

To: Congress
From: Leadership Conference on Civil Rights
Date: February 5, 2009
Re: Civil Rights and Equal Opportunity Protections for Implementing the American Recovery and Reinvestment Act of 2009

On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil and human rights coalition, with nearly 200 member organizations, and the undersigned organizations, we are writing to emphasize the importance that the economic aid contemplated by the American Recovery and Reinvestment Act of 2009 (ARRA) reach all communities, especially those in the greatest need. The economic stimulus plan will only succeed in that goal if all of the relevant federal civil rights and equal opportunity laws and regulations are fully enforced to ensure that federally funded projects do not perpetuate patterns of discrimination or inequality that still exist in the marketplace.

Included in the \$819 billion version of the ARRA passed by the House of Representatives (H.R. 1) are hundreds of billions of dollars of spending that will flow through a mix of existing and new federal programs. Some of these programs incorporate existing agency-specific equal opportunity programs; others, do not. For the new programs, only one section of the bill explicitly requires recipients of federal funds to ensure an open bidding process that includes small, minority, women, and veteran-owned businesses. That section applies to only \$14 billion.

Ensuring an open and inclusive bidding process is not only essential to getting economic stimulus to the communities most affected by the recession, it is also a way of maximizing competition and ensuring that public money is well spent. The federal government must also ensure adherence to the cross-cutting anti-discrimination laws that apply generally to the use of federal funding.¹

How to Create a Mechanism for Coordination and Enforcement

The huge and sudden influx of funding for contracting and employment programs will make it extremely difficult for federal, state, and local officials to oversee or enforce equal opportunity requirements. Leadership will be needed from the highest levels of the Administration, including the White House and Justice Department, to ensure that the federal government is able to provide consistent guidance, support, and enforcement for all recipients of stimulus funds. Ideally, language like the following requiring the President to coordinate enforcement of civil rights and equal opportunity laws should be written into the ARRA and any ensuing stimulus bills:

The President shall require coordination among all agencies distributing funds made available under this Act to ensure compliance with all applicable anti-discrimination and equal opportunity statutes and regulations, including, but not limited to Titles VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the Rehabilitation Act of 1973; the Fair Housing

¹ For example, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973.

Act; the Fair Credit Reporting Act; the Home Mortgage Disclosure Act; and the Americans with Disabilities Act; as well as the Uniform Relocation Act.

The proposed language would ensure that economic recovery programs provide equal opportunity for all communities, and that federally funded programs are free of discrimination. Specifically, it would require the President to coordinate compliance with equal opportunity laws by all federal agencies involved in the distribution of economic recovery funds and clarify that compliance with these laws cannot be waived by agency officials or the President. This would require developing both an internal strategy to provide clear direction to the myriad of federal agencies administering funds across agencies, and an external strategy to inform recipients of the funds as to their obligations.

The larger economic recovery plan – encompassing the ARRA, the Troubled Assets Relief Program (TARP), and an anticipated second financial sector bailout – contemplates federal investment by multiple agencies reaching all states, with an impact that would be felt directly or indirectly in all communities around the country. While existing civil rights laws covering federally funded contracting, employment, housing, and credit apply to many of these activities, there has never been adequate coordination of these provisions by the Executive Branch, nor has such a massive infusion of federal funds occurred since those provisions were enacted.

Federal Coordination Can Streamline Equal Opportunity Programs

Because the funds flow through a patchwork of federal programs, there is a heightened need for coordination of the implementation of the programs and the communications, guidance, and enforcement activities of federal agencies. Many of the recipients, whether state or local governments or contractors, may receive funds from more than one federal agency and would benefit greatly from clear and consistent federal guidance that applied across programs and funding sources.

The provision would give the President discretion as to how to ensure coordination and enforcement of these provisions, most of which are embodied in existing law. By capitalizing on best practices, the President would be able to quickly invigorate moribund civil rights offices in agencies with no history or experience administering these programs. In addition, the provision will significantly reduce the likelihood of delays and unnecessary costs for recipients due to duplicative or contradictory requirements from different agencies.

Co-Signing Organizations:

The Opportunity Agenda
The Center for Community Change