

PENNSYLVANIA STIMULUS OVERSIGHT COMMISSION

DECEMBER 3, 2009

Summary Report

Ron Naples, Chairman, convened the meeting of the Commission at 11:00 a.m. on Thursday, December 3, 2009, in Conference Room 1 of the Forum Place Building, Harrisburg. Members in attendance included Gene Barr, Charlie Battaglia (representing Sen. Specter), Guy Ciarrocchi (tele-conferencing), Secretary Jim Creedon, Rep. Brian Ellis, Terry Kostoff (representing Sen. Casey via tele-conferencing), Rep. Jennifer Mann, Tony Ross, Don Siegel, Sen. Mike Waugh, and an individual representing Sen. Mellow.

Meeting Agenda

- 1) Welcoming Remarks – Ron Naples, Chairman, Pennsylvania Stimulus Oversight Commission
- 2) Implementation Report – Jim Creedon, Secretary, Department of General Services
- 3) Presentations
 - Minority, Women's, Veterans' and Small Business Enterprise Update – Jim Creedon
 - Education Update – Gerald Zahorchak, Pennsylvania Secretary of Education
 - ARRA Bond Programs – John Cross, U.S. Treasury
 - Pennsylvania Planned ARRA Bond Programs
 - Department of Education – Mike Walsh, Deputy Secretary
 - DCED – John Blake, Executive Deputy Secretary
 - Office of the Budget – Rick Dreher, Director, Bureau of Revenue, Capital and Debt
 - Proposed Plan for Pennsylvania Health Information Exchange – Phil Magistro, Deputy Director, Program Implementation State Government HIT Coordinator, Governor's Office of Health Care Reform
 - Stimulus Performance Report Plans – Eileen McNulty, Deputy Accountability Officer

Welcoming Remarks

Ron Naples began the meeting with opening remarks touching on several subjects.

First, he discussed the issue of reporting and phantom congressional districts. He indicated there were 14 instances of incorrect reports out of 6,000 reports filed in Pennsylvania and they represented \$10 million in spending out of total spending in excess of \$4 billion. Also, he indicated that the reports in question had not been filed by the Commonwealth but by other reporting entities within the state.

Secondly, he mentioned that Pennsylvania ranked 27th nationally in terms of jobs created. However, he stated that a direct comparison with other states was difficult since, due to the budget situation, our reports did not include State Fiscal Stabilization Fund expenditures for education and most other states did include these expenditures.

Thirdly, he stated that no reports on waste, fraud or abuse had been received by the Commission hotline since the last meeting and there have been no requests for Buy America waivers.

Implementation Report

Secretary Creedon, Chief Implementation Officer, provided the Implementation Report to the Commission. As of November 19, 2009, the total investment of ARRA funds by the Commonwealth was \$5.272 billion, of which \$3.530 billion has already been spent and \$1.742 billion is in progress. The amounts only reflect those ARRA funds that are disbursed through the Commonwealth.

Transportation and Infrastructure

Highways and Bridges – As of December 3, 2009, \$925 million or 90 percent of the funds estimated to be received have been obligated. A total of 279 projects of 293 projects have opened bids; 270 projects have Notice to Proceed; 202 projects have started work; and 57 projects have been completed. Further, an additional 33 projects were certified on November 20, so as of the next report the total projects will increase from 293 to 326. A total of \$342.6 million (99.2 percent of total funding) has also been obligated in rural transit projects. PennDOT reported to FHWA that 5,886 jobs had been created or sustained for the month of October.

Clean Water and Wastewater

As of December 3, 2009, 88 of the 118 projects awarded by PennVest have settled, totaling \$167.8 million in ARRA investment. Eighty-five of the projects settled have started and the estimated number of jobs on these projects, as reported by the grantees, is 4,437. The Congressional House Infrastructure and Transportation Committee ranks Pennsylvania eighth nationally in terms of the speed with which ARRA funding for clean water projects is being implemented.

Energy

PA Conservation Works! – Of the \$23 million in available ARRA funding, more than \$15.3 million was awarded to local governments and over \$7 million was awarded to non-profit organizations. Out of more than 500 submitted applications a total of 450 applications were deemed eligible and 99 projects in 48 counties were awarded funds.

PA Green Energy Works –The application periods for Combined Heat and Power and Biogas projects closed on October 9 and October 23 respectively but awards have yet to be

announced. The application period for Solar Round 1, which has \$7 million to award closed on November 9. A total of 20 applications totaling approximately \$24 million were received. The application period for Wind projects (\$19.8 million to be awarded) is open until mid-December.

Weatherization – Contracts have been executed for 41 of the 43 participating agencies and funding has been received and work begun by those 41 agencies. To date, 552 homes have weatherization in progress and 34 homes have been weatherized. Further, memoranda of understanding between DCED and L&I have been executed, and L&I continues to work to certify existing workers and plan for additional training centers.

Other Energy or Environment Programs

Appliance Rebate – the U.S. Department of Energy has approved the plan submitted by the Commonwealth and it is expected that the program will be rolled out in early 2010.

Leaking Underground Storage Tanks – 20 of the 71 projects in this category have started with a total investment of \$6.1 million.

PEDA projects -- 2 of the 17 ARRA-funded projects are complete.

Competitive Grants

Applications Due

| <u>Agency</u> | <u>Program</u> | <u>Status</u> |
|---------------|----------------------------|-----------------------|
| DCNR | The National Map | Application due 12/1 |
| DEP | EECBG – Competitive | Application due 12/14 |
| DOH | Putting Prevention to Work | Application due 12/1 |
| Education | Statewide Data Systems | Application due 12/4 |
| Education | Race to the Top (Phase 1) | Application due 1/19 |

Applications Submitted

| | | |
|----------------|-----------------------------------|---------------|
| Administration | Broadband | Applied 8/24 |
| DCED | NSP-2 | Applied 7/17 |
| DEP | Appliance Rebate Program | Applied 10/15 |
| DMVA | Fire Station Construction | Applied 7/10 |
| DOT | Intercity Passenger Rail (1,3) | Applied 8/24 |
| DOT | TIGER | Applied 9/15 |
| DOT | Intercity Passenger Rail (2) | Applied 10/2 |
| GOHCR | Health IT | Applied 10/16 |
| L&I | Market Info. Improvement | Applied 8/13 |
| L&I | Health Care & Emerging Industries | Applied 10/5 |
| L&I | SESP Training Grants | Applied 10/20 |
| L&I | Workforce Training for Power | Applied 11/30 |
| PHMC | Geothermal Technologies Program | Applied 8/6 |

Positive Application Results

| | | |
|---------|-----------------------------------|---------------------|
| DPW/PDE | Early Head Start Expansion | Awarded \$1,186,084 |
| Health | Healthy Homes Demo | Awarded \$ 875,000 |
| Health | Healthcare Associated Infection | Awarded \$1,020,480 |
| Health | Immunization and Vaccines | Awarded \$1,803,140 |
| Health | Primary Care Offices | Awarded \$ 42,555 |
| Health | WIC – Electronic Balance Transfer | Awarded \$ 462,264 |
| Health | State Loan Repayment Program | Awarded \$ 156,000 |
| Health | WIC – IT Hardware/Software | Awarded \$ 792,315 |
| Health | Ambulatory Care – HAI | Awarded \$ 336,479 |

Presentations

Minority, Women’s, Veterans’ and Small Business Enterprises Update – Jim Creedon

The ARRA Act makes no direct provisions for participation of small disadvantaged businesses. However, some federal administering agencies, including the Federal Highway Administration, the Environmental Protection Agency, the Department of Energy and the Department of Housing and Urban Development have provided MBE/WBE/DB participation guidance. The Commonwealth’s strategy on this issue is to utilize existing federal program requirements where applicable, or if none exists, to utilize current policies of the state administering agency and expand those state practices to include veteran-owned businesses and small businesses.

The Commonwealth has established a goal that at least 10 percent of ARRA funds should go to small disadvantaged businesses as contractors, subcontractors, grantees, sub-grantees and suppliers. Agencies are required to participate in outreach efforts to encourage and increase small and disadvantaged business interest and participation. Also, they are directed to track and report such participation.

To encourage participation, the following has been ongoing:

- email updates to certified MBEs/WBEs from the Bureau of Minority and Women Owned Business Opportunities regarding opportunities;
- business to business events in Philadelphia, Harrisburg and Pittsburgh partnered with MBDA’s regional support;
- agency outreach events to grantees and contractors;
- coordination with DCED to include small business outreach;
- coordination with L&I to include veteran-owned business outreach;
- web resource information specifically aimed at small disadvantaged businesses on the “recovery” website;
- identification of point persons on stimulus in each agency to answer questions and provide information; and

- designation of a team of personnel within DGS to assist MBE's/WBEs with ARRA issues.

Additionally, both PennDOT and DEP have individual agency efforts. PennDOT has met with the Associated Pennsylvania Contractors and the American Council of Engineering Companies to encourage the use of certified MBE/WBE firms; provided and continues to provide assistance to MBE/WBE firms in certifying, bidding as prime contractors, and engaging as subcontractors; circulated a listing of all PennDOT ARRA projects to over 800 DBE firms; and communicated information regarding FHWA's ARRA bond fees reimbursement program to MBE/WBE firms. DEP has collaborated with the Legislative Black Caucus and MBDA in outreach events; strengthened MBE/WBE/DBE requirements in programs; and created resource materials and guidance materials to better assist prime contractors in soliciting participation.

All of these efforts will continue and the Commonwealth will also focus on providing applicable entities with information on non-Commonwealth related opportunities such as those available through local governments, universities, non-profit organizations and local education agencies.

Education Update – Gerald Zahorchak

Pennsylvania receives significant ARRA education funding. The following summary provides detailed information.

| <u>ARRA Funding Stream</u> | <u>Amount allocated to Pennsylvania</u> |
|--|--|
| State Fiscal Stabilization Fund (Phase I: \$1.04 billion/Phase II: \$514 million) | \$1.56 billion |
| ARRA Title 1 | \$398 million |
| ARRA Title 1, School Improvement | \$121 million |
| ARRA IDEA School Age and Preschool | \$427 million |
| ARRA IDEA Pre-school Early Intervention | \$ 14 million |
| ARRA Title IID | \$ 25 million |
| ARRA Food Service Equipment | \$ 2.8 million |
| ARRA Education of the Homeless | \$ 1.8 million |
| School Construction Bonds | |
| • Qualified Zone Academy Bonds | \$62.7 million for 2008 \$62.7 million for 2009 |
| • Qualified School Construction Bonds | \$316 million for 2009 |

State Fiscal Stabilization Funds -- \$1.56 billion is provided to help stabilize education budgets and minimize cuts in exchange for the state's commitment to advance essential education reforms. Pennsylvania's education budget for 2009-10 contains the following allocation of SFSF funds: \$300 million used to increase the basic education funding for K-12 over 2008-09 levels; \$355 million used for restoration of the reduction in state funding in basic education funding from 2008-09 levels; \$63 million used to restore the reduction in state funding to public institutions of higher education for 2008-09; and \$93 million used to restore the reduction in state funding for public IHE's for 2009-10.

ARRA IDEA -- School Age and Preschool – The \$427 million is to provide education services to children with disabilities. Allocations will be made to local education agencies based on a federal formula. As of November 2009, \$69.77 million has been distributed.

ARRA IDEA -- Preschool Early Intervention -- \$14 million to provide early intervention services to three and four year old children with developmental delays.

ARRA Title 1 -- \$398 million in funding to provide educational services to economically disadvantaged children. As of November 2009, \$384 million has been distributed to 558 local education agencies.

ARRA Title 1, School Improvement -- \$121 million is to be awarded competitively to provide funds for districts to implement significant reforms to transform chronically low-performing schools.

ARRA Title II D -- \$25 million to be used to promote education through technology. The funding is to be 100 percent competitive to school districts and focus on expanding the reach of the Classrooms for the Future program. Proposals for this funding are due by January 15.

ARRA Food Service Equipment -- \$2.8 million to expand student access to nutritious meals and promote energy efficiency in schools. Approximately \$1.8 million has been distributed to date with 133 schools in nearly 40 districts receiving funding.

ARRA Education of the Homeless -- \$1.8 million to provide additional funding to support education of homeless children. Funds have been distributed to the Allegheny IU, ARIN IU, Berks IU, Bucks IU, Lincoln IU, Luzerne IU, Midwestern IU and the Philadelphia School District.

Qualified Zone Academy Bonds -- \$62.7 million for both 2008 and 2009 in zero interest bonds to eligible school districts for school renovations, repair and other educational activities. This is an existing program. Eligible districts are those with low income populations and a match is required from a business partner or private entity.

Qualified School Construction Bonds -- \$316 million in 2009 in zero interest bonds to school districts for the construction or renovation of school facilities. Eligibility guidelines will be sent out in the near future but the department has determined that eligible school districts will be those with low income, high tax effort.

A number of ARRA competitive grants will also be available for educational purposes. The Department of Education will directly submit applications where applicable or work to assist LEAs with their submission. The largest amount to be distributed by the federal government is \$4.35 billion in a Race to the Top program. Pennsylvania will be submitting an application and based on population is likely eligible for \$200 million to \$400 million.

Overview of ARRA Bond Programs – John Cross, John Blake, Mike Walsh, and Rick Dreher

Build American Bonds – This is the broadest new bond program. Build American Bonds (BABs) may be issued in 2009 and 2010 in unlimited amounts. These bonds are an optional alternative to traditional tax-exempt bonds. BABs are conventional taxable bonds on which the U.S. Treasury pays state and local governments a direct payment subsidy for a portion of the borrowing costs in an amount equal to 35 percent of the coupon interest on the bonds. The federal subsidy of 35 percent covers more of the borrowing costs than the federal subsidy for traditional tax-exempt bonds. These bonds can be used to finance new money capital projects for which state and local governments could issue tax-exempt governmental bonds. Since BABs are taxable bonds which are sold without regard to tax preferences, they may appeal to a broader investor market and are viewed by economists as more efficient than tax-exempt bonds. In general, BABs provide lower borrowing costs than traditional tax-exempt bonds. The Commonwealth Financing Authority issued \$400 million as BABs in October 2009, part of the financing for the H2O program. Additionally, the Commonwealth expects to issue nearly \$800 million in general obligation bonds early in 2010 for capital projects, of which approximately \$600 million is expected to be BABs.

Tax Credit Bonds – This is the other main type of bond program under ARRA. Tax Credit Bonds are taxable bonds that provide federal subsidies for borrowing costs through tax credits to investors. The Recovery Act authorized over \$30 billion in Tax Credit Bond programs for school and energy purposes including: Qualified School Construction Bonds; Qualified Zone Academy Bonds; Qualified Energy Conservation Bonds; and New Clean Renewable Energy Bonds. Tax Credit Bonds deliver the federal subsidy for state and local borrowing costs by providing federal tax credits to investors in lieu of all or a large portion of interest payments. To the extent that tax credits replace interest, state and local governments have lower borrowing costs. The present Tax Credit Bond programs provide federal tax credits designed to cover 100 percent of the interest on school bonds and 70 percent of the interest on energy bonds.

Qualified School Construction Bonds (QSCB) – A new program for which the ARRA sets a national volume cap of \$11.2 billion for 2009 and \$11.2 billion for 2010. Any unused volume cap may be “carried over” to the next year. A federal tax credit of 100 percent of borrowing costs is provided and eligible projects include public school construction, renovation, and repair. Pennsylvania’s 2009 volume cap allocation is \$315.7 million and the Philadelphia City School District received a separate 2009 allocation of \$146.9 million. Pennsylvania’s 2010 volume cap allocation has not yet been established. The Philadelphia City School District is not eligible to apply for any of the state allocation since it receives a direct allocation. The Pennsylvania State Public School Building Authority (SPSBA) will issue both QSCBs and QZABs to finance eligible projects. The initial offering criteria for QSCBs will be based upon 1) high tax effort/high poverty - a school district’s 2007-08 equalized millage must be greater than or equal to 19.0 and its October 2008 Free and Reduced Lunch percentage must be greater than or equal to 45 percent; and 2) growing school districts - a school district’s average daily membership must have increased between 2002-03 and 2007-08 by more than 500 or more than 10 percent. The PA Department of Education anticipates issuing guidance for applications by mid to late December.

The types of projects that will receive scoring priority are as follows:

- Creating sustainable schools – increasing energy efficiency, improving water conservation, reducing green house gas emissions, improving environmental quality, and reducing waste.
- Creating or renovating space for high-quality pre-school, full-day kindergarten, and/or reducing class size in the early grades.
- Creating or renovating space for Science, Technology and Mathematics (STEM) programs.
- Correcting health and safety deficiencies, including school building security upgrades and building code violations.

Qualified Zone Academy Bonds (QZAB) – This program has been in existence for some time. However, new funding authorization is provided in ARRA with a national volume cap of \$1.4 billion in 2009 and \$1.4 billion in 2010. Any unused volume cap may be “carried over” to the next year. The federal tax credit is 100 percent of borrowing costs and eligible projects include public school renovation, repair, course materials, and teacher training. A 10 percent private business contribution is required. Pennsylvania will get three funding allocations. The first allocation is \$13.9 million, the second is \$48.8 million and the third is to be determined. The initial offering criteria for QZABs will be based upon high tax/high poverty as delineated above under QSABs.

Qualified Energy Conservation Bonds (QECBs) – The national volume cap on these bonds is set at \$3.2 billion with Pennsylvania’s allocation established at \$129.1 million. These bonds are tax credit bonds that provide a federal subsidy for repair and rehabilitation of public schools and related authorized purposes through a federal tax credit to investors intended to cover 70 percent of the interest on the bonds. Eligible projects are a broad range of qualified energy conservation purposes, including capital projects to reduce energy use, research, mass transit, green community programs, and public education campaigns. Seventy percent of the projects must be governmental versus private. DCED is collaborating with DGS in using QCEBs for qualified Guaranteed Energy Savings Act projects.

New Clean Renewable Energy Bonds – A national bond volume cap of \$2.4 billion is set for these bonds. The bonds are tax credit bonds that provide a federal subsidy to public power providers, state and local government entities, and cooperative electric companies for clean renewable energy projects through a federal tax credit to investors intended to cover 70 percent of the interest on the bonds.

Recovery Zone Economic Development Bonds – These bonds are a type of Build America Bond, with a deeper federal subsidy payment of 45 percent of the interest on the bonds. A national volume cap allocation of \$10 billion has been established with Pennsylvania’s share set at \$154 million. These bonds may be issued in 2009 and 2010 for use by government to promote economic development in designated recovery zones, including capital expenditures paid or incurred with respect to property located in such zones, expenditures for public infrastructure and construction of public facilities, and expenditures for job training and educational programs. DCED is currently working with an underwriter on a strategy for issuing

Economic Development Bonds. In general, the Recovery Zone programs are targeted to help areas affected by job losses.

Recovery Zone Facility Bonds – These bonds are a form of traditional tax-exempt private activity bond which may be used by private businesses for depreciable capital projects in designated recovery zones, excluding residential rental housing. A national volume cap of \$15 billion has been established with Pennsylvania’s share set at \$231 million. These bonds will be issued by the Pennsylvania Economic Development Financing Authority (PEDFA) with issuance scheduled for April, July and December, 2010.

Proposed Strategic Plan for Pennsylvania Health Information Exchange – Phil Magistro

The State Health Information Exchange Cooperative Agreement program is to support states and/or state-designated entities in establishing health information exchange capacity among health care providers and hospitals. The state programs are to help realize the full potential of electronic health records to improve the coordination, efficiency and quality of care. An amount of \$17.1 million has been provided for the creation of a Pennsylvania Health Information Exchange (PHIX).

The Governor’s Office of Health Care Reform convened a PHIX core group to provide guidance in the development of the PHIX Strategic Plan in alignment with the HIE Cooperative Agreement program. Representatives from providers, academic programs, regional health information organizations, patient advocacy, and payer groups participated in strategic planning workshops. Four key areas of public input were covered: Governance; Funding; Privacy; and Technical Infrastructure and recommendations resulted.

Governance -- The recommendation for PHIX governance is to create a public authority with a public/private board of directors that would focus on high-level strategic plans and decisions and oversee committees or workgroups that would provide specialized advice and recommendations across all governance functions.

Funding -- The funding recommendation is an assessment on all medical claims paid by insurers that will be dedicated to PHIX implementation and ongoing operations. The assessment would be 1/16th or 1/32th of 1 percent. Payments would not be required by hospitals, physicians, patients and other authorized users of PHIX.

Privacy -- The recommendation is to continue the current practice of dealing with health information. Health information for treatment, payment and operations would be available to authorized caregivers as proscribed under HIPAA. “Super-protected” health information (such as HIV/AIDS status, mental health and substance abuse, etc.) would require additional patient consent.

Technical Infrastructure -- The recommendation is that Pennsylvania enters into an interstate agreement with Delaware to piggyback on the Delaware Health Information Network’s (DHIN) existing, proven technical platform. This agreement would conform to the federal desire

for multi-state collaboration, reduce Pennsylvania's implementation time by 18-24 months, and provide significant cost efficiencies by leveraging DHIN's \$20 million investment.

The proposed Strategic Plan and Executive Summary are accessible on the GOHCR website: www.gohcr.state.pa.us and the GOHCR is accepting public comments via email until December 21, 2009 at ra-PHIXStrategicPlan@state.pa.us

The current timeframe calls for the operational plan to be developed and submitted to the Office of National Coordinator for approval in early 2010.

Stimulus Performance Reporting Update – Eileen McNulty

Due to time constraints, Chairman Naples held this report over until the next meeting of the Oversight Commission.