Kept in the Dark: Poor Reporting on New York City's Recovery Zone Bond Deals

A Report by Good Jobs New York

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This report was researched and written by Good Jobs New York's Project Director Bettina Damiani with assistance from Research Analyst Elizabeth Bird. Special thanks to Good Jobs First Executive Director Greg LeRoy and Research Director Philip Mattera for their editing assistance. Thanks to staff at the Capital Resource Corporation for responding to our inquiries.

About Good Jobs New York

GJNY investigates and publicizes the ways in which New York City allocates public resources in the name of economic development. With this knowledge we hold government officials and companies accountable to taxpayers.

GJNY is a project of Good Jobs First, in partnership with the Fiscal Policy Institute.

Good Jobs First (www.goodjobsfirst.org) is a non-profit, non-partisan national resource center for constituency-based groups and public officials, promoting corporate and government accountability in economic development and smart growth for working families. The Fiscal Policy Institute (www.fiscalpolicy.org) is a nonpartisan research and education organization that focuses on the broad range of tax, budget, economic and related public policy issues that affect the quality of life and the economic well being of New York State residents.

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Introduction and Executive Summary

Want to learn about how a Recovery Zone Facility Bond project in your neighborhood is creating jobs? Or even whether a particular development is financed by one of these special bonds authorized under the American Recovery and Reinvestment Act of 2009 (Recovery Act)? Good luck. Despite attention from media and constituency-based groups, tracking the 10 projects that applied for these special bonds is nearly impossible. To help New Yorkers understand the projects so they can hold firms accountable for promised job creation, GJNY has mapped and summarized them. Details are in a chart in the ―Recover New York Zones" section of this report and an interactive map can be viewed below.

An interactive map detailing the various projects around the City that applied and were approved for Recovery Zone Facility Bond financing. Not all the projects will go forward. For more details, click on the map or visit: http://www.google.com/fusiontables/DataSource?snapid=168772

In June 2009, the ―Recover NYC" program was unveiled to help select projects that applied for Recovery Zone Facility Bonds (RZFB), a bond program authorized as part of the Recovery Act. While the program seemed to have good intentions, the vague requirements related to job quality, how the projects were to assist unemployed or underemployed New Yorkers, and how the projects would help the city's sustainability efforts, made it difficult to measure the program's success. Indeed, the objectives were so vague that merely allocating the bonds became a benchmark of success by economic development officials.

This report details RZFB projects and is a real-life example of how projects receiving discretionary subsidies make their way through the public – and not so public – application process. Accountability begins with transparency, an area that is lacking in the RZFB program. We conclude that economic development officials need to make the process of allocating subsidies more accessible to New Yorkers, to encourage more public participation in future projects, and to hold these projects accountable for creating good jobs.

Of the 11 RZFB bond projects mentioned in this report, 10 were proposed by the New York City Capital Resource Corporation (CRC, a sister to the Industrial Development Agency, the discretionary-subsidy arm of the Economic Development Corporation). Four projects located in Brooklyn, Queens and the Bronx received allocations totaling $66 million (out of the City's nearly $122 million allowance as per the Recovery Act). Should each project reach its goals, 498 construction jobs and 281 full-time equivalent (FTE) permanent jobs will be created in New York City.

The final allocation of RZFBs represents a much larger deal in Manhattan, dwarfing the 10 detailed in this report and the accompanying map: 3 World Trade Center received not only the $55.4 million remaining RZFBs from New York City, but the unused RZFBs from other authorities in New York state, for a total of $338.6 million. These bonds were allocated by the Liberty Development Corporation, a state entity. This created a lopsided allocation of economic development resources favoring Manhattan over the other boroughs.

The goal of this report is two-fold:

- To detail how poorly disclosed the RZFB allocation process is, making it difficult for taxpayers or public officials keep RZFB projects accountable for the jobs promised.
- To provide a broad overview of the RZFB allocation process based on our experience promoting public participation in other economic development programs. Many RZFB projects went through a detailed public hearing process but their applications were withdrawn. No explanation of the aborted projects was given to the public, a disincentive for public participation. Five projects garnered public attention.

The 10 RZFB proposals examined in this report are summarized by the following factors:

- The amount proposed and allocated
- The number of construction and permanent jobs promised
- Whether the CRC board voted in support of the project
- When the Recovery Zone Facility Bonds were sold on the market
- Where possible, we included occupational wage data for completed projects

This information is not publicly available in one location. GJNY staff assembled it by keeping close tabs on the public hearing process, requesting information from CRC staff, submitting Freedom of Information Law Requests, attending CRC board meetings and reviewing board meeting minutes, and analyzing municipal bond sales documents at the website of the Municipal Securities Rulemaking Board.

The five proposed Recovery Zone Facility Bond projects that garnered special interest are:

St. Barnabas Hospital/Arthur Management ($19.5 million sold) – Proposed amidst efforts by the hospital to block its resident physicians from unionizing, the upgraded parking facility financed by the bonds will actually require fewer workers to operate than the current parking lot. At the time of the application, the Committee of Interns and Residents (CIR/SEIU Healthcare) was fighting for union recognition for the hospital's 280 residents, who in 2009 voted overwhelmingly in favor of the union, but were unable to begin contract negotiations pending the hospital's appeal of a labor ruling. The Teamsters local representing the parking lot workers and CIR presented payroll documents showing that 28 parking lot attendees worked at the parking lot at the time of the public hearing, but the RZFB bond application for the garage says only six permanent jobs will be created (and 87 temporary construction jobs).

Albee Development LLC/City Point ($20 million sold) – This project sits on what was known as Albee Square Mall, which was demolished in 2007 by the city, displacing dozens of small, mostly minority-owned businesses to make room for a more upscale mixed-use project called "City Point". The original City Point project faltered in the recession, but its retail phase was resuscitated by the RZFBs. CRC documents claim the project will create 108 construction and 68 full-time equivalent permanent (mostly retail) jobs. But in press releases after the project won CRC approval, officials combined the retail job figures with a future housing component to claim 328 construction jobs and 108 permanent full-time equivalent jobs would be created.

ESmith Legacy ($19.7 million proposed) – This proposal for a new hotel in Harlem did not receive RZFBs even though it was authorized by the CRC board. Media reports indicate that the developer worked with the Hotel Trades Council and agreed to a local hiring agreement for the hotel staff. Such an agreement could have established a positive precedent for subsidized projects not only in Harlem where unemployment is at least 14%, but throughout the city. CRC documents cited 129 construction and 81 permanent full-time equivalent jobs for he hotel. The developer withdrew its application and stated on its website that the project would continue without RZFB resources.

Broadway Stages ($13.5 million proposed) –This proposal to expand a television, music and video production facility in the Greenpoint section of Brooklyn generated a well-attended hearing demonstrating broad support from employees, neighbors and local union affiliates. The proposal was expected to create 59 construction jobs and 38 permanent jobs. However, due to its location on a U.S. Environmental Protection Agency Superfund site (indicating severe contamination by a previous occupant) and its inability to meet the RZFB deadline, this application was pulled and not voted upon by the CRC board.

WyhteHotel LLC ($15 million sold) This proposal for a 73-room boutique hotel in Williamsburg, Brooklyn and in an Industrial Business Zone, received less supporting public comment than some of those mentioned above. However, GJNY and other policy groups expressed concern that the deal undermines the purpose of the Industrial Business Zone (IBZ) program. IBZs were established by the Bloomberg Administration to help retain and create manufacturing jobs. Putting an upscale hotel in an area targeted for manufacturing may fuel gentrification and land-price pressures. The project is expected to have approximately 53 construction jobs and 33 permanent jobs.

The Recovery Act raised transparency on federal spending to its highest level ever (see Recovery.gov). While we are encouraged by the bold actions taken by New York City with the development of the stimulus tracker specifically for Recovery Act funds (nyc.gov/stimulustracker), those innovations were oddly not applied to Recovery Zone Facility Bonds.

Hence the need for this report.

Recovery Zone Facility Bonds

The Recovery Zone Facility Bond (RZFB) program was created within the Recovery Act, which was enacted in February 2009. The RZFB program expired December 31, 2010. The two-year limit on the process required that the RZFBs be allocated quickly and while the intention to move money and create jobs swiftly was a worthy one, there was scant attention paid to the quality of jobs that would be subsidized and how unemployed and underemployed New Yorkers would benefit.

A common misunderstanding is that a project receiving a $20 million Recovery Zone Facility Bond, for example, is in fact receiving $20 million. But, the value of the subsidy is the amount of taxes not paid by the purchaser of these tax-free bonds.

RZFB projects were difficult to track because they are absent from New York City's —stimulus tracker" (nyc.gov/stimulustracker) that describes how the City is allocating other funds from the Recovery Act. The noteworthy stimulus tracker mimics transparency efforts by the Obama Administration's historic development of Recovery.gov.

To be certain, the RZFB program is a small slice of the approximately $34.8 billion in federal Recovery Act funds (grants, loans, tax-exempt bond financing) that were allocated to New York City. Yet, it is one of the few Recovery Act programs where public comment was required on specific projects before financial assistance was granted.

What is the American Recovery and Reinvestment Act?

In February of 2009, in response to what has been dubbed the —Great Recession" President Obama signed into law the American Recovery and Reinvestment Act of 2009, (ARRA or the Recovery Act).[1] Through more than 200 funding streams, the $787 billion bill gave various grants, loans, tax breaks and tax exempt bond financing to individuals, public agencies, and private contractors in every state, territory and the District of Columbia to stimulate economic recovery. RZFBs were specifically intended as one way to address the credit freeze that had drastically cut the ability of both public agencies and private companies to borrow money for economic development projects.

Recover New York Zones

Recovery Zone Facility Bonds—private activity bonds that require repayment by the developer but are triple-tax-free (from federal, state and city income taxes), are therefore low-interest and a lucrative financing source—were allocated through the ―Recover NYC" program of the New York City Capital Resource Corporation. It was unveiled in June of 2009. [2]

While the program seemed to have good intentions, the vague requirements related to job quality, how the projects would assist unemployed and underemployed New Yorkers, and how the projects would help the city's sustainability efforts, made it difficult to determine the success of the program. Indeed, the objectives were so vague that merely allocating the bonds became a benchmark of success by economic development officials.

The Recover NYC program established zones in each borough eligible to receive Recovery Zone Facility Bond projects.

> *A project must be located in an area with significant poverty, unemployment, general distress, home foreclosures, or an area that qualifies as a federal, state, or locally designated distressed zone*[3].

As examples of the selection criteria, the program said projects were expected to:[4]

- Be between $20 million and $100 million;
- All permits and approvals should be in place;
- Diversify the city's economy by job type;
- Quickly improve employment including construction and post construction (including length, quality and type of ongoing employment);

- Contribute economically to the neighborhood where the project is located; and
- Contribute to the on-going sustainable development efforts of the city.

The New York City Capital Resource Corporation (a sister to the Industrial Development Agency, the discretionary-subsidy arm at the Economic Development Corporation) allocated nearly $66 million, out the City's $122 million allocation, in Recovery Zone Facility Bonds to four projects in Brooklyn, Queens and the Bronx. Should each project reach its goals, 498 construction jobs and 281 full-time equivalent permanent jobs will be created in New York City.

GJNY estimates that the New York City 2010 median annual wages for the occupations at the subsidized projects are[5]:

- Retail sales clerks: $22,280 (Albee Square/City Point and Stop and Shop at Arverne by the Sea)
- Parking lot attendants: $20,860 (St. Barnabas Hospital/Arthur Management)
- Hotel clerks: $34,780 (Wythe Hotel)
- Housekeeping: $35,900 (Wythe Hotel)

> The term FTE or Full Time Equivalent is a commonly used term when discussing economic development. While broadly used, it can be misleading as it refers to the combined total of full and part-time jobs at a company. For example, the Albee Square/City Point retail project discussed in this report is expected to create 68 permanent FTEs. But that doesn't mean 68 people will get a permanent, full-time job. A full-time job is generally defined as one that where someone works five days and at least 35 hours per week. But in many industries like retail, employees often work less than 40 hours a week - meaning two people working 20 hours a week make one FTE. This is an important distinction for those New Yorkers who want to participate in holding proposed and finalized economic development projects accountable for creating good jobs.

Table 1: Inventory of Proposed and Approved RZFB Projects in New York City[6]

PROJECT NAME	RZFB's proposed/ approved	Authorizing resolution passed	Bonds sold?	Bond Allocation	Construction Jobs	Permanent Jobs (FTE)
3 World Trade Center, series 1 and 2 *						
Albee Development/City Point	$20 million	2/9/2010	Yes 7/1/10	$20 million	108	68
Arthur Management Corp c/o St. Barnabas	$19.8 million	5/11/2010	Yes 12/21/10	$19.5 million	87	6
Arverne by the Sea** (Benjamin Beechwood Market (Stop & Shop) & Retail)	$5 million — Supermarket $10 million — Retail Plaza	12/15/2009	Yes 10/19/10	$3.3 million – Supermarket $8.2 million- Retail Plaza	250	174
Broadway Stages	$13.5 million	n/a	No	n/a	59	38
ESmith Legacy	$19.7 million	11/9/2010	No	n/a	81	129
Fleet Financial Group, Inc./North Queens Medical Center	$17 million	6/8/2010	No	n/a	91	52
Full Spectrum of NY LLC/MIST	$2.20 million	n/a	No	n/a	25	50
MB-Flatbush LLC	$20 million	n/a	No	n/a		
Staten Island Terminal LLC	$28 million	8/3/2010	No	n/a	200	125
WytheHotel LLC	$15 million	11/6/2010	Yes 12/16/10	$15 million	53	33

* $55.4 million of unused NYC RZFBs were allocated by the Liberty Development Corporation after Governor Paterson signed Executive Order No. 44 requiring cities and counties to forfeit all unused RZFBs for 3 World Trade Center[7]. On December 30, 2010 the Liberty Development Corporation closed on $338,050,000 of RZFBs. All other entries in this chart are New York City Capital Resource Corporation projects.

** Arverne by the Sea project was divided into two bond issuances totaling $11.5 million.

The Empire State Development Corporation oversaw a much larger RZFB deal that occurred in Manhattan, dwarfing the other 10 detailed here: 3 World Trade Center which received not only the $55.4 million remaining RZFBs from New York City, but the unused portion of RZFBs from other authorities in New York State, for a total of $338 million. This created a lopsided allocation of economic development resources favoring Manhattan over the other boroughs. These bonds were allocated by the Liberty Development Corporation, a subsidiary of the New York State Empire State Development Corporation. The LDC has a different public process for allocating bonds and we do not have job creation figures for the WTC project since they were not made available at the time of the RZFB proposal.

Public Hearings, Approvals and Noteworthy RZFB Applications

New York City has achieved tremendous reforms in its transparency at the Industrial Development Agency and, by association, at its sister agency the Capital Resource Corporation. In 2001 when GJNY first began critiquing the city's allocation of economic development subsidies, virtually no one attended public hearings and the public was denied access to proposal applications until the opening of a perfunctory hearing. Thanks to consistent steps forward by the city (especially a strong administrative and legislative move in late 2010)[8], today copies of a firm's application and the city's cost/benefit analysis are available online 12 calendar days in advance of a hearing. Public hearings are now posted on the city's Economic Development Corporation's website and members of the public can sign up to be on its advance-notice mailing list.

What you need to know: the public hearing process

Public hearings are generally on the first Thursday of every month	• A calendar is available on the EDC's website
Thirty days before the hearing, a brief description of proposals is posted on the EDC website and in the classified section of the New York Post	• People can sign up for GJNY's monthly subsidy alert from our website www.goodjobsny.org and from the EDC
Twelve calendar days before the hearing, a cost/benefit analysis, application and broader description of the project is available on the agency's website.	• Materials are also available at the public hearing and members of the public are welcome to bring comments and concerns about the project to the public hearing

For schedule and materials go to the EDC website:
http://www.nycedc.com/AboutUs/PublicMeetings/Pages/PublicMeetings.aspx

The Tuesday following the public hearing, the proposal is presented to the board for a discussion and vote. The vote is often preliminary, requiring final authorization at a future board meeting (sometimes, projects receive preliminary and final approval at the same board meeting).

The city announces preliminary approvals in press releases, but does not alert the public on the subsequent stages of the bond allocation process. Only announcing preliminary approval gives a misleading impression that a project has won all necessary approvals, when in fact a project still has hurdles: it must still receive a final approval and the bonds must be sold. We did not find any press releases (other than one put out by ESmith Legacy) [9] or other official public documents explaining why some RZFB projects failed to receive final authorization or withdrew their applications.

Even a project that receives final board approval will not necessarily receive the subsidy (see Table 1). To address the information gap, we recommend that the city on a regular basis, monthly if possible, post the status of projects after their public hearing. The Recover NYC program has some information about specific RZFB proposals on its website, but it has not been updated nor does it reflect the phases a project must go through to reach final approval and sale of bonds.

As part of last year's broad transparency reforms cited above, the Industrial Development Agency began posting audio recordings of public hearings and board meetings; they remain available online for three days following the meeting.[10]

The New York City Capital Resource Corporation (a sister to the Industrial Development Agency, the discretionary subsidy arm at the Economic Development Corporation) allocated nearly $55.4 million in Recovery Zone Facility Bonds. It has the same public hearing process and board as the Industrial Development Agency.

Of the 10 RZFB proposals, five projects generated larger than normal attendance at CRC public hearings or media attention. A summary and the controversies of those projects are:

St. Barnabas Hospital/Arthur Management ($19.5 million sold) – Proposed amidst efforts by the hospital to block its resident physicians from unionizing, the upgraded parking facility financed by the bonds will actually require fewer workers to operate than the current parking lot. At the time of the application, the Committee of Interns and Residents (CIR/SEIU Healthcare) was fighting for union recognition for the hospital's 280 residents, who in 2009 voted overwhelmingly in favor of the union, but were unable to begin contract negotiations pending the hospital's appeal of a labor ruling. The Teamsters local representing the parking lot workers and CIR presented payroll documents showing that 28 parking lot attendees worked at the parking lot at the time of the public hearing, but the RZFB bond application for the garage says only six permanent jobs will be created (and 87 temporary construction jobs).

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Policy Recommendations

Consistent with its laudable progress in making economic development subsidies and Recovery Act spending more transparent, we recommend that New York City apply new innovations to Recovery Zone Facility Bonds and other subsidized economic development projects.

Follow through – Once a project has been posted in a public notice or on the agency’s website there should be a way to track it all the way through the allocation process. If the deal falls through, the public should be told why and when. This especially holds true for projects that go as far as a public hearing. It’s unfair for New Yorkers who make the effort to participate in the public hearing process (proposals for ESmith Legacy’s Harlem Hotel and Broadway Stages are good examples; dozens of people came to the hearings and testified) only to have details of that project disappear from the public realm.

We suggest at minimum, a monthly update on the status of projects that were presented for a public hearing be put on the agency’s website. Otherwise, information is only available annually in the NYC Economic Development Corporation’s —Annual Projects Report”. For example:

Project Name	Preliminary Approval	Authorizing resolution passed	Total value of tax breaks awarded	Date/Amount of Bond Allocation	Construction Jobs	Permanent Jobs	Status
Sample*	Date	Date	$				Pending Withdrawn Terminated Finalized
**link to project materials released in advance of public hearing that include the amount and types of assistance proposed*							

In addition, finalized RZFB projects should be included in the City's very functional Stimulus Tracker.

Ensure the community benefits - Though economic development officials staunchly oppose local hiring requirements at subsidized projects, at minimum, officials should create a broad measure of local hiring goals. If an applicant chooses to meet local hiring goals, that should factor into the economic benefits of that application.

Another, easier improvement would be to ensure applicants complete the section of the application that asks for a percentage of where materials for the project will be purchased: in the United States, New York State or New York City. On occasion, applicants have left this question blank. Projects that purchase goods locally are not only a financial benefit but an environmental boon. A missed opportunity was the WytheHotel project in Williamsburg. Not only does the company's application answer the local purchasing question with an ―n/a", the CRC could have used this as an opportunity to build a partnership between the industries in Brooklyn that manufacture goods the hotel needs.[11]

Applicants should be made familiar with and encouraged to use the ―Made in NYC" program, a source for various products made in the city. [12]

Establish a bar for job quality – The Recover NYC program stated that duration and type of jobs were important selection criteria. Yet there were no specific benchmarks on what that meant: What length of employment is acceptable? Should jobs be full-time? Pay a living wage? Have access to affordable health care? Be eligible for sick days?

Given that the Bloomberg Administration has actively opposed job quality standards, these reforms seem unlikely. However, the city cannot deny that family-supporting wages and full time jobs for New Yorkers who need them most benefit our neighborhoods and our economy.

Endnotes

[1] More information is available at www.recovery.gov.

[2] PowerPoint presentation to the New York Industrial Development Agency board, June 2009: "American Recovery and Reinvestment Act Bond Program." A copy is attached in the online appendices to this report at http://www.goodjobsny.org/rzfb_report.htm

[3] ibid.

[4] A list of all applicants, even those that were not presented for public hearing, is available under the heading "Recover NYC Calendar & Updates" http://www.nycedc.com/FinancingIncentives/NYCCRC/OurPrograms/Pages/RecoverNYCProgram.aspx

[5] New York State Department of Labor, Occupational Employment Statistics, 2010

[6] Notes on this table: 1) This table represents only those projects that were presented for a public hearing by the CRC. 2) This information is not publicly available in one location. GJNY staff assembled it by keeping close tabs on the public hearing process, requesting information from CRC staff, submitting Freedom of Information Law Requests, attending CRC board meetings and reviewing board meeting minutes, and analyzing municipal bond sales documents at the website of the Municipal Securities Rulemaking Board.

[7] New York State Office of the Governor. Press Release: *Governor Paterson Issues Executive Order to Advance Economic Development Efforts with Unused RZFB Bonds*. December 17, 2010. Available online: http://www.governor.ny.gov/archive/paterson/press/121710-GovPaterson-EO-AdvanceEconomicDev.html

[8] Details available at http://clawback.org/2010/12/09/subsidy-news-whirlwind-hits-nyc/

[9] ESmith Legacy, Inc. *Updates on Harlem Hotel Project*, December 21, 2010http://www.emmittsmith.com/ssp/news/?news_id=67

[10] Webcasts are available online for up to three days after a meeting or hearing: http://www.nycedc.com/AboutUs/PublicMeetings/Pages/PublicMeetings.aspx

[11] A copy of WyheHotel application is available as an online appendices at http://www.goodjobsny.org/rzfb_report.htm

[12] Made in NYC is a program of the New York Industrial Retention Network. Details available at http://www.madeinnyc.org/