

FHWA SC Division and SCDOT Stewardship and Oversight Supplemental Plan for Delivering the American Recovery and Reinvestment Act of 2009

Section I – Background

The American Recovery and Reinvestment Act of 2009 (ARRA) was signed into law on February 17, 2009, and on March 2, 2009, SCDOT received its apportionment for highway improvements totaling \$463 million. In view of the priority considerations contained in ARRA, the SCDOT Commission has determined that these funds will be distributed as follows:

<u>Funding Amount *</u>	<u>Percentage of Total</u>	<u>Work Type</u>
\$150 million	32%	Resurfacing (non-Interstate)
\$74 million	16%	Interstate Maintenance
\$19 million	4%	Safety Projects
\$56 million	12%	Bridge Replacement
\$106 million	23%	MPO/COG/Other Local (suballocation)
\$44 million	10%	TMA Funding (suballocation)
\$14 million	3%	TE projects (set aside)

ARRA established strict timeframes for funding obligations, and high standards for accountability and transparency. All ARRA funds must be obligated within one year of the apportionment to SCDOT (by March 1, 2010), and 50% of the non-suballocated and set aside funds must be obligated within 120 days of the apportionment (by June 29, 2009). Failure to meet these timeframes would likely result in SCDOT losing any unobligated balances. In addition, the legislation set forth specific project eligibility and selection criteria as well as requiring monthly reporting of project data.

The significant amount of funding made available in a relatively short timeframe will potentially increase risks in the delivery, administration and overall quality of projects. From a national perspective, FHWA identified five key risk areas associated with the delivery of ARRA – LPA Project Oversight, PS&E Quality, Contract Administration, Quality Assurance, and the DBE Program. As a result, each FHWA Division has been directed to develop a risk management plan to focus on these national risks and any local risks specific to their state. The FHWA SC Division's plan was completed on March 19, 2009. A copy of the plan is attached to this document.

** The SCDOT Secretary of Transportation has discretion to reallocate funding within these categories, if necessary, to meet ARRA requirements.*

Section II – Purpose of Supplemental Plan

To support the FHWA SC Division’s ARRA Risk Management Plan, the FHWA SC Division, in partnership with SCDOT, has prepared this Supplemental Plan to address key ARRA risk areas and complement its current Stewardship and Oversight Plan, dated November 2007.

Both SCDOT and the FHWA SC Division agree to administer ARRA projects in accordance with the criteria set forth in the November 2007 Stewardship and Oversight Plan. However, in recognizing the potential risks, both nationally and locally, associated with the delivery of the ARRA program, both agencies acknowledge that additional monitoring and oversight activities are needed to better ensure the successful delivery of the ARRA program.

The purpose of this Supplemental Plan is to (1) ensure the FHWA SC Division provides the necessary stewardship of ARRA funds made available to South Carolina, (2) support the FHWA SC Division’s risk management plan developed specifically to deliver the ARRA program in South Carolina and (3) establish highly visible monitoring strategies of both program and project functions (to be carried out by both SCDOT and the FHWA SC Division) to mitigate the potential consequences associated with the identified national and local risk areas.

It is important to note that this Plan will supplement and not replace the current Stewardship and Oversight Plan adopted by the FHWA SC Division and SCDOT. While the primary roles and responsibilities outlined in the November 2007 plan will remain in effect in carrying out ARRA-funded projects, this plan outlines additional actions that the FHWA SC Division and SCDOT will undertake to ensure ARRA funds are obligated and expended in accordance with both Title 23 United States Code and the specific requirements stipulated in ARRA.

While LPA project oversight was identified as a national key risk area, at this time, it is anticipated that none of the ARRA projects will be administered by a Local Public Agency. In the event this changes, SCDOT and FHWA agree that adjustments to this Supplemental Plan may be required.

Section III – Additional Stewardship & Oversight Activities to be Performed by FHWA SC Division

As stated previously, all ARRA projects to be administered in accordance with the existing Stewardship and Oversight Plan. However, because of the additional scrutiny being placed on ARRA-funded projects from both the public and political officials, as well as government oversight agencies, the FHWA SC Division staff will carry out additional oversight activities as set forth below. SCDOT agrees to support these activities and assist as necessary.

1. FHWA Program Activities

Planning activities for ARRA projects will continue as they do for all other federally assisted projects. Amendments incorporating ARRA projects into SCDOT’s STIP will be reviewed by the Division Office Planner for eligibility, fiscal constraint, transportation conformity, coordination with MPO TIPS, and public involvement. Copies of STIP

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Amendments will be provided to the Operations Team to assist in verifying project eligibility at time of authorization.

Environmental activities for ARRA projects will continue as they do for all other federally assisted projects. All NEPA reviews and approvals will follow existing procedures including our December 2007 Programmatic CE Agreement with SCDOT. Because of the increased number of projects, ARRA will create a higher volume of environmental permits and necessary consultations. To minimize risk in this area, the Operations Engineering Team will work closely with the Planning and Environmental Team to complete at least one environmental commitment review on a high profile project in each SCDOT District. The purpose of this review is to ensure that all commitments made in the NEPA document are fulfilled and that all permit conditions are being met. The Operations Team will consult with the Environmental Team in selecting projects for phase reviews as detailed in this section.

Right of Way acquisition for ARRA projects must comply with 49 CFR 24 (the Uniform Act). Furthermore, the requirements set forth in 23 CFR 710 must be followed if ARRA funding is used for property acquisition. The Division Realty Officer understands the significance of the ARRA legislation and the importance to successfully deliver the program. Therefore, FHWA's Realty Officer will initiate additional oversight activities to include (1) incorporating ARRA projects as part of scheduled ROW compliance reviews, (2) participating in SCDOT/FHWA joint compliance ROW reviews on selected ARRA projects and (3) consulting with the Planning and Operations Teams when ROW authorization requests are made to ensure ARRA funding eligibility.

Financial Management activities for ARRA projects will be similar to the processes for all other federally assisted projects. A modified version of the Division's Project Authorization Checklist has been created for ARRA-funded projects. The Finance Team will provide the initial review of all projects to ensure that the authorization is complete, accurate and that all ARRA requirements are present in the authorization. The Financial Manager will review the checklist to ensure that the appropriate individuals have approved the project for authorization before signing the project. The Finance Team will monitor all ARRA authorizations and expenditures, provide status reports, and help ensure that all ARRA financial deadlines are met to minimize the risk of losing any ARRA funding. The FHWA SC Division and SCDOT recognize the heightened financial scrutiny that ARRA projects will receive. Toward that end, an ARRA billing review will be performed on projects billed during fiscal year 2009, and additional billing reviews will be performed regularly during each year as more projects incur ARRA expenditures. In addition, ARRA projects will be incorporated as a part of regular financial compliance reviews as a part of the FIRE program.

2. FHWA Project Activities

To minimize the potential risks associated with ARRA-funded projects, the FHWA Operations Engineering Team will implement additional measures to increase FHWA's stewardship and project oversight activities. While ARRA-funded projects classified as "full FHWA oversight" will receive detailed monitoring through all project phases, special emphasis will be placed on activities associated with the obligation of ARRA

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funding as well as enhanced oversight initiatives on “state delegated” projects. The additional monitoring/oversight measures that will be implemented include the use of a project tracking system, utilization of a project authorization checklist, conducting a series of project phase reviews of those ARRA projects categorized as “state delegated,” and providing an FHWA visible presence on all ARRA-funded projects.

- a. **Project Tracking System** – As one of several strategies to mitigate one of our local risk areas, an electronic system has been developed to capture all necessary project data. This system will assist the Operations Engineering Team in verifying project eligibility, monitoring authorized/award project costs versus project costs allocated in the STIP and 1511 Certifications, and verify the submittal of monthly reports. The Operations Engineering Team Leader will have overall responsibility for maintaining and updating this system.
- b. **Project Authorization Checklist** – A pre-authorization checklist has been developed and will be used for all ARRA funding authorization requests. By using this checklist, the risks associated with the funding obligation phase will be minimized. The checklist will require each Operations Engineer to verify that the authorization request is complete and accurate. Items that will be verified include but are not limited to: consistency with SCDOT’s 1511 Certification, conformance with STIP, and that the request includes the required statements set forth in the ARRA. When a FMIS action is requested by SCDOT, FHWA’s Financial Manager will provide a copy to the appropriate Operations Engineer. Each Operations Engineer will be responsible for reviewing the request and making sure the checklist is complete for those project requests in his/her assigned area. The Operations Engineer will notify the Financial Manager when the project can be authorized.
- c. **Project Phase Reviews** - The Operations Team will conduct phase reviews of “state delegated” ARRA projects for three specific project development phases: (1) PS&E package, (2) Bid evaluation/contract award and (3) Construction. Project sampling will be done separately for each monthly letting containing ARRA projects beginning in April 2009. It is anticipated that project phase reviews will continue through fiscal year 2011 (SCDOT appreciates the need for these reviews and agrees to fully cooperate with FHWA). All reviews will be documented and placed in the Division’s ARRA project files. Copies of reviews will be provided to SCDOT.

A minimum project sample size of 10% will be used initially. The projects selected will be based on a random generation. However, the number of projects selected for review may be adjusted to ensure that a representative sample of each work category is obtained and that all SCDOT Districts are included. Furthermore, additional projects may be added based on project size or complexity, and/or environmental sensitivity. Once the project sample set has been determined, all three phase reviews will be conducted on that sample set.

- i. **PS&E Review:** This review will be conducted on the project sample set prior to project authorization/advertisement. SCDOT will be notified of the project PS&E packages to be reviewed at the time that they would be

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expected to complete the package. This phase of the review will assess the quality and completeness of “state delegated” PS&E packages, and determine a level of confidence with the those ARRA contracts not selected for review. SCDOT will be notified promptly of any findings. Any findings will be used to determine if any improvements or corrective actions are warranted and will serve as a basis in determining if the project sample size should be increased for future lettings. A checklist has been developed for use during this review phase.

- ii. Bid Evaluation/Contract Award: Concurrence in contract award will remain as set forth in the Stewardship and Oversight Plan. However, during this phase review, the Operations Team will independently review the bid data for each of the ARRA projects in the sample set. In addition, the team will assess SCDOT’s Bid Review Committee on the quality of the bid analyses performed. It is intended that this review take place while SCDOT is carrying out its bid/contract award responsibilities. The results of these activities will be used to evaluate the effectiveness of this project phase and determine if improvements are warranted prior to awarding ARRA projects. SCDOT will be promptly notified of any findings or concerns. A checklist has been developed for use during this review phase.
- iii. Construction: The sample set of projects will be reviewed during active construction to assess, among other items, the quality of contract administration, compliance with federal-aid contract provisions, DBE utilization, quality of required ARRA monthly reporting, environmental compliance and material quality assurance practices. Special emphasis will be placed on DBE contract requirements and utilization. The frequency of project inspections will vary depending on project scope and size. The Operations Team is responsible for coordinating these reviews with the appropriate Division Office staff. SCDOT will be promptly notified of any findings or concerns. Additional actions and/or follow-up reviews will be determined based on the findings of this phase review. A checklist has been developed for use during this review phase
- d. **ARRA Project Inspections** – FHWA Division Staff will conduct a final inspection of all ARRA construction projects, in cooperation with SCDOT. In addition, FHWA will conduct at least one project visit on all ARRA projects as work is progressing. To ensure these visits focus on the key risk areas associated with construction (contract administration, quality assurance, and DBE) the checklist developed for the phase reviews (as explained above) will be utilized. SCDOT will be promptly notified of any findings or concerns.

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Section IV – Additional Oversight Activities to be Performed by SCDOT

As stated previously, all ARRA projects to be administered in accordance with the existing Stewardship and Oversight Plan. However, because of the additional scrutiny being placed on ARRA-funded projects from both the public and political officials, as well as government oversight agencies, SCDOT will conduct additional monitoring and oversight activities as set forth below. FHWA SC Division staff agrees to support these activities and assist as necessary.

1. SCDOT Program Activities

- a. Maintain SCDOT's website providing public access to ARRA program and project related information and progress.
- b. Designate key staff members to be responsible for and data collection and reporting requirements as stipulated in ARRA.
- c. Lead weekly ARRA obligation progress meetings, as necessary. Representatives from all key sections of SCDOT and FHWA will be expected to attend these meetings. Status of projects will be discussed. Action items will be assigned and tracked to ensure issues are resolved expeditiously.
- d. Conduct monthly SCDOT/FHWA executive-level meetings, as appropriate, to monitor ARRA requirements and progress, resolve concerns and provide overall program leadership and direction.
- e. The SCDOT Deputy Secretary for Engineering and FHWA Division Administrator will meet weekly, as necessary, to discuss and resolve specific items as they arise.

2. SCDOT Project Activities

To minimize the potential risks associated with ARRA-funded projects, SCDOT will implement additional measures to increase project oversight activities as follows:

- a. SCDOT will include ARRA projects in upcoming SCDOT Quality Management Team (QMT) review cycles. FHWA will be notified of those projects selected for review and be provided a copy of the associated QMT reports.
- b. SCDOT Headquarters staff will periodically conduct special inspections of ARRA projects in their assigned areas. These inspections will be documented and will be provided to FHWA.
- c. ARRA projects will be included as part of the SCDOT/FHWA biannual Traffic Control Reviews.
- d. SCDOT will supplement its existing inspection staff with CEI consultant staff to ensure adequate coverage to address increased ARRA workload requirements.

Section V – Additional Oversight Opportunities

Both the FHWA SC Division and SCDOT fully appreciate the significance of the ARRA legislation and the importance of successfully delivering the program. While the enhanced activities outlined in this plan will be implemented, the FHWA SC Division and SCDOT will remain cognizant of the status of all South Carolina ARRA projects and consider additional oversight opportunities as they become available. Additional oversight opportunities will also include the following:

- Include ARRA projects as part of scheduled follow-up reviews in assessing compliance with implemented FY08 process review action plans.
- Include ARRA projects as part of FY09 scheduled process reviews.
- Both FHWA Division and SCDOT Headquarters staff will periodically provide contact visits of ARRA projects during normal District visits. Contact visits will be properly documented.

Robert Lee
FHWA SC Division Administrator

Tony Chapman
Deputy Secretary for Engineering

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