

EDOLPHUS TOWNS, NEW YORK,  
CHAIRMAN

PAUL E. KANJORSKI, PENNSYLVANIA  
CAROLYN B. MALONEY, NEW YORK  
ELIJAH E. CUMMINGS, MARYLAND  
DENNIS J. KUCINICH, OHIO  
JOHN F. TIERNEY, MASSACHUSETTS  
WM. LACY CLAY, MISSOURI  
DIANE E. WATSON, CALIFORNIA  
STEPHEN F. LYNCH, MASSACHUSETTS  
JIM COOPER, TENNESSEE  
GERALD E. CONNOLLY, VIRGINIA  
MIKE QUIGLEY, ILLINOIS  
MARCY KAPTUR, OHIO  
ELEANOR HOLMES NORTON,  
DISTRICT OF COLUMBIA  
PATRICK J. KENNEDY, RHODE ISLAND  
DANNY K. DAVIS, ILLINOIS  
CHRIS VAN HOLLEN, MARYLAND  
HENRY CUELLAR, TEXAS  
PAUL W. HODES, NEW HAMPSHIRE  
CHRISTOPHER S. MURPHY, CONNECTICUT  
PETER WELCH, VERMONT  
BILL FOSTER, ILLINOIS  
JACKIE SPEIER, CALIFORNIA  
STEVE DRIEHAUS, OHIO  
JUDY CHU, CALIFORNIA

ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051  
FACSIMILE (202) 225-4784  
MINORITY (202) 225-5074

[www.oversight.house.gov](http://www.oversight.house.gov)

DARRELL E. ISSA, CALIFORNIA,  
RANKING MINORITY MEMBER

DAN BURTON, INDIANA  
JOHN L. MICA, FLORIDA  
MARK E. SOUDER, INDIANA  
JOHN J. DUNCAN, JR., TENNESSEE  
MICHAEL R. TURNER, OHIO  
LYNN A. WESTMORELAND, GEORGIA  
PATRICK T. McHENRY, NORTH CAROLINA  
BRIAN P. BILBRAY, CALIFORNIA  
JIM JORDAN, OHIO  
JEFF FLAKE, ARIZONA  
JEFF FORTENBERRY, NEBRASKA  
JASON CHAFFETZ, UTAH  
AARON SCHOCK, ILLINOIS  
BLAINE LUETKEMEYER, MISSOURI  
ANH "JOSEPH" CAO, LOUISIANA

January 8, 2010

The Honorable Earl Devaney  
Chairman  
Recovery Act Transparency and Accountability Board  
1849 C Street, N.W.  
Mail Stop 4428  
Washington, DC 20204

Dear Chairman Devaney:

Last November, I wrote to you to express my concern about the misleading number of jobs reported on the Recovery.gov website as “created/saved” by the American Recovery and Reinvestment Act (“Recovery Act”). I suggested that the website should incorporate an appropriate disclaimer. The boldface, large-font number on the website’s main page, with its label, “JOBS CREATED/SAVED AS REPORTED BY RECIPIENTS,” conveys to the American public that 640,329 workers who otherwise would be unemployed now have jobs as a direct result of the Recovery Act. Given widely-reported inaccuracies in this job count – for example, the California State University system reported over 21,000 jobs saved, but admitted those jobs were never in jeopardy<sup>1</sup> – we know the number is misleading and unreliable.

On December 18, 2009, the Obama Administration issued new guidance to recipients on how to report the use of stimulus money. The new guidance drastically changed the formula for counting “created or saved” jobs.<sup>2</sup> I am writing to request that the Recovery Act Transparency and Accountability Board (the “Board”) help Americans understand the change. Unless the Board modifies the “JOBS CREATED/SAVED” label and adds appropriate explanatory language about the new formula, the total jobs number on Recovery.gov will be even more misleading.

The Administration’s original guidance defined a job “created” as “a new position created and filled or an existing unfilled position that is filled *as a result of the Recovery*

<sup>1</sup> See Phillip Reese, “Many California jobs ‘saved’ by stimulus funds weren’t in jeopardy,” *The Sacramento Bee* (November 6, 2009), available at <http://www.sacbee.com/1369/story/2309303.html>.

<sup>2</sup> Office of Management and Budget, *Updated Guidance on the American Recovery and Reinvestment Act* (December 18, 2009), available at [http://www.whitehouse.gov/omb/assets/memoranda\\_2010/m10-08.pdf](http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf) (“Updated Guidance”).

*Act.*” Similarly, the original guidance instructed recipients to count a job as “saved” if it “would not have been continued to be filled were it not for Recovery Act funding.”<sup>3</sup> However, the new guidance counts every job that is funded using stimulus money – even if it existed before the Recovery Act, and was not in any danger of being eliminated – as “created or saved.”<sup>4</sup> This definition ignores the plain meanings of the words “created” and “saved,” and makes Recovery.gov’s “JOBS CREATED/SAVED” label a falsehood, further eroding the confidence of the American people in their government.

The Recovery Act requires recipients to estimate “the number of jobs created and the number of jobs retained” by each project or activity funded by the Act.<sup>5</sup> The new guidance, because it requires recipients to count jobs toward the number that were neither created nor retained, is inconsistent with the Recovery Act.

For instance, as the new guidance itself elaborates, a library that begins paying two pre-existing full-time librarians with Recovery Act funds must count two additional Full-Time Equivalents (FTE) toward the overall job totals, even though the two workers were not hired as a result of the Recovery Act, and regardless of whether their jobs were ever in danger.<sup>6</sup>

Furthermore, Recovery.gov’s jobs number for the second quarter of reporting will represent a vastly different calculation than the 640,329 reported for the first quarter – a number we know is already inflated. The new guidance abandons any attempt to track the employment impact of the stimulus from quarter to quarter – which was the purpose of the Recovery Act’s reporting requirement.<sup>7</sup> It is troubling that the Administration is changing the rules and further inflating the Recovery Act’s impact and masking the failure of the stimulus to produce sustainable economic growth or real job creation.

---

<sup>3</sup> Office of Management and Budget, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009), available at [http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-21.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf) (“Original Guidance”), at 34 (emphasis added). As I objected in a letter to the President, the very concept of a “jobs saved” metric is troubling because no government agency, private sector group, or economic expert has any idea how to reliably calculate and track this number. See Honorable Darrell Issa, letter to the President (June 11, 2009).

<sup>4</sup> Updated Guidance at 11 (defining jobs created or saved as “those funded in the quarter by the Recovery Act”).

<sup>5</sup> American Recovery and Reinvestment Act of 2009, Sec. 1512(c)(3)(D).

<sup>6</sup> Updated Guidance at pp. 15-16 (Example provides, “Assume now that in a subsequent quarter, City Library begins paying Adams and Jackson [librarians whose positions existed before the Recovery Act and were previously funded from other sources] with Recovery Act funds along with other employees. Then Adams and Jackson should count” toward the formula for estimating jobs created or retained).

<sup>7</sup> Under the new guidance, separate job totals will be reported for each new quarter, with no way of identifying how many jobs are newly reported and how many are merely carried over from the previous quarter. The job totals may grow larger with “created or retained” redefined to mean “funded,” but they will be useless to citizens trying to hold their government accountable.

Because the Administration's new guidance treats jobs that were not created or retained by the Recovery Act as though they were, I am concerned that Recovery.gov will further mislead the American public if it continues to use the "JOBS CREATED/SAVED" label. In order to assist the Committee with its investigation of this matter, please provide responses to the following questions no later than Friday, January 22, 2010:

1. Does the Board support or oppose the updated guidance? Was the Board consulted in the formation of the new guidance?
2. Will the Board change the label on the main page of Recovery.gov, "JOBS CREATED/SAVED," so that it properly reflects that recipients are now reporting all jobs funded – even jobs that existed before the Recovery Act and were never in danger of being lost – toward this total?
3. Will the Board add a prominent disclaimer to the effect that the jobs reported for the second quarter were counted using a much more generous definition of "created or retained" than the 640,329 jobs reported for the first quarter?

Thank you for your cooperation in this matter. If you have any questions regarding this request, please contact Christopher Hixon or Hudson Hollister of the Committee staff at (202) 225-5074.

Sincerely,



Darrell Issa  
Ranking Member

cc: The Honorable Edolphus Towns, Chairman