

NYS STIMULUS OVERSIGHT WORKING GROUP

Common Principles for Transparency and Accountability

New York State is in dire straits. Foreclosures and unemployment increase, while tax rolls and consumer confidence plummet. The U.S. Congress has agreed to a \$787 billion stimulus package, while concern grows that a broader bailout of the financial services industry may be needed.

Members of the NYS Stimulus Oversight Working Group represent many different viewpoints. We do not necessarily agree on how the stimulus money should be spent or if it is the “correct” size. Members do, however, share the following ***Common Principles for Transparency and Accountability***, which are of particular importance as this massive amount of federal funds is injected into New York State in the hopes of jumpstarting our beleaguered economy. These Common Principles are common-sense standards that amount to a ‘Taxpayer’s Right to Know.’

The language in the federal stimulus bill signed by the president, as well as supporting guidance issued by the Office of Management and Budget on February 18, 2009, leaves a great deal of responsibility on the shoulders of state and local officials to accurately track stimulus-related investment. New York’s policymakers must ensure that funds provided to New York State through the federal stimulus package are distributed **Fairly, Effectively**, and with clear standards for **Ethical and Honest Use**. Clearly defined metrics for success should be laid out for each investment. Governor David Paterson, his newly-announced Economic Recovery and Reinvestment Cabinet, and the New York State Division of Budget will play critical roles in the earliest stages of federal funding distribution. To ensure these principles are upheld throughout the distribution process, the New York State Comptroller, Attorney General, and Inspector General will need to exercise firm oversight. The State Legislature, its leadership and committees will be responsible for stimulus funds that pass through the state budget process, and must work for effective oversight throughout the process. All public entities receiving stimulus funds should be required to establish transparency and accountability processes analogous to those recommended at the state level. All stimulus-related projects should be required to follow all New York State environmental and worker protection laws.

We urge New York’s policymakers to adopt these principles and incorporate them into the state-level investment plan made possible by the federal stimulus package. Setting up a transparent process before the money is allocated will avoid future recriminations and investigations. We invite organizations to join us in supporting these ***Common Principles for Transparency and Accountability***, and encourage New Yorkers throughout the state to urge the Governor and their own legislators to adopt them.

COMMON PRINCIPLES FOR TRANSPARENCY AND ACCOUNTABILITY

Fairness

No community or company should be in line for stimulus dollars simply because they have influence with policymakers or have hired politically-connected lobbyists. The U.S. Treasury Department has announced measures to ensure that lobbyists do not influence applications for, or disbursements of, bailout funds. The Treasury will require certification from a designated official that each investment decision is based solely on investment criteria and the facts of the case. New York should follow this federal-level lead and institute protections against special-interest meddling during this time of great public concern. Such protections would include disclosure of the selection criteria to be used in awarding stimulus funds, all projects and programs considered, and those projects and programs chosen to receive stimulus funds.

Effectiveness

Accountable use of taxpayer money requires it to be spent where it will have maximum public benefit. In determining project priorities and reporting on their results, New York State should consider a number of factors, including:

- That the project or program will be targeted at individuals and communities that are most likely to re-circulate invested funds back into the economy;
- That the investment is projected to create or retain jobs, and that the jobs projected will provide prevailing wages;
- That a proposed infrastructure project addresses a clearly identified public need that warrants its priority treatment;
- Where possible, that the investment achieves multiple goals, such as environmental protection as well as job creation; and
- That the funds will work to achieve program efficiencies and long-term policy goals.

Under the federal bailout package, the U.S. Treasury is expected to require firms to show how federal assistance will expand lending. Similarly, projected job growth and retention numbers for all applicants seeking state-level funding should be required. These projections, made available to the public, will assist in cutting ineffective programs and expanding those that meet and exceed goals. The prioritization of project and program investment will serve to induce public confidence in the investment program.

Ethical and Honest Use

New York State's ethics and oversight laws are notoriously lax. With an injection of federal funding at this previously-unimaginable scale, strict reporting and diligent oversight are necessary to ensure the honest and ethical use of public funds. Situations of pay-to-play politics and other unethical schemes must be addressed head-on, and while not all situations can be prevented, strong, proactive preventative measures must be undertaken. Among other steps, contracts should be competitively bid to the maximum extent possible, and no company with a presently-serving legislator on its payroll, as either an employee or consultant, should be granted Recovery Act funding from the state. The appearance of such a conflict of interest would greatly undermine the public's confidence in the decision-making priorities of the state government during this turbulent time.

To provide the public with adequate information and assurances of decision-making based on facts, all discussions and decisions regarding allocation and use of the stimulus funds should take place in open meetings, with the minutes being made publicly available afterwards. These meetings should be webcast live as well as archived, as is currently done for meetings of the Lower Manhattan Development Corporation, an entity also created with the explicit purpose to "plan and coordinate" economic recovery efforts. (See www.renewnyc.com, then click on Board Meetings.) All supporting documents should be made available online in advance of such meetings.

Each agency which administers or allocates stimulus funds should designate and publicly identify one senior official responsible for coordinating recovery-related efforts across that agency.

'TAXPAYER'S RIGHT TO KNOW'

The above principles of transparency and accountability are common-sense standards greatly needed in order to maintain the public's confidence during this time of economic turmoil. These principles lay the foundation for the 'Taxpayer's Right to Know' outlined below.

Under this Taxpayer's Right to Know, New York State should require across-the-board reporting for all funds received from the federal government and spent in New York State in a uniform, easy to understand format, with all information being available in a single, centralized website compatible with the federal standards set forth at USASpending.gov. The standards set forth by the federal government should act as *minimum* standards for reporting, not supplant stronger reporting requirements that New York State should put in place. These reports should "drill down" beyond the Grantee A-Grantee B standards established by the federal guidance, in order to include all entities receiving stimulus-related funds.

Reported information at the time of an award should include, at a minimum:

- The entity name, award amount, and the lead agency and its department therein funding the award;
- The expected impact of the stimulus project funded, including the rationale for its inclusion in the stimulus program, with an emphasis on employment and wages, economic growth and other economic indicators;
- Whether the funds represent new allocations, which are additional to monies already budgeted, or are replacing funds cut due to budget shortfalls;
- Other intended benefits of federal stimulus appropriations, such as energy efficiency improvements, avoided carbon dioxide emissions, and students' academic progress, for example;
- The written contracts, agreements or Memoranda of Agreement by which money is paid out; and,
- For each agency that receives or administers stimulus funds, the identity and contact information of the individual designated as its primary coordinator for recovery-related efforts.

Bi-monthly reports on stimulus-related investments should be uniform in nature and mandatory from all recipients of stimulus-related funds, *including all levels of sub-contractors*, and required to be provided on a regular schedule in a standardized form for prompt internet posting. These bi-monthly reports should include, at a minimum, an itemized description of:

- How stimulus funds have been and plan to be spent;
- The total amount of the individual stimulus investment that is the subject of the report and the amount spent or committed by the reporter to date;
- The number of jobs created or retained and the wages paid for those jobs;
- The status of the 'other intended benefits' as referenced in the fourth bullet point in the previous paragraph;
- Whether the investment is on track to meet the established metrics for success; and,
- Verifiable information as to what economic projections and goals have been realized once the total stimulus funding provided for each contract, program or allocation has been spent.

New York State should establish a process for review and, in appropriate cases, corrective action where a funded program or project is not substantially meeting established goals. Online reporting tools should allow the public to easily search, sort, track, and download data on the use of federal funds, as well as provide mechanisms for local and state government actors to efficiently and conveniently input the data throughout the life of any stimulus project, contract or program funded. An online tool and an automated hotline should be established for citizens and government workers to report any misuse of funds.

A single official should be given the specific responsibility of ensuring timely and effective information sharing between any officials, committees, lead agencies or entities responsible for the allocation and spending of stimulus funds, and those individuals or departments developing the website for public disclosure.

The Legislature should establish a Joint Accountability and Transparency Committee, modeled on the federal Accountability and Transparency Board, which was established to coordinate and conduct oversight of federal

stimulus spending ‘to prevent waste fraud, and abuse.’ This Joint Committee should be made up of members of both the Assembly and Senate and should coordinate with the New York State Comptroller to ensure the broadest possible oversight, with minimum duplication. A federal Accountability and Transparency Board will be authorized ‘to hold public hearings, conduct investigative depositions, and issue subpoenas.’ The Legislature’s Joint Accountability and Transparency Committee should have similar powers, as well as its own staff, in order to maintain adequate oversight of stimulus money and the public’s confidence in the program.

Positive steps for transparency and accountability have been put forward recently by various New York State officials. The impact and import of these dispersed and independent efforts will be undermined, however, if all information and resources are not made available in a single, centralized website, with adequate coordination between the various entities responsible for oversight.

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