A. **Administration:** Funding is administered by the Department of Energy ("DOE"). The DOE is directed to provide financial support to smart grid demonstration projects in urban, suburban, tribal, and rural areas, including areas where electric system assets are controlled by electric utilities of all kinds, including public, cooperative, and investor-owned utilities.

B. **Eligibility:** Participation in the development of demonstration projects is open to all public and private utilities as well as non-utilities.

- The DOE is required to establish and maintain a smart grid information clearinghouse, which will make data from smart grid demonstration projects and other sources available to the public. As a condition of receiving financial assistance, a utility or other participant in a smart grid demonstration project must provide project information for the smart grid information clearinghouse, with appropriate confidentiality protection for business proprietary information and individual customer information.
- As a condition of receiving funding demonstration projects are required to utilize open protocols and standards (including Internet-based protocols and standards) if available and appropriate.

C. **Federal grant share** – up to 50%

D. **Application**

Within 60 days of the enactment of the stimulus bill, the DOE is required to issue a Notice of Intent and subsequent solicitation of grant proposals, to establish procedures by which applicants can obtain grants for not more than one-half of their documented costs (April 16, 2009). The procedures are to include:

- A requirement that demonstration projects utilize open protocols and standards (including Internet-based protocols and standards) if available and appropriate; and
- Ensure that there is no duplication or multiple payments for the same investment or costs, and that the grants made have a significant effect in encouraging and facilitating the development of a smart grid.
- On March 6, the DOE's Office of Electricity Delivery and Energy Reliability (OE) issued a Funding Opportunity Announcement (FOA) for developing, populating, managing, and maintaining a Web-based Smart Grid Information Clearinghouse.
- The creation of the Clearinghouse is an integral part of Smart Grid development. Its purpose is to consolidate public, technical, legislative, and other information on Smart Grid development and practices, and to direct website users to additional information sources both in the United States and internationally. The goal is to facilitate coordination and collaboration among all Smart Grid stakeholders, ranging from end users to technology developers, to support the advancement of the program for the benefit of the entire Nation. More information about Smart Grid can be found at the Office of Electricity Delivery and Energy Reliability website at <http://www.oe.energy.gov/smartgrid.htm>

E. Role of FERC -- Interoperability Standards

Under the EISA, the National Institute of Standards and Technology (NIST) is coordinating development of a framework that includes protocols and standards to achieve Smart Grid interoperability (i.e., the ability of a system or a product to work with other systems or products). Once the Federal Energy Regulatory Commission ("FERC") is satisfied that NIST has achieved "sufficient consensus" on interoperability standards, EISA directs FERC to adopt, by rulemaking, interoperability standards and protocols necessary to ensure Smart Grid functionality in the interstate transmission grid and wholesale electricity markets. To facilitate NIST's efforts, on March 19, 2009, FERC issued a proposed Policy Statement to prioritize development of key interoperability standards.

The proposed Policy Statement prioritizes the development of interoperability standards and provides guidance to the electric utility industry regarding cybersecurity requirements for Smart Grid projects. Comments on the proposed Policy Statement are due 45 days after publication in the *Federal Register*.

III. HEALTH INFORMATION TECHNOLOGY

A total of \$19 billion is available for widespread adoption and use of interoperable health information technology, including e-health records, etc. This includes \$2 billion in funding for health information technology (“HIT”) infrastructure, training, dissemination of best practices, telemedicine, inclusion of health information technology in clinical education, and state grants to promote health information technology. The largest allocation of funding — approximately \$17 billion — is for incentive payments through the Medicare and Medicaid reimbursement systems to encourage providers and hospitals that serve Medicare and Medicaid patients to implement electronic health records technology systems.

A. Administration

The Department of Health and Human Services (“HHS”) is the primary federal agency involved in managing the HIT program, in coordination with individual state departments of health. The Stimulus Act requires the creation of the Office of the National Coordinator for Health Information Technology (“ONCHIT”) with Department of Health and Human Services. The ONCHIT will be headed by a national coordinator appointed by the Secretary of HHS. The national coordinator is charged with developing a nationwide HIT infrastructure that improves health care quality, reduces health care costs, and protects patient health information. The national coordinator is required to update the Federal Health IT Strategic Plan to address the use of electronic health records technology, including privacy and security of health information.

- The Stimulus Act requires the creation of a HIT Policy Committee to make policy recommendations to the national coordinator relating to implementation of a nationwide HIT infrastructure, including implementation of the Federal Health IT Strategic Plan.
- The policy recommendations will address standards, implementation specifications, and certification criteria, and recommend the priority for development, harmonization, and recognition of the standards, specifications, and certification criteria, including authentication, privacy, and security of individually identifiable health information as needed to ensure interoperability. Recommendations also will cover accounting for disclosures of health information; encryption of health information, including during transmission over the nationwide health information network; comprehensive collection of patient demographic information; and the needs of children and other vulnerable populations.
- Other areas that the HIT Policy Committee may consider, include the use of the nationwide HIT infrastructure for bio-surveillance, public health, clinical research and drug safety; self-service technologies; telemedicine

technologies; home health care; and patient and family member secure access to health information.

- The makeup of the HIT Policy Committee is to be comprised of a broad spectrum of constituents, including patients, health care providers, health care workers, and information privacy and security, insurance, and information technology vendors.

B. State Grants to Promote HIT

The national coordinator is authorized to award planning and implementation grants to states or qualified state-designated entities to facilitate and expand electronic health information exchange.

- **Eligibility:** To qualify as a state-designated entity, an entity must be a nonprofit organization with broad stakeholder representation on its governing board and must adopt nondiscrimination and conflict of interest policies.

C. Regional Centers

The Department of HHS will provide assistance for the creation and support of regional centers to provide technical assistance and disseminate best practices and other information learned from the Health Information Technology Research Center to support and accelerate efforts to adopt, implement, and effectively utilize HIT that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted by the national coordinator.

- **Eligibility:** Funding awards will be merit-based, and regional centers must be affiliated with a nonprofit institution or organization based in the United States that receives funding under the Stimulus Act. Financial support can be provided to regional centers for a period of up to four years, and cannot exceed more than 50 percent of the of the capital and annual operating and maintenance costs of the regional center.

D. Competitive Grants to States and Native American Tribes for Loan Programs

The Stimulus Act authorizes the national coordinator to award competitive grants to states or Native American tribes to establish loan programs for health care providers to purchase certified electronic health records technology, train personnel in the use of such technology, and improve the secure electronic exchange of health information.

- **Eligibility:** Grants are restricted to states and Native American tribes that: (1) establish a qualified HIT loan fund; (2) submit a strategic plan describing the intended uses of the funds and providing assurances that loans will only be given to health care providers that submit required reports on quality measures and use the certified electronic health records technology supported by the loan for the electronic exchange of health information to improve the quality of care; and (3) provide matching funds of at least \$1 for every \$5 of federal funding.

E. Research and Development Programs

The Stimulus Act provides funding for universities and research consortia to establish multidisciplinary Centers for Health Care Information Enterprise Integration (Centers). Grants will be awarded on a merit-reviewed, competitive basis. The purposes of the Centers include generating innovative approaches to technology integration through cutting-edge, multidisciplinary research, and HIT development.

Eligible research areas include:

- Interfaces between human information and communications systems
- Voice recognition systems
- Software that improves interoperability and connectivity among health information systems
- Software dependability of systems critical to health care delivery
- Measurement of technologies on the quality and productivity of health care
- Health information enterprise management
- Health information security and integrity
- Technology to reduce medical errors

F. Integration of HIT into Clinical Education

The Stimulus Act directs the Department of HHS to create a demonstration program for awarding competitive grants to medical, dental, and nursing schools and to other graduate health education programs to integrate HIT into the clinical education of health care professionals.

- **Eligibility:** To be eligible, grantees have to submit a strategic plan. A grant cannot cover more than 50 percent of the costs of any activity for which assistance is provided.

G. Information Technology Professionals in Health Care

The Stimulus Act directs the Department of HHS, in consultation with the director of the National Science Foundation, to provide financial assistance to universities to establish or expand medical informatics programs.

- **Eligibility:** To be eligible, grantees have to submit a strategic plan. A grant cannot cover more than 50 percent of the costs of any activity for which assistance is provided. Guidelines are still being developed as are application procedures.

IV. OTHER SIGNIFICANT FUNDING PROGRAMS THAT COULD BE USED IN PART TO SUPPORT BROADBAND CONNECTIVITY

A. School Construction Funds (\$21B) (Department of Education)

Funds for renovation, modernization, energy efficiency, and technology improvements, including \$6B for higher education institutions.

B. Public Safety and Critical Services (\$8.8B) (States)

Block grants to states, could provide funding for interoperable public safety broadband communications

C. Public housing infrastructure (\$12B) (Department of Housing and Urban Development)

Funds to local public housing agencies to rehabilitate public housing, and neighborhood stabilization.

D. Energy efficient housing retrofits (\$0.25B) (Department of Housing and Urban Development)

Competitive grants to upgrade HUD low-income housing to increase energy efficiency.

E. Expanded Municipal Bond Interest Deductibility. The Stimulus Act contains provisions that are aimed at loosening up the municipal bond market and to lower the cost to issuers of municipal bonds by changing some of the tax implications of these bonds. These provisions are flexible enough to apply to municipal broadband projects.

F. Build America Bonds

The Stimulus Act authorizes municipalities to treat bonds issued in 2009 and 2010 as “Build America Bonds” (“BABs”) provided that such bonds are: (1) not private

activity bonds; (2) otherwise tax-exempt under existing law; and (3) issued with no more than a *de minimis* amount of original issue premium.

Under BABs issuers may elect to receive a direct federal cash subsidy with respect to certain bonds in lieu of providing bondholders with the tax credit. Unlike traditional tax-exempt bonds or tax-credit bonds, BABs bear taxable interest for the holder. The federal government, however, provides a tax benefit to issuers of BABs through a direct cash subsidy or to holders of BABs with a credit against federal income tax.¹

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¹ APPA, “Provisions of Interest To Public Power In the American Recovery and Reinvestment Act Of 2009” (Mach 2009).