

## Attachment 14A(1)

### Explanatory Note for Department of Transportation (DOT) Report August 2, 2010

Department of Transportation projects and activities funded under Division A of the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act) are divided into activities by the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA), Federal Railroad Administration (FRA), Maritime Administration (MARAD), and Office of the Secretary of Transportation (OST). Information regarding the projects/activities in each Modal Administration/Office is provided below. This explanatory note reports on Department of Transportation (DOT) projects and activities through June 30, 2010.

#### Federal Highway Administration

- ARRA provides funds for restoration, repair, construction and other activities eligible for assistance under 23 U.S.C. Section 133(b) (the Surface Transportation Program), and for passenger and freight rail transportation and port infrastructure projects eligible for assistance under 23 U.S.C. Section 601(a)(8). ARRA lists specific amounts for projects in Puerto Rico and territories. ARRA provides funding for transportation investments at Indian reservations and Federal lands. Three percent of the funds are set aside for Transportation Enhancement activities such as historic preservation, bicycle and pedestrian trails and environmental mitigation.
- The Nation's Governors are required to make certifications and other assurances that the funding made available under the Recovery Act will be spent for worthy infrastructure projects. The FHWA report lists projects, by State, that have been obligated. For some States, the projects listed include all highway projects that have been identified in the governor's certification lists. Obligation means that a commitment has been made to pay a State for the project's eligible Federal share that has been approved and a project agreement executed. When funds are obligated, States are notified that Federal funds are available for the State use, meaning that State can incur costs, begin projects and then, later be reimbursed for eligible costs.
- The total number of ARRA Funded Projects/Activities listed on page 1, column E accounts for FHWA projects where funds have been obligated. The obligation totals for these projects are listed in Total Obligations for Projects and Activities on page 1, column L. This aligns with the Department of Transportation Financial & Activity reports.
- The total NEPA actions reported in column J of page 1 of the FHWA spreadsheet do not include projects where the appropriate level of NEPA analysis is yet to be determined or it has been determined that NEPA is not applicable. Projects where NEPA is not applicable are listed under column F of page 1. The 91 projects listed on page 2 with no data in the other

columns are still in the scoping phase and the NEPA class of action has not been determined at the time of this report.

- The report does not contain estimates or aggregate projects/activities. Each line item on page 2 identifies an individual project/activity receiving ARRA funding.
- Since the States can make funding decision changes, the report includes projects that may ultimately be funded by non-ARRA sources based on the way each State reported the information. If a project's funding source was changed following initial reporting and Division A ARRA funds are not being used, it is listed as withdrawn. If a project was documented to be in the scoping phase (NEPA class of action to be determined) and it was determined not to advance the project, these projects have been listed as withdrawn on the report. If a project was inaccurately identified as an FHWA ARRA funded project, they have been deleted from the report. These actions account for the change in withdrawn projects numbers from the previous report to this report.
- Of the \$27.5 billion appropriated for Highway Infrastructure Investment, ARRA provides that FHWA may retain up to \$40 million for oversight activities which are not included in the report because they are used to administer the ARRA funds and not for ARRA funded projects/activities.
- The "Description of the Project/Activity" in column C, page 2 of the spreadsheet identifies the specific ARRA project and activities by: State, FHWA Federal Project Number, Project Name (often the State Project Number), Project Description, and FHWA Project Purpose Code (i.e. FMIS improvement type codes).
- The two FHWA "NEPA Not Applicables" (N/As) listed on Page 1 of the spreadsheet are for projects that are covered under CERCLA/RCRA.
- Multiple NEPA actions are listed for several FHWA projects because additional NEPA actions from different Federal agencies are required to complete the project.
- FHWA NEPA actions that have been pending for longer than 90 days are a result of several factors, including
  - Projects which are designated contingency projects in the event that additional ARRA funds become available due to other projects being withdrawn or projects coming in under budget;
  - Projects which have a NEPA Categorical Exclusion determination made after final review on the date of obligation;
  - Projects where FHWA has approved NEPA action and has obligated funds but are awaiting Federal permits prior to initiating construction; and
  - Because State DOTs have until September 30, 2010, to fully obligate their ARRA funding, projects may remain as NEPA pending or have no NEPA class of action determination until such time as the project is ready to be obligated or to move forward.

- FHWA determined through ongoing review of submitted State DOT datasets that many projects that were previously reported as pending in the previous report were complete.
- FHWA has provided one-on-one guidance to States to correct these errors and this report reflects these corrections.
- For FHWA Federal Lands Division projects, the ARRA obligation deadline is September 30, 2010. Therefore, FHWA NEPA actions do not need to be and will not be completed for Federal Lands projects until September 30, 2010.
- Several Federal-Aid projects fall under the Ferry Boat Discretionary Program and are not required to have NEPA completed, or any obligation made, until September 30, 2010.
- Some Federal-Aid projects are no longer being carried forward as ARRA projects but continue to have ARRA obligations associated with the project. They will be withdrawn when funds are released from FHWA's financial system.
- The MARTA Rail System Line Structure Rehabilitation project, Georgia, is a transit project being funded with highway ARRA funds. This transit rehabilitation project was approved by the Atlanta Regional Commission. The Georgia DOT will complete a transfer of funds so that a grant can be approved by FTA to MARTA, the transit authority. A NEPA determination will be completed by FTA rather than FHWA (the project is noted as withdrawn on row 2981 of the FHWA spreadsheet).
- FHWA continues to update its RADS project database to capture required project information for over 16,000 NEPA actions. Several NEPA "done" dates for completed NEPA actions were not reflected in the current report. They will be updated in the subsequent NEPA ARRA Section 1609(c) report.
- ARRA appropriated funds for disadvantaged business enterprise bonding assistance for transportation projects are specifically funded through ARRA. DOT's Office of Small and Disadvantaged Business Utilization has developed an outreach campaign to distribute information on this program, working with State DOTs, the surety industry and other Federal agencies such as the Small Business Administration and the Minority Business Development Agency. The DOT administration providing funding for the projects will be the lead agency for any environmental review of the projects. As of June 30, 2010, the OSDBU had reimbursed 35 separate bond fees for a total of \$427,043.
- NEPA Benefits:

FHWA has processed or is currently processing ARRA-funded projects in many States that demonstrate the benefits provided by the NEPA analysis and documentation. The involvement of stakeholders and collaboration with resource agencies have resulted in projects which incorporate features such as context sensitive solutions, historic preservation, habitat preservation, and non-motorized facilities into the improvements to highway facilities. For example, on the Yuma Pivot Point Plaza project, the NEPA process led to the

recognition of the importance of protecting the Swing Span project, a historic feature of the transcontinental railroad system, as well as connecting the Plaza with the adjacent Gateway Park. In the case of the U.S. 33 Nelsonville Bypass, the NEPA process led to mitigation measures during and after construction, including tree and grass planting for erosion control and native plant restoration, provisions for large and small animal crossings, special fencing to prevent animal encroachments into the right-of-way, and special lighting to protect bats by directing their flight over the roadway. In the case of the Newtown Pike Extension project in Kentucky, as a result of the early coordination of the NEPA and National Historic Preservation Act processes, FHWA introduced measures to record the history of National Register of Historic Places eligible structures, collect local oral histories, and use the results from phase 3 archaeological studies for public education efforts. The Tree Planting Project in Maryland will establish suitable forest habitat within State highway rights-of-way for selected threatened and endangered species.

#### Federal Transit Administration (FTA)

- FTA has awarded 1,049 ARRA grants totaling more than \$8,750 billion as of June 30, 2010. The ARRA grants are for projects which include 6,845 Categorical Exclusions (CE), 27 Environmental Assessments (EA), and 22 Environmental Impact Statements (EIS). The NEPA process is completed for each of the projects and, in many cases, contributes to the prevention or elimination of damage to the environment, as well as the enhancement of environmental quality.
- FTA ARRA grants have purchased more than 12,000 buses, vans and rail vehicles; more than \$4.4 billion in transit infrastructure construction or renovation; and more than \$725 million in preventive maintenance. On May 13, 2010 FTA awarded the 1,000<sup>th</sup> ARRA grant; this was the grant to the Choctaw Nation of Oklahoma. The Choctaw Nation will use the \$480,374 grant for vehicle and technology upgrades. The Choctaw Nation is a non-reservation tribe that provides transportation services for all the residents of a 10½-county area of southeast Oklahoma where many members of the tribe live. CEs were completed to purchase three 14-passenger paratransit buses, three paratransit mini-vans and ride dispatching software (lines 2127-2129).
- FTA has obligated all of the designated ARRA funds for the following transit investments: 36-New Starts Capital Investment Grants (\$742 million), 56-Fixed Guideway Infrastructure Investment Grants (\$742 million), 86-Non-Urban Area Formula Grants (\$745 million) and 96-Urban Area Formula Grants (\$5.98 billion.) There are two grant programs currently in process: 86-Non-Urban Area Formula Tribal Transit (\$17 million of which \$16.6 million has been obligated), and 77-Transit Investments in Greenhouse Gas and Energy Reduction-TIGGER grants (\$100 million of which \$96.9 million has been obligated).
- 36- New Starts Capital Investment Grant (\$742 million):
  - The New Starts planning and project development process reflects a continuum of local policy development, technical studies, and decision-making activities, where

broad regional problems are identified and prioritized; options for addressing specific problems in specific corridors are identified, evaluated, and narrowed and optimal investment strategies are selected and advanced for more detailed analysis and, ultimately, implementation and operation. There was a statutory preference for projects that are in construction or for which funds may be obligated within 150 days of enactment of ARRA.

- Environmental documents have been prepared for a variety of ARRA-funded “New Start” (49 U.S.C. § 5309) projects. NEPA compliance for all ARRA-funded projects is the same, insofar as environmental considerations are concerned, as traditionally funded projects.
  - ARRA-funded projects include any fixed guideway system which utilizes and occupies a separate right-of-way, or rail line, for the exclusive use of public transportation and other high occupancy vehicles, or uses a fixed catenary system and a right-of-way usable by other forms of transportation. This includes, but is not limited to: heavy rail; light rail; commuter rail; automated guideway transit; people movers; and exclusive facilities for high occupancy vehicles (such as bus rapid transit). ARRA-funds are also applied to general maintenance and replacement of equipment (lines 1-11).
- 56-Fixed Guideway Infrastructure Investment (\$742 million):
    - A “Fixed Guideway” refers to any transit service that entirely or in part uses exclusive or controlled rights-of-way or rails, entirely or in part. The term includes: heavy rail; commuter rail; light rail; monorail; trolleybus; aerial tramway; inclined plane; cable car; automated guideway transit; ferryboats; portion of motor bus service operated on exclusive or controlled rights-of-way; and high-occupancy-vehicle (HOV) lanes. Funds are allocated by a statutory formula to urbanized areas with rail systems that have been in operation for at least seven years.
    - Environmental documents have been prepared for a variety of ARRA-funded projects including capital projects to: modernize or improve existing fixed guideway systems; purchase and rehabilitate rolling stock, track, line equipment, and structures, signals and communications; power equipment and substations; passenger stations and terminals; security equipment and systems; maintenance facilities and equipment, and preventive maintenance; operational support equipment, including computer hardware and software (lines 12-191).
  - 96-Urban Area Formula (\$5.98 billion):
    - This program (49 U.S.C. § 5307) makes Federal resources available to urbanized areas and to Governors for transit capital and operating assistance in urbanized areas and for transportation related planning. An urbanized area is an incorporated area with a population of 50,000 or more that is designated as such by the U.S. Department of Commerce, Bureau of the Census.
    - Environmental documents have been prepared for a variety of ARRA-funded projects in urban areas. Funds have been used for: planning, engineering, design, and transportation-related studies; as well as capital investments and general

maintenance of buses, vehicles, paratransit services, fixed guideway systems and construction of transit facilities (lines 2170-6894).

- 86-Non-Urban Area Formula (\$745 million) and Tribal Transit (\$17 million of which \$16.6 million has been obligated):
  - The Non-Urban Area Formula Program (49 U.S.C. § 5311) provides formula funding to States for the purpose of supporting public transportation in areas of less than 50,000 populations. Eighty percent of the statutory formula is based on the non-urbanized population of the States and 20 percent of the formula is based on land area. No State may receive more than 5 percent of the amount apportioned for land area. In addition, FTA adds amounts apportioned based on non-urbanized population according to the growing States formula factors of 49 U.S.C. § 5340 to the amounts apportioned to the States under the § 5311 program (lines 266-2039).
  - Non-urban area formula and tribal transit NEPA compliance for ARRA-funded projects is the same, insofar as environmental considerations are concerned, as traditionally funded projects.
  - Eligible applicants for the Tribal Transit Program are Federally-recognized Indian tribes or Alaska Native villages, groups, or communities as identified by the Bureau of Indian Affairs (BIA) in the Department of the Interior (DOI) for capital projects and cost. FTA received 71 applications and selected 39 tribal applicants to receive the \$17 million in available funding (lines 2040-2169).
  - Environmental documents have been prepared for a variety of ARRA-funded projects. Funds may be used for capital, operating, and administrative assistance to State agencies, local public bodies, Indian tribes, nonprofit organizations, and operators of public transportation services. Projects must meet the requirements of the Americans with Disabilities Act, the Clean Air Act, or Federally-funded bicycle access projects.
  
- 77-Transit Investments in Greenhouse Gas and Energy Reduction-TIGGER grants (\$100 million of which \$96.9 million has been obligated): ARRA made available \$100 million for a discretionary program to support transit capital projects that resulted in greenhouse gas reductions or reduced energy use. FTA published a Federal Register Notice on March 24, 2009, announcing the availability of funding and selection criteria for the program and inviting proposals. FTA received 224 applications and selected 43 projects to receive the \$100 million in available funding (lines 192-265).

#### Federal Aviation Administration

- The FAA was appropriated ARRA funds for two program areas: Grants-in-Aid for Airports, and Facilities and Equipment. Only projects which have completed NEPA determinations are being considered for ARRA support from these appropriations.

- This FAA report covers 327 airport grants, which is 40 more projects than previously reported, totaling \$1.095 billion. The four stages in awarding Grants-in-Aid for Airports are Programmed, Released, Reserved, and Obligated, as described on our website [www.faa.gov/recovery](http://www.faa.gov/recovery). As of June 30, 2010 all of the funds allocated for airport grant projects have been obligated and are under grant. A small amount of funding (estimated less than \$1 million at any point in time) continues to be “recycled” as airport construction bids come in below estimates and identified savings are redistributed to support project overruns. All projects have started, and 240 are substantially complete.
- The FAA has awarded contracts to 364 projects from the Facilities and Equipment appropriation for a cumulative total of \$151.6 million. This is 58 projects more than were included in the previous report. Facilities and Equipment contracts are major capital investments related to modernizing and improving air traffic control and airway facilities, equipment, and systems.
- This report does not contain estimates. The report does aggregate projects for the Facilities and Equipment contracts, for which there were numerous NEPA actions with the same type and status. Information on individual Facilities and Equipment projects can be found at: [www.faa.gov/recovery/programs](http://www.faa.gov/recovery/programs).
- For Grants-in-Aid for Airport projects, NEPA is triggered when funds are Programmed for a proposed project (Stage 1 in the Grants-in-Aid awarding process). NEPA analyses are initiated during this time. NEPA analyses, including EAs and EISs, are completed before the Released stage of the funding process. The date of NEPA document completion is the date that the FAA approved the NEPA action. There are no other agency NEPA reviews.
- Information for the Grants-in-Aid for Airports is taken from FAA's grants management system, which is called SOAR. Information on the Facilities and Equipment contracts is from Delphi, the Department of Transportation's comprehensive financial management system.
- FAA may retain administration and oversight allowances under the Grants-in-Aid for Airports program. Obligated funds reported do not include any funds for oversight.

#### Federal Railroad Administration

- As of June 30, 2010, FRA has obligated over \$1.3 billion of their appropriation of nearly \$9.3 billion, including over \$100,000,000 in High Speed Rail (HSIPR) funds.
- Sixty-two applications were selected for funding through ARRA in January, 2010. FRA continues to work with selected applicants to create grant agreements and obligate funds under the awards.

- Awards for selected projects are being made continuously and on a rolling basis, as applicants with selected projects are able to provide the materials needed to craft an acceptable grant or cooperative agreement.
- HSIPR NEPA actions reported as pending on the FRA spreadsheet are undergoing final environmental review. Having substantially completed NEPA documentation was a prerequisite for application eligibility of construction projects and corridor development programs. FRA staff is actively reviewing environmental documentation to issue decisions. The type of NEPA action varies by project and program.
- Administrative services have been funded, and that is reflected in reduction in the total ARRA appropriation reported for the Capital Assistance for High-Speed Rail Corridors and Intercity Passenger Rail Service Program (reduced from \$8 billion to \$7,998,471,045 first reported in the third report).
- The Amtrak NEPA actions reported as pending on the FRA spreadsheet are awaiting submission of various documents which need to be reviewed to determine whether a finding of Categorical Exclusion is appropriate under FRA Procedures for Considering Environmental Impact. These documents include SHPO impact determinations, cultural resources assessments, and proof of federal permitting agency consultation. The specific required documents vary by project.
- FRA currently has 31 pending NEPA actions: five are Amtrak projects and 26 are HSIPR selected projects.
- The total appropriation for Amtrak has been adjusted from \$1.3 billion to \$1,293,525,000 to subtract funds for administrative purposes. This was first reported in the third report.

#### Maritime Administration

- The Maritime Administration was tasked with administering the Small Shipyard Grant program under ARRA. The grant program notice was published on March 4, 2009, and applications were due by April 20, 2009. A total of 454 applications were received and reviewed.
- Of the applications received, 75 were selected to be funded, totaling \$98 million. The remaining \$2 million is for oversight activities, as stipulated by ARRA.
- A NEPA analysis was conducted for the selected applications. Applicant projects consisted of repair and modernization activities. It was determined that all of the selected projects fit squarely within Agency categorical exclusion guidelines; there were no controversial or extraordinary projects. A single, programmatic categorical exclusion was issued. No changes have been made since the April 15, 2010 submission.

## Office of the Secretary

ARRA appropriated \$1.5 billion of discretionary grant funds Transportation Investment Generating Economic Recovery (TIGER) grants to be awarded by the Department of Transportation for capital investments in surface transportation infrastructure. Up to \$1.5 million of the appropriated funds may be used for administration of the program. The total appropriation amount has been adjusted to \$1,498,500 it reflect inclusion of federal credit assistance.

- A final notice of the TIGER grant program, announcing funding availability, project selection criteria and application requirements, was published on June 17, 2009.
- TIGER grant applications were submitted by September 15, 2009. The Department received more than 1400 applications requesting close to \$60 billion in funding from 50 states, 3 territories and the District of Columbia. Applications were assessed to determine whether projects were well aligned with the short- and long-term criteria specified in the program's Federal Register notice. The Department required rigorous economic justifications for projects requesting more than \$100 million in funds.
- On February 17, 2010, 51 TIGER grant projects were selected for award. These projects represent some of the most innovative projects as well as multi-modal, multi-jurisdictional projects that are often overlooked by the existing funding system. The projects include major billion dollar freight rail corridors in the Mid-Atlantic and South; bridge and road repairs in Oklahoma and South Carolina; and port projects in Maine and Hawaii.
- Although TIGER grant projects have been selected, awards have not yet been made. The Department is currently in the process of determining necessary NEPA actions and developing grant agreements with the 51 awardees. DOT administrations are taking responsibility for support work on various TIGER projects, including NEPA documents. The assigned specific DOT administration is generally based on the type of project e.g. transit projects are assigned to the FTA. In this report, DOT has begun to report those TIGER grants for 27 actions for which the NEPA course of action has been determined and initiated by June 30, 2010.

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