

**STATEMENT OF
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FEDERAL HIGHWAY ADMINISTRATION
BEFORE THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
HEARING ON STIMULATING HAWAII'S ECONOMY: IMPACT OF
THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

AUGUST 24, 2009

Chairman Inouye, Ranking Member Cochran, and Members of the Committee, thank you for the invitation to appear before you today to discuss the impact on Hawaii's economy of funding for highway infrastructure under the American Recovery and Reinvestment Act of 2009 (Recovery Act). The Federal Highway Administration (FHWA) Hawaii Division Office has been working very closely with the Hawaii Department of Transportation (HDOT) to ensure that Recovery Act requirements are met, investments are appropriate, and Recovery Act highway projects are implemented efficiently to put more people to work in good jobs.

Signed into law by President Obama on February 17, 2009, the Recovery Act is an unprecedented effort to jumpstart our economy, create or save millions of jobs, and put a down payment on addressing long neglected infrastructure challenges so our country can thrive in the 21st century. The Recovery Act 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.

Today, I want to share with you FHWA's current and planned activities for effectively administering the Recovery Act in Hawaii and throughout the country.

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.

Likewise, FHWA's partnership with HDOT to administer the Recovery Act started before the Act was passed. Anticipating passage of the bill, the FHWA Hawaii Division Office

worked with HDOT and coordinated with local agencies to identify projects that would strike the best balance between funding, needs, and expediency. The Hawaii Division Office used regularly scheduled meetings, video conferences, and various program planning scenarios to consider the most effective and efficient way forward for Hawaii.

On March 3, 2009, President Obama and Vice President Biden joined Secretary LaHood at DOT to announce the availability to the States of nearly \$26.7 billion for highway investment, including \$125.7 million for Hawaii. Within hours of the President's announcement, States began approving projects—in full compliance with all Federal laws and regulations. FHWA reached a significant milestone 3 weeks ago with the approval of the 6000th highway project funded by the Recovery Act. As of August 14, FHWA Division Offices have authorized 6,626 projects in all States and territories for a total of \$17.52 billion. This represents 66 percent of total funds available. We are working diligently to ensure that the funds for these projects in Hawaii and nationwide continue to be distributed quickly, wisely, and with unprecedented transparency and accountability.

Currently, we have 3,248 Recovery Act highway construction projects actually underway nationwide. As each project is approved and construction begins, we are seeing a reenergized spirit of communication and partnership among FHWA, States, Metropolitan Planning Organizations, local governments, and the transportation industry. FHWA is also hearing good news from States that many projects are running under budget. In Hawaii, bids on early projects have come in well below the engineers' estimates—in some cases, as much as 50 to 60 percent. The savings are now being programmed for additional needed work and will be creating even more jobs.

The Hawaii Division Office has authorized 11 projects in Hawaii for a total of more than \$51 million, and HDOT has awarded contracts against 9 projects, totaling \$43 million in Recovery Act obligations. To date, HDOT has issued notices to proceed for five of these projects, allowing contractors to begin construction. HDOT anticipates issuing notices to proceed for several more projects in the next few weeks.

We estimate that these five projects alone will provide around 200 full time jobs. In addition, these projects include a number of important resurfacing, preservation, and replacement efforts that will cost-effectively extend the serviceability of the State's pavement and bridges.

For example, construction will begin soon on the South Punaluu Stream Bridge replacement project on Kamehameha Highway in Hauula. Approximately \$20.3 million in Recovery Act funds will be used for this project to help ensure continued safe operation of this vital link to Oahu's North Shore.

Construction is also well underway for seismic retrofit of two critical overpass bridges on the H-1 freeway in the Kapolei area. This \$865,000 Recovery Act project will use fiber reinforced polymer wrap technology to ensure seismic safety for these key bridges.

A clean and paint project will begin in September in the Paauila area on Hawaii Belt Road. This \$8.2 million Recovery Act investment will protect and preserve four historic steel trestle bridges by removing the existing lead-based paint and repainting the bridges with a zinc-rich moisture cure polyurethane paint system.

These are just a few examples of how, in Hawaii, Recovery Act dollars are providing needed investments for our people and in our infrastructure. This is happening throughout the country. Every new project obligated is a signal for States to advertise contracts, and for contractors to begin hiring workers and ordering materials such as steel, asphalt, and concrete. Recovery Act projects will save lives, while strengthening the economy by helping our highway system move people and goods more efficiently and effectively.

ECONOMICALLY DISTRESSED AREAS

The Recovery Act requires States to give priority to projects located in Economically Distressed Areas (EDAs), and FHWA has oversight responsibility to ensure that the States fulfill this requirement. An EDA may be determined using one of three criteria. Under the first two criteria, an area is economically distressed if it has a per capita income of 80 percent or less of the national average or if it has an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate. In order to assist the States in evaluating these criteria, FHWA has provided a diagnostic self-assessment tool that utilizes geographic information system mapping technology to identify EDAs based on per capita income and unemployment rates at the county level. Using this tool, the Big Island of Hawaii and the island of Molokai have been identified as EDAs.

FHWA is close to issuing additional guidance about the third criterion—special need. Hawaii has not yet identified any EDAs using the special need criterion. However, FHWA will work with the State should Hawaii identify any areas that might meet the special need criterion.

FHWA Division Administrators continue to work 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. Currently, of the funds already obligated in Hawaii, 27 percent are directed toward EDAs for 3 projects totaling over \$14 million. Our Hawaii Division Office will continue to work with the State to ensure that the State is giving priority to EDAs in the selection of projects.

TRANSPARENCY, ACCOUNTABILITY, AND RISK MANAGEMENT

With two-thirds of the total 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. FHWA's 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, the Agency 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 began 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. Additionally, we must ensure that Recovery Act funds are used for their intended purposes. 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.

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 has provided additional staff at the Division Office level to ensure projects are delivered as quickly as possible with full attention to requirements and stewardship. In the Hawaii Division Office, we have added one full time engineer and a part time financial specialist. In partnership with HDOT, we have established procedures to meet Recovery Act reporting requirements, and we have met the requirements.

FHWA's communication and education efforts are extensive. The FHWA Headquarters Office has held a set series of weekly, then bi-monthly, and now monthly video conferences with Division Office staff, coupled with a website that includes a series of questions and answers as guidance to field staff. Within 2 weeks of the Act's passage, FHWA issued detailed guidance explaining how the funds were to be administered. The FHWA Headquarters Office has 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. The Agency has supplemented these national efforts through numerous training sessions sponsored, in part, by FHWA Division Offices. Our primary purpose in these sessions is to help State and local officials understand Recovery Act requirements and find ways to streamline the processes, while still meeting legal requirements. The Hawaii Division Office has provided training through a number of venues to various groups, including the Hawaii Council of Mayors, industry groups, and State and county staffs. We have also provided information through the Hawaii State website and our Local Transportation Assistance Program Center at the University of Hawaii.

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. Nationwide, FHWA has carried out over 2,000 of these spot checks. In Hawaii, the Division Office has been actively involved in assisting the State and local partners delivering the most challenging and complex projects in Hawaii's Recovery Act program, namely the Kuhio Highway project on Kauai and the Ane Keohokalaaloe Highway project on the Big Island. The Hawaii Division Office has also carried out 20 project reviews and, in some cases, recommended procedural changes to improve the quality or efficiency of meeting a requirement.

While FHWA is depending on its Division Offices to carry out these spot checks on the front lines of the agency's 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, FHWA expects these teams to have visited all 50 States, carried out more than 90 reviews, and inspected nearly 400 projects, which will lead to reduced risks and increased accountability. One of these teams will visit Hawaii in early October. When the review teams find similar issues in several States, FHWA sends an advisory to its Directors of Field Service for discussion with field offices. The results of these national reviews are summarized every 2 weeks and reported at the highest levels in the Agency.

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

We are also reviewing projects both prior to and after authorization to ensure projects are moving forward and meeting all applicable requirements. Many of the project reviews thus far have focused on environmental clearances and design requirements needed for individual projects. In the Hawaii Division Office, for instance, on Mid-Level Road on the Big Island, we are working very closely with the State and County to deliver this complex \$35 million project under the Recovery Act. Likewise, we have assigned an experienced engineer to work with the State on the Kuhio Highway project on Kauai.

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 prudently spent.

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, the Agency's 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 have met 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 discussed how the State prepared the first MOE reports of actual State expenditures. These steps are 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 State or local government CEO, 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. FHWA has been successful in rapidly reviewing for sufficiency and posting online the 1511 certifications so that highway infrastructure projects can move forward quickly. Hawaii's 1511 certifications submitted to the Secretary on March 16 and July 21 included a total of 19 projects fully vetted and reviewed as required by law. The projects identified in the 1511 certification included both projects that could be shovel ready in a short period of time and larger projects that were significant new additions to the transportation system. The projects were also selected to meet all the sub-allocation requirements contained in the Recovery Act. FHWA continues to work closely with HDOT to monitor these projects and help ensure their successful delivery.

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. To the extent possible, the FHWA system uses existing data sources to fulfill Recovery Act data needs, 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. 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. 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. In the report to Congress on August 3, FHWA reported over 5,000 projects, with approvals completed on more than 4,500 projects. For Hawaii, this included eight projects with all Federal environmental approvals completed on four projects. This reporting demonstrates the cooperative partnership FHWA has with State DOTs as well as with our Federal partners.

CONCLUSION

At FHWA, we are mindful of the importance of ensuring the successful investment of highway dollars under the Recovery Act. When all of Hawaii's Recovery Act highway funds are expended, we estimate that this investment will create or retain over 1,350 full time job-years. In addition to the near-term employment impacts, these highway infrastructure investments will return economic benefits to Hawaii for many years to come. In the Hawaii Division Office, we are doing our part to work with HDOT to ensure that the State's remaining Recovery Act funds are invested as quickly and effectively as possible.

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