U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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Chairman

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July 20, 2009

Dear Governor:

The Committee on Transportation and Infrastructure continues to closely oversee the implementation of transportation and infrastructure provisions of the American Recovery and Reinvestment Act of 2009 ("Recovery Act") (P.L. 111-5),[1] to ensure that the funds provided are invested quickly, efficiently, and in harmony with the job-creating purposes of the Recovery Act. To this end, we request that you provide the Committee with updated specific transparency and accountability information by September 20, 2009, and November 20, 2009. We also request that you submit a written response detailing how your State has complied with the statutory requirement that States give priority to Highway Infrastructure Investment projects located in economically distressed areas and the intention that States ensure an equitable geographic distribution of highway funds. Please provide the Committee with these brief explanations by September 20, 2009.

In the five months since enactment of the Recovery Act, many States, Metropolitan Planning Organizations (MPOs), and public transit agencies have demonstrated the ability of transportation and infrastructure programs to create and sustain family-wage jobs, contribute to our nation's long-term economic growth, and help the United States recover from the worst recession since the Great Depression. These five months have also provided ample time and opportunity for underperforming States, MPOs, and public transit agencies to step up their efforts, sign contracts, and put shovels into the ground. ***Accordingly, beginning in September, the Committee will highlight the best and worst performers in implementing Recovery Act transportation and infrastructure programs.***

[1] The Recovery Act provides $64.1 billion of infrastructure investment authorized by the Committee on Transportation and Infrastructure to enhance the safety, security, and efficiency of our highway, transit, rail, aviation, environmental, inland waterways, public buildings, and maritime transportation infrastructure. This investment includes almost $40 billion of Federal-aid highway, public transit, and Clean Water environmental infrastructure funding under the jurisdiction of this Committee that is distributed directly to States, metropolitan areas, and public transit agencies by existing statutory formulas.

The periodic transparency and accountability reports also reveal that States and MPOs are lagging behind in putting to work Recovery Act highway funds that are suballocated to MPOs. I recognize that States had been focused on meeting the June 30, 2009 deadline for obligating 50 percent of State-administered highway funds, a deadline that does not apply to funds suballocated to MPOs.[2] Now that this deadline has passed, I expect States and MPOs to increase their rate of obligation on these suballocated funds, as well as of putting contracts out to bid, signing contracts, and breaking ground on projects during the coming months.

COMMITTEE OVERSIGHT

Throughout the development of the Recovery Act, I emphasized the importance of transparency and accountability and ensured that the transportation and infrastructure programs would be subject to rigorous oversight. On February 27, 2009, and May 1, 2009, the Committee sent letters to States, the District of Columbia, Territories, MPOs, and public transit agencies to request information on recipients' use of Recovery Act formula funds for highways, bridges, public transit, clean water, and other infrastructure projects under the Committee's jurisdiction.

According to the most recent submissions, as of May 31, 2009, 4,098 highway and transit projects in all 50 States, three Territories, and the District of Columbia have been put out to bid, totaling nearly $16 billion. This represents 46 percent of the total available formula funds for highway and transit projects. Forty-seven States and the District of Columbia have signed contracts for 2,294 highway and transit projects totaling $6.5 billion, an increase of over 200 percent in the 30 days since the previous reporting deadline (April 30, 2009). Work has begun on 1,243 projects in 47 States and the District of Columbia totaling $4.4 billion, an increase of more than 225 percent in the past 30 days.

The Committee compiled these submissions and released a State-by-State breakdown on this use of Recovery Act formula funds. To download this table, please visit the Committee's website: http://transportation.house.gov/, and click on the blue box entitled "Transparency and Accountability Information". The Committee will continue to release updated data that reflects the regular reporting to the Committee.

On June 25, 2009, the Committee also held its second in a series of oversight hearings on implementation of the Recovery Act. Administrators of Federal transportation agencies and State and local officials, along with a construction representative, testified about how these funds are already getting workers off the bench and back on the job. The information submitted in your previous reports proved critical to this review of Recovery Act programs. Continued direct reporting to the Committee is essential to our efforts to ensure that every State partner in Federally-funded programs can deliver projects and create urgently needed employment in the tight timeframes set forth in the Act.

[2] The Recovery Act includes specific "use-it-or-lose-it" deadlines by which States and other recipients must invest transportation and infrastructure funding provided under the Act. For Federal-aid Highway formula funds, 50 percent of State-administered funds must be obligated within 120 days of apportionment (June 30, 2009) and all funds must be obligated within one year of apportionment (March 2, 2010). As of June 19, 2009, all States had met the 50 percent requirement for highway funds. For transit formula grants, 50 percent of funds must be obligated within 180 days of apportionment (September 1, 2009) and all funds must be obligated within one year of apportionment (March 5, 2010).

FOCUS ON BEST AND WORST PERFORMERS

The five months since the Recovery Act's enactment has provided enough time for States, MPOs, and public transit agencies, to significantly implement Recovery Act programs by signing contracts for and beginning shovel-ready projects. By now recipients of Recovery Act funds should have completed the diversity of actions and processes that exist on State and local levels, including public participation and bidding of projects, and be able to quickly and efficiently invest these funds.

Accordingly, beginning in September, the Committee will highlight the best and worst performers in implementing Recovery Act transportation and infrastructure programs. The Committee plans to focus on the percentage of allocated funds associated with projects under contract and projects underway. Monitoring these indicators, along with the amount of allocated funds associated with obligated projects as well as projects put out to bid, will help us measure the Recovery Act's progress.

Focusing exclusively on the funds outlayed fails to provide a good sense of Recovery Act progress because transportation projects primarily operate on a reimbursement mode. For example, States seek reimbursement for highway projects after construction is underway. Knowing how many funds are associated with projects under contract and projects underway better captures the extent to which Recovery Act funds have arrived on Main Street.

ONGOING REPORTING

The Committee requests that recipients submit updated reports to the Committee by **September 20, 2009**, and **November 20, 2009** (data in these reports should include cumulative information regarding what has occurred as of August 31, 2009, and October 31, 2009, respectively). The Committee will continue to request that direct grant recipients report regularly to the Committee regarding implementation of the Recovery Act.

For the September 20, 2009, and November 20, 2009 submissions, recipients should update the Microsoft Excel form they used to report this month, and rename the form for the appropriate reporting date. If needed, the form may be downloaded by visiting the Transparency and Accountability section of the Committee's website.

NEW REPORTING REQUIREMENTS REGARDING HIGHWAY FUNDS

Economically Distressed Areas

The Committee requests that you submit a brief, formal written response detailing the extent to which your State has complied with the statutory requirement that States give priority to highway projects that are located in economically distressed areas. ***In your letter, please note the percentage of your State's total allocated Recovery Act highway funds that have been obligated to economically distressed areas, as of August 31, 2009.***

The Recovery Act specifically requires that, in selecting projects within the Federal Highway Administration, Highway Infrastructure Investment program to be carried out with funds apportioned under the Recovery Act, States give priority to projects that are located in economically distressed areas as defined by Section 301 of the Public Works and Economic Development Act of 1965, as amended.[3] Pursuant to the Public Works and Economic Development Act, an economically distressed area includes an area that has "a per capita income of 80 percent or less of the national average" or an unemployment rate "at least 1 percent greater than the national average".[4]

Equitable Geographic Distribution of Funds

The Committee also asks that you provide a brief, formal written explanation detailing how your State has ensured that highway formula funds are equitably distributed within your State. Although the Recovery Act does not specifically require States to ensure an equitable geographic distribution of highway funds and an appropriate balance in addressing the needs of rural and urban communities, Congress intended that States comply with this objective.

Submission

You may include both explanations in one letter and email the response to: T&I.recovery@mail.house.gov, by **September 20, 2009**. Please do not send any letters by mail.

If you have any questions regarding this request, please have your staff visit our website or contact Joseph Wender, Counsel to the Committee on Transportation and Infrastructure, at (202) 225-4472 or Joseph.Wender@mail.house.gov.

Thank you for your efforts.

Sincerely,

Jim Oberstar

James L. Oberstar, M.C.
Chairman

[3] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Title XII (2009).
[4] Public Works and Economic Development Act of 1965, 42 U.S.C. § 3161 (2006).