

**STATEMENT OF
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FEDERAL HIGHWAY ADMINISTRATION
BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON PROGRESS IN IMPLEMENTING
THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

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Chairman Oberstar, Ranking Member Mica, and Members of the Committee, thank you for the invitation to appear before you today to discuss the Federal Highway Administration's (FHWA) progress in implementing the American Recovery and Reinvestment Act of 2009 (Recovery Act). Through the efficient implementation of Recovery Act projects, FHWA plays a key role in creating jobs, putting people back to work, and keeping families from home foreclosure. Today, I want to share with you FHWA's Recovery Act accomplishments to date and our current and planned implementation activities.

Signed into law by President Obama on February 17, 2009, the Recovery Act is an extraordinary response to a crisis unlike any since the Great Depression. The Act is an unprecedented effort to jumpstart our economy, create or save millions of jobs, and put a down payment on addressing long neglected challenges so our country can thrive in the 21st century. The Recovery Act has energized working people and companies of all sizes and is a lifeline for Americans who work in construction and have been especially hard hit by the recession. Overall, the Administration estimates that the highway portion alone of the Recovery Act will eventually create or sustain close to 300,000 jobs by 2012.

OVERVIEW

Even before the Recovery Act became law, the Department of Transportation (DOT) developed an implementation strategy to ensure that the Department would be prepared to carry out its elements of the legislation as quickly and effectively as possible. Staff from FHWA joined an intermodal team of experts from a variety of disciplines (policy, legal, financial, and information technology), assembled by DOT Secretary Ray LaHood, to anticipate the requirements in the pending legislation. This team—called the Transportation Investment Generating Economic Recovery, or TIGER, Team—was tasked with coordinating and overseeing the Department's responsibilities. The outstanding work of the TIGER Team continues to be instrumental in keeping DOT's Recovery Act implementation on track.

In the four months since this hallmark legislation was enacted, FHWA has worked diligently with the TIGER Team and internally to ensure that the agency, with our many partners and stakeholders, was ready to advance the Recovery Act projects that will put Americans back to work by making needed investments in America's infrastructure.

FHWA also continues to coordinate with the TIGER Team as we implement the requirements of the Recovery Act.

On March 3, 2009, President Obama and Vice President Biden joined Secretary LaHood at DOT to announce that nearly \$26.7 billion was available to the States for highway investment. Within hours of the President's announcement, States began approving projects—in full compliance with all Federal laws and regulations.

Just six weeks after approving the first project, the President and Vice President returned to DOT on April 13 to celebrate the 2000th transportation project approved for funding—rebuilding a \$68 million interchange on I-94 in Portage, Michigan. Construction has now started on this project, which the State expects will create 900 jobs this summer, increase safety, and reduce congestion along one of Michigan's most important freight corridors. Of the first 2,000 transportation projects approved for funding, 1,860 were FHWA-funded projects.

FHWA continues its success in ensuring quick approval of funding for projects that meet applicable Federal requirements. As of June 22, FHWA Division Offices have authorized 4,836 projects in all 50 States, the District of Columbia, Puerto Rico, and the territories for a total of \$15.4 billion obligated. This represents 58 percent of total funds available. We are working diligently to ensure that the funds for these projects continue to be distributed quickly, wisely, and with unprecedented transparency and accountability.

Under the Recovery Act, 50 percent of the funds apportioned to a State (excluding funds sub-allocated within the State) must be obligated under a project agreement before June 30, 2009. Any portion of the 50 percent of funds that is not obligated will be withdrawn and redistributed. I am pleased to report that we expect all States to meet the target by the 120-day deadline on June 29, which happens to be the 53rd anniversary of the Interstate system.

During the second 100 days of the Recovery Act, we are committed to ensuring that shovels are in the ground for 1,500 additional highway projects. As of June 19, there are 1,520 highway projects under construction in 45 States, the District of Columbia, and Central Federal Lands using \$5.67 billion in Recovery Act funds. As each project is approved and construction begins, we are seeing a spirit of communication and partnership among FHWA, States, Metropolitan Planning Organizations (MPOs), local governments, and the transportation industry, and this money is having its intended effect. The Recovery Act is working for America, and more Americans are now working on the road to recovery. It is proof of our ability to put government to work for people, and to put people to work.

For example, groundbreaking occurred on the Sepulveda Pass Project in Los Angeles, California in May. This project will add a high occupancy vehicle lane on San Diego Freeway (I-405) from Santa Monica Freeway (I-10) to Ventura Freeway (US 101). This is the largest Recovery Act project in California, and, based on dollars, it is currently the

largest highway project funded by the Recovery Act in the Nation. When completed, the State estimates this project will have created or supported nearly 18,000 jobs. Approximately \$189.9 million in Recovery Act funding will supplement \$760 million from other sources to help reduce congestion along one of the most clogged transportation arteries in America.

In March, work started on a project in Portland, Maine to repair and provide structural upgrades for 24 miles of I-295 north of Portland. At \$37.4 million, this is the largest Recovery Act project in Maine and was among the first projects in the Nation to begin. The State expects that this project will create or support 840 jobs.

A \$64.2 million Recovery Act-funded project has 60 workers currently widening K-61, the major route between McPherson and Hutchinson, Kansas, from two to four lanes. The contractor expects to hire an additional 60 workers before project completion in 2012.

Secretary LaHood recently joined Vice President Biden on his "Road to Recovery" tour and visited a \$1.7 million replacement bridge project in Carlisle, Pennsylvania that is being financed exclusively with Recovery Act funds. The project manager credits the stimulus for kick-starting his company's work force expansion.

These are just a few examples of how, across the country, Recovery Act dollars are being directed toward needed investments in our people and in our infrastructure. Every new project we obligate is a signal for States to advertise contracts, and for contractors to begin hiring workers and ordering materials like steel, asphalt, and concrete. We are making investments in projects that will save lives. We are making investments to help our highway system operate more efficiently and effectively, while moving the people and goods we need to keep the economy healthy.

FEDERAL AND TRIBAL LANDS

In addition to advancing Federal-aid projects across the country, FHWA is also distributing \$550 million for roads on Federal and tribal lands. The funding is creating jobs by improving access to our national treasures including national parks, forests, and refuges. For instance, we have advanced shovel-ready projects such as the reconstruction of the Going-to-the-Sun Road in Montana's Glacier National Park; the rehabilitation and resurfacing of 18 miles of roadways within Noxubee National Wildlife Refuge in Mississippi; the rehabilitation of 5 miles of roadways within Yosemite National Park in California; the rehabilitation of 15 miles of North Umpqua Forest Highway 47 in southern Oregon; and the rehabilitation of Ohio Drive, Madison Drive, Rock Creek Parkway, and Potomac Parkway in Washington, D.C. These areas attract domestic and international visitors as well as provide recreational opportunities for residents of the local communities. The Recovery Act funds are now providing the vital transportation access that will promote visitation for years to come while benefitting hard-working Americans now in rural areas where jobs have been lost.

Not only is FHWA providing access to our parks, forests, and refuges, we are also administering Recovery Act funds dedicated to the Indian Reservation Road Program. These roads provide the critical links between tribal residences and vital community services such as schools and health care facilities. These transportation improvements are needed to enhance livability within Indian country. We have heard from our tribal partners that the transportation and construction industries are some of the largest employers on reservations. In early June, the first Recovery Act funds for a tribal road construction project were provided to the Ramah Navajo Chapter in New Mexico. Since that time, Recovery Act construction funds have been provided to additional Tribes, and we continue to work diligently with the Tribes and the Bureau of Indian Affairs (BIA) to advance these projects.

To date, FHWA has obligated about \$80 million to support road projects on Federal and tribal lands, and we continue to work with our Federal and tribal partners to get these funds on the ground and get Americans back to work.

ON THE JOB TRAINING

Putting people to work includes giving people the job skills our highway system needs. We are close to providing the first \$6.7 million of the Recovery Act “On the Job” training (OJT) grants to States and \$1.5 million to the BIA. We also are actively working on reviewing applications for the remainder of the Recovery Act OJT grants and plan to award the remaining funds by fall. These grants will be used for activities to supplement Federal training programs and to support the training programs of State Departments of Transportation (State DOTs) for highway construction contractors, apprentices and trainees. The OJT program encourages completion of training programs and promotes training opportunities for minorities and women in skilled and semi-skilled crafts. The grants will fund apprenticeships and training centers for underrepresented or disadvantaged workers seeking careers in transportation, engineering or construction. For instance, Virginia’s Wounded Veteran’s Internship program, which started in 2006, helps wounded active-duty military personnel train to keep job skills sharp, or develop new ones, while they recuperate.

ECONOMICALLY DISTRESSED AREAS

The Recovery Act requires the States to give priority to projects located in Economically Distressed Areas (EDAs). The FHWA has oversight responsibility to ensure that the States fulfill this requirement. In order to assist the States, FHWA has provided various forms of technical assistance, including a diagnostic self-assessment tool that utilizes geographic information system mapping technology to identify EDAs using information on per capita income and unemployment rates at the county level. FHWA Division Administrators have worked closely with their State counterparts to assess which areas within each State meet the definition of EDA. The Divisions and States reviewed the number of projects and share of Recovery Act dollars slated to be spent in these areas. Based on this collaboration, a number of States reallocated projects and dollars to emphasize the focus on these areas. Our Division Offices continue their efforts to ensure that States are giving priority to EDAs in the selection of projects.

TRANSPARENCY, ACCOUNTABILITY, AND RISK MANAGEMENT

With over half of the FHWA-administered Recovery Act funds obligated, the agency continues to focus on reporting and management of the risks associated with such a large investment of dollars in transportation. It is not only important to get the money out quickly—we must get it out in the right way. The public needs to know what their money is buying, and FHWA has moved forward aggressively to fulfill the President's commitment to transparency and accountability for Recovery Act funds. Our Recovery Act progress is on the front page of our website, updated every day, and we are providing detailed reports through Recovery.gov.

Even before the Recovery Act was enacted, the agency realized that delivery of Recovery Act projects would not be business as usual. While FHWA was fortunate in having established programs, procedures, and partners for handling the Recovery Act funds, we recognized that there were additional risks associated with the sudden increase in funds coupled with the tight timelines the Act imposed for getting funds in the hands of recipients. Accordingly, we developed a risk analysis and risk mitigation plan associated with the Recovery Act funding. With assistance from the Office of Management and Budget, the Office of Inspector General, and the Government Accountability Office, FHWA studied the risks associated with the Recovery Act, and we are taking precautions. We finalized a National Risk Management Plan in April to guide our oversight of these funds and to ensure that they are spent appropriately.

Many of the risks we identified are associated with the contract and construction phase of a project. There are inherent risks in rushing to push projects out the door. Credible estimates of cost and schedule and timely adjustment of obligated amounts are important. Bid, contract negotiation, and change order procedures must remain within Federal guidelines. We are also watchful about construction and materials quality assurance as an area for potential waste and fraud. Additionally, we must ensure that Recovery Act funds are used for their intended purposes. We also identified risks in meeting disadvantaged business enterprise goals and some added risk in ensuring that costs and billing were eligible and free from fraud, waste, and abuse. Local agency oversight due to lack of experience by local public agencies in handling Federal-aid projects is another risk area FHWA identified and is addressing.

The FHWA is implementing eight risk mitigation strategies: Resource Enhancement; Communication and Education; Sharing Risk with Partners; Division Office Oversight; National Oversight; Measure, Monitor, and Review; Information and Tool Development; and Reassessment and Feedback. These strategies are cross-cutting and respond to the identified risks by enhancing staff capabilities, providing guidance and information, and ensuring oversight. We are actively employing these strategies at the local, State, and National levels.

For example, FHWA's communication and education efforts are extensive. First, we communicated with our Division Office staff in a set of weekly, then bi-monthly, and

now monthly video conferences coupled with a website that includes a series of questions and answers as guidance to field staff. Within two weeks of the Act's passage, we issued detailed guidance explaining how the funds were to be administered. We have also held a series of teleconferences, and web and video conferences with stakeholders, including State DOT Chief Executive Officers (CEOs), local agency Directors of Public Works, County Engineers, and tribal leaders and their transportation personnel. We have supplemented these national efforts through numerous training sessions sponsored, in part, by FHWA Division Offices where our primary purpose was to help State and local officials understand Recovery Act requirements and find ways to streamline the processes while still meeting legal requirements.

As another risk mitigation strategy, FHWA has required each Division Office to develop its own Recovery Act risk management strategy, which includes an active program of highly visible, frequent "spot checks" on five of the key national risks. Often conducted on construction sites, the purpose of these spot checks is to ensure proper procedures are followed.

While we are depending on our 52 Division Offices to carry out these spot checks on the front lines of our risk management, FHWA has also established 3 National Review Teams to carry out more in-depth reviews in our identified risk areas across all 50 States. By the end of the year, we expect these teams to have visited all 50 States and carried out more than 80 reviews, which will lead to reduced risks and increased accountability.

The agency is also monitoring progress and risks by analyzing data we receive from States, coupled with information obtained from our National Review Teams, to identify trends or problem areas and make swift real-time corrections as needed.

As we move forward with Recovery Act implementation, we will continue to employ these risk mitigation strategies to fulfill our mandate that these funds are spent prudently.

CERTIFICATIONS AND REPORTING REQUIREMENTS

The Recovery Act includes a number of certification and reporting requirements that apply to highway infrastructure investments. These include section 1201 maintenance of effort (MOE) certification and reporting, section 1511 certification, section 1512 reporting, and section 1609 reporting requirements. FHWA has worked proactively in each of these areas to ensure that States have the guidance they need to comply with the requirements, and that we process these submissions efficiently.

Implementation of the section 1201 MOE provision has presented some challenges. The provision establishes a process through which States verify that Recovery Act funds supplement, not supplant, planned State expenditures. While all States and territories met the statutory filing deadline of March 18 for their certification of planned State expenditures, our review of the MOE certifications revealed substantial variations in how States calculated their certified amounts. As a result, FHWA worked with other DOT modal administrations and the Office of the Secretary to provide additional guidance and

technical assistance to States so that they could file amended MOE certifications if appropriate. As an additional oversight step, FHWA Division Administrators are meeting with their respective States to review the calculation methodology used by the State for the highway infrastructure portion of the MOE certification. In those meetings, they also will discuss how the State prepared the first MOE reports of actual State expenditures. These steps will help to ensure that there is a “level playing field” when it is time to measure MOE performance and determine which States may participate in the August 2011 redistribution of obligation authority.

Section 1511 of the Recovery Act requires submittal to the Secretary of a certification by the Governor, mayor, or other CEO of State or local government, stating that the infrastructure investment has received the full vetting and review required by law, and accepting responsibility that the investment is an appropriate use of taxpayer dollars. The certification also must include certain specific information on the investment, including the project description, estimated total cost, and amount of Recovery Act funds to be used. The 1511 certification must be posted online before Recovery Act funding may be obligated to the project. I am pleased to say that FHWA has been successful in rapidly reviewing for sufficiency and posting online the 1511 certifications so that highway infrastructure projects can move forward quickly.

As part of the transparency requirements of the Recovery Act, both section 1201 and section 1512 call for recipients to submit information on funded projects, including progress on the project and economic effects such as job creation. Even before final passage of the Recovery Act, FHWA moved forward with the development of an electronic system to facilitate compliance with the expected reporting requirements. The FHWA system uses existing data sources to fulfill Recovery Act data needs to the extent possible, which helps to streamline the reporting process. The agency held a number of outreach sessions for its partners to assist them in using the reporting system. In addition, FHWA has assisted its recipients in data quality assurance efforts. All of these actions enabled FHWA to begin providing Recovery Act data not long after implementation.

To ensure that projects meet the goals of both the National Environmental Policy Act (NEPA) and the Recovery Act, section 1609 requires that the President periodically report on the NEPA status and progress of Recovery Act-funded projects and activities. This is a significant undertaking for highway infrastructure projects because of the number of projects. The FHWA is working closely with its State partners and the President’s Council on Environmental Quality, which is overseeing section 1609 reporting, to fulfill this requirement. The FHWA’s first section 1609 report on April 9 provided information on over 3,000 projects, with approximately 2,500 Federal environmental approvals completed. The second report dated April 30 addressed over 4,000 projects, with approvals completed on more than 3,000 projects. This reporting demonstrates the cooperative partnership FHWA has with State DOTs as well as with our Federal partners.

CONCLUSION

I am mindful of the importance of ensuring the successful deployment of highway dollars under the Recovery Act. Recovery Act implementation will remain a top priority at FHWA, and we will work diligently to ensure that these funds continue to be used as quickly and effectively as possible. We look forward to continued work with you and your staff to improve delivery of the Recovery Act funds to get America's economy moving again.

Mr. Chairman, thank you for the opportunity to appear before you today. I would be happy to answer your questions.