FAA Stakeholder Guidance
American Recovery and Reinvestment Act (ARRA) of 2009
June 9, 2009

On February 17, 2009, President Obama signed Public Law 111-5. The legislation, referred to as the American Recovery and Reinvestment Act of 2009, provides to the Department of Transportation, among other things, $48.1 billion for infrastructure development. Of this amount, $1.1 billion is provided to FAA from the General Fund for airport-related purposes. While the funding is not subject to normal AIP authorization authority, the funding is to be administered under the requirements of Airport Improvement Program (AIP) discretionary funding.

1. Airport Funding

The Act requires that this additional funding commonly referred to as Economic Recovery (ER) funding, be treated as though it were AIP pure discretionary, that is without formulas, special apportionment categories, or minimum set-asides.

All normal required AIP grant documentation and filing applies to the administration of ER projects. All normal AIP grant conditions, certifications and assurances apply. However, there are additional reporting requirements to ensure transparency. The funding carries all the eligibility, flexibility and requirements of normal AIP discretionary funds under our existing statutory authorization with the following exceptions:

- **Priority Consideration** – Priority consideration must be given to those projects that can be awarded within 120 days (June 17, 2009) **<u>and</u>** that can be completed within two years of the date of enactment of the Act (February 16, 2011). For purposes of this guidance, awarded shall mean obligated pursuant to a Grant Offer and Acceptance by the sponsor. In order to ensure that the projects chosen are completed as quickly as possible, and achieve the goal of the ARRA – the timely creation of jobs - FAA's internal objective is to have the entire amount obligated pursuant to a Grant Offer and Acceptance prior to the close of FY-2009.

- **Federal Share –** There is a **100% Federal share** for this program, meaning that there is no local match required. Accordingly, each grant must identify a useable unit of work that will be 100% funded.

- **Specific Dates** – The statute identifies specific milestone dates that must be complied with. These dates are detailed in Section 2 – **Airport Project Timeline** of this guidance.

- **Eligibility vis-à-vis Planned AIP Projects –** The ARRA statute requires that economic recovery funds *supplement* and *not supplant* planned expenditures from airport-generated revenues or from other State and local sources for airport development activities. In other words, ER funds are specifically precluded from being used for projects where there were *"planned expenditures from airport-generated revenues or from other State and local sources"*. FAA interprets this to exclude projects for ER funding consideration that were

planned for traditional AIP in FY-2009 and that included State or local match requirements.

Accordingly, projects in the Airports Capital Improvement Program (ACIP) for FY-2009 shall remain potential AIP candidates but not ER fund candidates because of the planned AIP funding with a local match from State or local funds. ACIP projects for FY-2010 and beyond may be identified as candidates for ER funds since they would supplement and not supplant planned expenditures using State and local funds during FY-2009. Therefore, if a project was identified for funding in the FY-2009 program, either with entitlements or discretionary funding, it may not be funded with ER funding.

- **State Block Grants** – Since the funding made available under the ARRA is pure discretionary, there is no formula distribution of funds to States in the State Block Grant Program (SBGP). Instead, any funding of eligible projects that fit the criteria contained within this guidance will be made directly to the SBGP sponsor with specific airport and funding amounts specified. It will be the responsibility of the SBGP sponsor to issue a sub-grant and administer the grant in accordance with this guidance and the requirements of the ARRA. All provisions within this guidance, including recoveries, amendments and requisite reporting, also apply to SBGP grants with ER funding.

- **Recoveries –** Unlike normal AIP funding, ER funds have a limited life for recovery and reobligation. ER funds may be recovered and reobligated up to September 30, 2010. However, any use of recovery funds must be approved in advance by Headquarters. After September 30, 2010, there is no statutory authority to re-obligate recovered funds and they will be returned to the US Treasury. Re-obligation of recovered ER funds after September 30, 2009 will require the use of recovery ceiling issued by the FAA Office of Budget (ABU).

- **Amendments** – Due to the differing Federal share percentages associated with ER funding compared to "normal" AIP, an amendment to an ER funded grant that requires additional funds will only be accomplished with available ER funding. However, in some instances, project overruns may be funded on a reimbursable basis with PFC revenues if the ARRA project is PFC eligible. Since it is required that all ER funded projects be based on bids, it can reasonably be expected that additional ER funding that may be available for amendments through recoveries will be extremely limited. All project recoveries will be directed to amendments for close-outs on a first-come, first-served basis.

  Sponsors should be aware that a.) it is likely that there will be little ER funding for amendments, and b.) as noted above, any recoveries that may become available cannot be reobligated after September 30, 2010. Thereafter, the sponsor will be completely responsible for project cost overruns.

2. Airport Project Timeline

The required timeline for ER projects is specific, tight and has required milestone dates.

- **June 17, 2009:** At least 50% of the $1.1 billion in funding provided by ARRA, or $550 million, must be awarded within 120 days of enactment. For purposes of this guidance, awarded shall mean obligated pursuant to a Grant Offer and Acceptance by the sponsor. Because of this timeline, regions must provide increased oversight to ensure that all of the interim steps to obligation (bid preparation, advertisement, bid review, sponsor certifications, etc) are being completed.

- **February 16, 2010:** All funding must be awarded within one year of enactment of the ARRA or it will be lost. However, in order to ensure that the projects chosen are completed as quickly as possible, and achieve the goal of the ARRA—the timely creation of jobs—FAA's internal objective is to have the entire amount under grant prior to the close of FY-2009.

- **September 30, 2010:** *Recovered ER funds must be reobligated by this date, or they will be lost;* and

- **February 16, 2011**: Priority is to be given to projects that can be completed within two years of the date of enactment of the ARRA. The term "completed" means when construction or acquisition of equipment is finished as evidenced by the project's Final Inspection.

3. Planned Regional Distribution

The intent of the ARRA is clear. FAA is to issue grants for high priority projects that can proceed to construction quickly to preserve and create jobs and promote economic recovery. Because of the lead time associated with the consideration and passage of the legislation, FAA has been able to identify a national pool of high priority candidate projects that greatly exceeds the ER funding now available.

To ensure consistent application of award criteria nationally, and in keeping with our commitment to use FAA's existing statutory priorities to direct funds to "*ready-to-go*" projects, FAA has established a national priority threshold for the use of ER funds. Based upon this threshold, FAA has identified a candidate pool of the highest priority projects by region and distributed these funds to the Regions. FAA has also distributed a tentative allocation of ER funds, based upon existing FAA internal formulas and policies, for Regional planning purposes. The identified high priority project listings that have been transmitted exceed the availability of funds allocated to Regions based on historical distributions by Region.

Regional/District office staff will review the project listings and, to the extent funding is available, confirm the highest priority of the projects on the listing that they expect to fund and that can meet the timelines indicated above. Each project identified should indicate whether it can be obligated in the 120-day period or by the end of the current fiscal year being mindful that nationally we must award 50% of all funding within 120 days.

4. General Provisions

All funds issued under this Act will be subject to extraordinary scrutiny, with strict distribution and reporting requirements.

- While the ER funding will follow all of the rules and requirements for AIP discretionary funding, it is actually a different type of funding; therefore, it must be tracked separately at all times. We are making provisions within SOAR, our automated grants management system, to ensure this capability.

- In addition to being tracked separately, ER funds and AIP funds may not be mixed or commingled. That means that individual grants may not be issued with both types of funds in the grant.

- Grant Offers will be based upon existing statutory priorities as detailed within the NPR system and other special focus area initiatives (non-hub terminal buildings, Voluntary Airport Low Emission (VALE) program, etc.).

- As noted above, and within the existing statutory priorities, preference will be given to those projects that are "*ready-to-go.*" For purposes of this guidance, "*ready-to-go*" is defined as a project that:
  - Has an environmental determination;
  - Has received requisite airspace approvals;
  - Appears on the airport's approved Airport Layout Plan;
  - If required, has a completed FAA-approved benefit-cost analysis;
  - Has design (plans and specification documentation) substantially complete;
  - Will be bid prior to the time of Grant Offer;
  - Will be able to issue a Notice to Proceed within 30 calendar days of Grant Offer;
  - Is projected to have construction completed no later than February 16, 2011; and
  - Has the Sponsor's certification as to bid and Buy American waivers and Notice to Proceed, *Attachment 1 – Airport Sponsor Certification,* as part of the project application and within the grant file.

- There are special grant conditions that must be included in all ER grants, discussed below.

- There are additional grant documentation, reporting and filing for ER grants that are discussed below.

5. Local Match Requirement

As noted above in Section 1, there is no local match required for ER grants. Because of the difficulty of defining a useable unit of work with varying Federal share percentages in the same grant, ER funding and "normal" AIP funding cannot be mixed or commingled in the same grant. It is acceptable to have ER funding on a discrete portion of a phased project funded by individual grants for which there was, or will be, another phase funded with normal AIP. However, the ER funded phase must be a specifically described unit of work that will contribute to the final useable unit identified constructed by all phased grants, and the FY-2009 ACIP must not have already assigned funds for the phase now to be considered for ER funding.

6. Maximum Grant Amount Guidance

To facilitate equitable distribution across regions, States and service levels, and in an effort to represent the expected distribution in a typical AIP distribution, the maximum amount of any ER funding to a single project should generally be limited to $15 million, and to a single sponsor should generally be limited to $20 million.

7. Use of Entitlements

One key provision of the Act is that no funds in the Act may supplant any other State or local planned expenditures that were to be used on a project. This is critically important for airports. An airport may want to fund a project with ER funds while carrying over its entitlements, in part to access 100% Federal funding or to "bank" entitlements for use in future years when funding may be more scarce. However, allowing an airport to carry over entitlements would constitute supplanting funds since its planned local match would be eliminated with the 100% ER funding. Therefore, in order to receive ER funding, the sponsor must commit all currently available entitlements to FY-2009 "normal" AIP projects. For purposes of this guidance, FY-2009 Part A entitlements that were carried over to FY-2010 are not considered as "currently available".

If a sponsor does not have a separate project on which to apply entitlement funds, then the proposed ER project must be broken into two separate usable units of work, one of which is funded with available entitlement AIP and the balance of which may be funded with ER funding. While slightly more complicated, this will ensure compliance with the Act's requirement that no ER funds supplant the use of other funding.

8. Sponsor Certifications Prior to Grant Offer

Due to the scrutiny this program will receive, it FAA management will conduct additional oversight. Accordingly, to ensure that all projects have the highest potential to quickly result in job creation, ***all*** ER grant offers are required to be based upon bids prior to Grant Offer. In addition to assuring that no ER funds are sitting idle awaiting design and/or bid, the added benefit of this requirement is that the contractor is a motivated and interested third party that may urge the project forward.

Accordingly, the sponsor shall be required to certify to the following items prior to Grant Offer:

- Project bid solicitation, complete with a copy of the bid tabulation;
- Identification of requisite waiver requests to the Buy American Preference Requirement;
- Commitment to the issuance of a Notice to Proceed within 30 days of Grant Offer; and
- Title XV, Subtitle A, section 1511 of the American Recovery and Reinvestment Act certification.

These certifications are contained with ***Attachment 1A or 1B – Airport Sponsor Certifications*** and must be included in the grant file prior to issuance of a Grant Offer. The certification is either one-part or two-part depending upon if the party certifying is certifying to all aspects of the document or only the Title XV, Subtitle A, section 1511 portion.

9. Replacement Projects

Regions must be mindful of the need to have sufficient projects available for bid in subsequent, or “out,” years. Accordingly, for purposes of assuring a viable candidate list in out years, Regions must take appropriate actions, possibly including the use of a portion of their ER funding distribution if necessary, to provide for design of projects (i.e. preparation of plans and specifications) to be bid in out years to replace those projects that are being accelerated to take advantage of ER project funding. However, all requirements for ER fund obligation and project completion still apply—including project completion by February 16, 2011.

10. Program Reporting Requirements and Certifications

Congress has specifically mandated that both the sponsors and the FAA report on the use of funds provided under the ARRA to (a) ensure transparency and oversight of the distribution of the funding, and (b) ensure the effective administration of the ER funds as envisioned by Congress.

As to transparency and oversight reporting (Sec. 1512), the airport sponsors are required by statute, not later than 10 days after the end of each calendar quarter, to submit a report to the FAA that contains information as detailed within ***Attachment 2 – Transparency and Oversight***

Requirements. If an error is subsequently revealed by the FAA or the sponsor on this reporting requirement, contact APP-520 to determine the correct process and timing to correct.

As to the periodic reports (Sec. 1201(c)), each sponsor is required by statute to submit the first of the reports required under this subsection not later than 90 days after the date of enactment of this Act and shall submit updated reports not later than 180 days, 1 year, two years, and three years after such date of enactment and shall contain the information that is detailed in ***Attachment 3 – General Reporting Requirements.***

Not later than 30 days after the end of each calendar quarter, the FAA shall make the information in the transparency and oversight reports submitted by the sponsor publicly available by posting the information on a website. The FAA must compile the sponsor reports on effective administration and transmit them to Congress.

The Act requires several certifications by State or local officials. Sections 1201 and 1607 require certifications by the Governors of States that receive ER funds. Under Section 1201 the Governor must certify that the State will maintain planned State funding for airport projects, and under section 1607 the Governor must certify that the State will request and use funds under the Act, and that the funds will be used to create jobs and promote economic growth. At this time, the Department of Transportation has drafted sample certifications that are to be used by all DOT agencies. Certifications by State Governors under Sections 1201 and 1607 should apply to all DOT agencies awarding ARRA grants. However, Section 1511 requires certifications from the Governor, mayor, or other chief executive on the infrastructure investments funded by ER funds and the FAA must ensure its submittal prior to distributing grant funding. The official must certify that the investment has been fully reviewed and vetted under the law and that it is an appropriate use of taxpayer dollars. FAA plans to make the section 1511 certification a part of the grant application. An executed certification must be received by the FAA before a Grant Offer is issued.

11. Buy American

The Act specifically requires compliance with the Buy American Act (“Buy American”). While Buy American is a part of the “usual” AIP contract requirements, including it as a separate section in the legislation signals the Congressional intent that grant recipients use United States’ (US) goods to the maximum extent possible. However, the Act also requires that this provision be applied in a manner consistent with U.S. obligations under international agreements.

Title XII of the Act provides supplemental funding for facilities and equipment for FAA infrastructure and to make grants for airports. FAA infrastructure projects and grants pursuant to ARRA or AIP are required to follow the requirements of 49 USC 50101. The airport grants issued pursuant to ARRA or AIP are issued using the guidelines and requirements of subchapter 1 of chapter 471 and subchapter 1 of chapter 475 of title 49, United States Code (USC). For

ARRA funding, the FAA will follow the requirements of 49 USC 50101 and the Federal Register publication requirements of Section 1605(c) of ARRA.

12. Federal Register Notices of Buy American Waivers

For any waiver that is issued to the Buy American requirements, a Federal Register notice must be published listing the airport, the project, information about the waiver itself and the reason that the waiver was issued. This includes when the waiver is based upon the fact that the cost of the components and subcomponents produced in the U.S. is 60 percent or more of the cost of all of the components and subcomponents of the facility and equipment and final assembly of the equipment or facility was in the U.S. Accordingly, so as to ensure adequate time to process and post any waiver requests, the sponsor is required to include requests for waiver of the Buy American Preference Requirement (BAPR) (49 USC 50101) with its ARRA funded grant application, its certification of bid status, and commitment to Notice to Proceed schedule. Region/ADO staff is encouraged to ensure that the sponsor is mindful of these requirements and must notify the sponsors as appropriate, such as highlighting such requirements in all bidding documents and notifying the bidders during pre-bid conferences.

13. ARRA Wage Rate Requirements

The Department of Labor (DOL)'s interpretation of the ARRA provision on the Federal wage rates is that the ARRA does not increase the scope of the Davis-Bacon Act provisions for ARRA projects beyond how we apply them to norm AIP grants. DOL is the agency charged with interpreting this section and we are relying on their interpretation. Accordingly, ARRA projects should simply apply the Davis-Bacon Act the way it is applied for normal AIP. DOL plans to issue additional guidance concerning how the Davis-Bacon Act applies to projects funded by ARRA, but doesn't anticipate any significant changes from how it is applied to normal AIP grants.

14. Heightened Program Oversight

There is every expectation that the ER program will have an unprecedented level of oversight by the agency, Department, OIG, GAO, OMB and the public. Accordingly, to ensure the Administration’s commitment to transparency, FAA and the airport sponsor must be fastidious in its grant documentation and overall record keeping. Additionally, to the extent necessary considering the scale of the project, FAA will be conducting additional sponsor worksite visits to ensure project progress.

15. Miscellaneous Issues

- **Airport Signs** – Airport recipients of grants funded by the ARRA are strongly encouraged to post signs notifying the public that the airport project was funded, fully or in part, by ARRA funds. Airport signs should be visible to the public using the airport, such as on the main entrance road to the Airport or Terminal.

  Grantees are strongly urged to, at a minimum, prominently display the two recovery logos (Recovery.gov and USDOT TIGER). The signs may also contain text explaining that the project is funded, fully or in part, with ARRA funds. The signs should be solely used to publicize ARRA funding of an airport project. Sample logos may be viewed, obtained, and/or downloaded at the Federal Transit Administration site as follows: http://www.fta.dot.gov/index_9440_9482.html . The reasonable costs associated with display of an airport sign are eligible for reimbursement from ARRA funds awarded for the project.

  Airports are strongly encouraged to make the ARRA airport signs described herein a term and condition of the project's prime contract. A Special Condition, as described in paragraph 17 below, will be inserted in the grant.

- **Legislative Clarification** – The ARRA specifically states that funding provided under the legislation can be used, *"....for the procurement, installation and commissioning of runway incursion prevention devices and systems at airports..."*. We interpret this phrase to mean that ARRA funding shall be used for purposes consistent with current eligible uses of AIP funding.

- **Supplemental Language** - Supplemental guidance will be issued as necessary based upon subsequent OMB/DOT directives.

- **Standard Grant Language** - Modification to standard AIP grant language is necessary to reflect the provisions and authorities of ARRA. Specific language changes to the Grant Offer to be included are as follows:

  > ***NOW THEREFORE,*** *pursuant to and for the purpose of carrying out the provisions of the American Recovery and Reinvestment Act of 2009, herein called the "Act," to make grants for discretionary projects as authorized by subchapter 1 of Chapter 471 and subchapter 1 of Chapter 475 of Title 49 United States Code, as amended, and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided,* ***THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND***

AGREES *to pay, as the United States share of the allowable costs incurred in accomplishing the Project, per centum thereof.*

This Offer is made on and ***SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS****:*

CONDITIONS
1. The maximum obligation of the United States payable under this Offer shall be $.
For the purposes of any future grant amendments, subject to the availability of funds, which may increase the foregoing maximum obligation of the United States under the provisions of the Act, and applicable provisions of Title 49, United States Code, the following amounts are being specified for this purpose:
$ for planning
$ for airport development or noise program implementation.

17. Special Grant Conditions

The legislation requires a level of program reporting that does not currently exist in "normal" AIP funding. To this end, the majority of the additional requirements, such as interim reporting of expenditures, jobs created or preserved, project status reports, etc. will be included as a requirement of the Sponsor and will be so noted within the grant agreement. More specifically, the following Special Conditions are to be included in each Grant Offer for ER funding:

a. Compliance to Special Reporting Requirements – It is agreed and understood that in accepting this Grant Offer, the sponsor acknowledges and agrees that it will provide all reports, in a format and with such frequency as determined by the FAA, for all information related to the administration of this grant as required by Congress or any Federal agency with authority to require such reporting including, but not limited to, that required by Section 1201, Section 1512 and Section 1609 of the American Recovery and Reinvestment Act of 2009.

This reporting will include, but not be limited to, schedules, construction progress, project expenditures, job creation, etc. as specified in the tables below. The Sponsor agrees to modify these tables and any other specific reporting requirements when requested by the FAA with respect to this grant.

The sponsor further agrees to provide the FAA with the certifications required by Sections 1201, 1511, and 1607 of the ARRA of 2009 in the format and at the time required by under the Act and related guidance issued by the FAA or another Federal agency. The Sponsor hereby acknowledges the requirement to apply the Buy American Preference Requirement (BAPR) (40USC 50101) to the project(s) funded by this grant.

Reporting and Registration Requirements under Section 1512 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5

(a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 ("Recovery Act") and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

(c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

(d) The recipient shall report the information described in section 1512(c) using the reporting instructions and data elements that will be provided online at www.FederalReporting.gov and ensure that any information that is pre-filled is corrected or updated as needed.

REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS—SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

(a) **Definitions**. As used in this award term and condition—

“Manufactured good” means a good brought to the construction site for incorporation into the building or work that has been--

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

“Public building” and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Domestic preference*.

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act)(Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows:

____

[**Award official to list applicable excepted materials or indicate “none”**]

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal government determines that—

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of Section 1605 of the Recovery Act.*

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—
(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
(B) Unit of measure;
(C) Quantity;
(D) Cost;
(E) Time of delivery or availability;
(F) Location of the project;
(G) Name and address of the proposed supplier; and
(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.
(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.
(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
(2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).
(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.
(d) **Data**. To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of Measure	Quantity	Cost (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_______	_______	_______
Domestic steel, iron, or manufactured good	_______	_______	_______
Item 2:	_______	_______	_______
Foreign steel, iron, or manufactured good	_______	_______	_______
Domestic steel, iron, or manufactured good			
[**List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.**] [**Include other applicable supporting information.**] [*** Include all delivery costs to the construction site.**]			

Required Use of American Iron, Steel, and Manufactured Goods (covered under International Agreements)—Section 1605 of the American Recovery and Reinvestment Act of 2009.

When awarding Recovery Act funds for construction, alteration, maintenance, or repair of a public building or public work that involves iron, steel, and/or manufactured goods materials covered under international agreements, the agency shall use the following award term:

(a) **Definitions**. As used in this award term and condition—

"Designated country" --

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom;

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France,

Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

“Designated country iron, steel, and/or manufactured goods” --

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

"Domestic iron, steel, and/or manufactured good" --

(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

“Foreign iron, steel, and/or manufactured good" means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

“Manufactured good” means a good brought to the construction site for incorporation into the building or work that has been--

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

“Public building” and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods*.

(1) This award term and condition implements

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied

where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of $7,443,000 or more.
(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this term and condition.
(3) The requirement in paragraph (b)(2) of this term and condition does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

____

[**Award official to list applicable excepted materials or indicate "none"**]
(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this award term and condition if the Federal government determines that—
(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;
(ii) The iron, steel, and/or manufactured goods is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
(c) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.*
(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph(b)(4) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—
(A) A description of the foreign and domestic iron, steel, and/or manufactured goods; (B) Unit of measure;
(C) Quantity;
(D) Cost;
(E) Time of delivery or availability;
(F) Location of the project;
(G) Name and address of the proposed supplier; and
(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this term and condition.
(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.
(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.
(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why

the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
(2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).
(3) Unless the Federal Government determines that an exception to the section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.
(d) **Data**. To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of Measure	Quantity	Cost (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_______	_______	_______
Domestic steel, iron, or manufactured good	_______	_______	_______
Item 2:	_______	_______	_______
Foreign steel, iron, or manufa	_______	_______	_______

ctured good			
Domestic steel, iron, or manufactured good			
[**List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.**] [**Include other applicable supporting information.**] [*** Include all delivery costs to the construction site.**]			

Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009

a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of $2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub-recipients

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)(Recovery Act) as required by Congress and in accordance with 2 CFR 215, subpart ___. 21 “Uniform Administrative Requirements for Grants and Agreements” and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on

the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA-” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.
(c) Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.
(d) Recipients agree to require their sub-recipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor sub-recipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

b. **Contract and Notice to Proceed** – It is agreed and understood that the Sponsor will have a fully executed contract in place for construction or manufacture of the project described within 15 calendar days of the date of this Grant Offer, and further, that the Sponsor will issue a Notice to Proceed within 30 days of Grant Offer. The Sponsor further agrees and understands if a contract is not executed within 15 days, and/or Notice to Proceed is not given within 30 days of the Grant Offer, the FAA may unilaterally cancel the grant and recover the grant funds for redistribution.

c. **Grant Closure and Recovery** – The FAA may unilaterally close this grant and recover the funds without prejudice if the Sponsor does not comply with any of these Special Conditions or other provisions of the American Recovery and Reinvestment Act of 2009.

d. **Drawdowns –** The Sponsor shall make timely payments for costs incurred (construction, engineering, etc.) and shall request payment reimbursement or initiate ECHO drawdowns at least every 30 days as evidence of such payments. Payment requests or drawdowns shall only be for reimbursement of work completed and shall only be required if contractor payments have taken place in the preceding period.

e. **Project Completion –** The Sponsor is expected to take all appropriate actions necessary to promptly carry out and complete the project no later than February 16, 2011. For purposes of this Special Condition, the term “completed” means when the contractor or the manufacturer of equipment is finished as evidenced by the project’s Final Inspection Report.

f. **Amendments** – It is understood and agreed that this grant can only be amended under the following circumstances:

i. With funds made available by the American Recovery and Reinvestment Act of 2009, if available;
ii Further, it is understood and agreed that this grant cannot be amended after September 30, 2010;
iii. It is further understood that project overruns on the ARRA funded project can only be funded with funds available and in accordance with the Passenger Facility Charge program.

g. Airport Signs – The airport grant recipient of ARRA funds hereby agrees that it will strongly encourage the prime contractor of an airport project funded with ARRA funds to post signs identifying the project as one funded in whole or in part by ARRA funds. Airport signs should be visible to the public using the airport, such as on the main entrance road to the Airport or Terminal. The airport signs should, at a minimum, prominently display the two recovery logos (Recovery.gov and USDOT TIGER). The signs may also contain text explaining that the project is funded, fully or in part, with ARRA funds. The signs should be solely used to publicize ARRA funding of an airport project.

h. Tracking and Documenting ARRA Expenditures – The Sponsor hereby acknowledges the requirement to adhere to certain recipient responsibilities regarding tracking and documenting Recovery Act expenditures. To this end, the Sponsor hereby agrees to the following:

Recovery Act Transactions Listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Subrecipients

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)(Recovery Act) as required by Congress and in accordance with 2 CFR 215, subpart ___. 21 “Uniform Administrative Requirements for Grants and Agreements” and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA-” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office

i. **Prohibition Against Business with Suspended or Debarred Parties –** The Sponsor hereby agrees to award contracts only after determining that the proposed contractor is not listed on the General Services Administration (GSA) Excluded Parties List System available at https://www.epls.gov/

j. **Retroactivity of Modification of Requirements –** The Sponsor hereby agrees to be bound by and to comply with any and all future modifications to the ARRA funding requirements for sponsors by the United States with respect to ARRA, including grants awarded prior to the date of said modifications. This is necessary due to the expedited nature of this program.

Attachment 1-A (two pages)

Airport Sponsor Certifications

The Sponsor hereby certifies to the following:

1. The funding request contained in this grant application is based upon competitive bids that were received on *(date to be inserted)* and the associated bid tabulation is hereby attached to this certification. The Sponsor complied with all State and local procurement laws and regulations applicable to competitive bidding.

2. The Sponsor hereby acknowledges FAA's need to approve and issue, as appropriate, any waiver to the Buy American Preference Requirement (BAPR) (49 USC 50101). Additionally, the Sponsor understands that any waiver request issued to the BAPR under the American Recovery and Reinvestment Act of 2009 requires specific information related to the waiver request, if granted, to be published in a Federal Register Notice. Accordingly, so as to not delay the processing of the subsequent Grant Offer and resulting contract documents between the Sponsor and the lowest responsible bidder, attached hereto are all Request for Waiver to the BAPR necessary to complete this project.

3. The Sponsor further certifies that it will issue a Notice to Proceed to the contractor (or equipment supplier in the case of equipment acquisition) within 30 days of issuance of a Grant Offer.

4. .Pursuant to Title XV, Subtitle A, section 1511 of the American Recovery and Reinvestment Act (Pub. L. 111-5 (Feb. 17, 2009) ("ARRA"), I ___________________*, hereby certify that the infrastructure investment funded by ARRA has received the full review and vetting required by law and that I accept responsibility that such investment is an appropriate use of taxpayer dollars. I further certify that the specific information required by section 1511 concerning each such investment (a description of the investment, the estimated total cost, and the amount of ARRA funds to used) is enclosed and is provided on the _____(Sponsor named website)_____website, available to the public at [http://…(insert link) ...] and linked to Recovery.gov.

   I understand that the Sponsor making application for ARRA funding may not receive ARRA infrastructure investment funding unless this certification is received by the FAA with the ARRA grant application and posted on the Sponsor's website.

   ** In accordance with section 1511 of ARRA, the Certifying Official may be either the Governor, mayor, or other chief executive, as appropriate.*

____
(Name of Sponsor)

(SEAL)

____
(Signature of Sponsor's Designated Official Representative – Must be Governor, Mayor or Chief Executive)

By: ____
(Typed Name of Sponsor's Designated Official Representative)

Title: ____
(Typed Title of Sponsor's Designated Official Representative)

Attest:

CERTIFICATE OF SPONSOR'S ATTORNEY
I ________________________, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to certify to the above representations under the laws of the State of _______________. Further, I have examined representations and documentation as attached and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State.

Dated at this ____ day of ______________200__.

By; _______________________________________
(Signature of Sponsor's Attorney

Attachment 1-B (Page 1 of 2)

Airport Sponsor Certifications

The Sponsor hereby certifies to the following:

1. The funding request contained in this grant application is based upon competitive bids that were received on *(date to be inserted)* and the associated bid tabulation is hereby attached to this certification. The Sponsor complied with all State and local procurement laws and regulations applicable to competitive bidding.

2. The Sponsor hereby acknowledges FAA's need to approve and issue, as appropriate, any waiver to the Buy American Preference Requirement (BAPR) (49 USC 50101). Additionally, the Sponsor understands that any waiver request issued to the BAPR under the American Recovery and Reinvestment Act of 2009 requires specific information related to the waiver request, if granted, to be published in a Federal Register Notice. Accordingly, so as to not delay the processing of the subsequent Grant Offer and resulting contract documents between the Sponsor and the lowest responsible bidder, attached hereto are all Request for Waiver to the BAPR necessary to complete this project.

3. The Sponsor further certifies that it will issue a Notice to Proceed to the contractor (or equipment supplier in the case of equipment acquisition) within 30 days of issuance of a Grant Offer.

____

(Name of Sponsor)

(SEAL)

____

(Signature of Sponsor's Designated Official Representative – Must be Governor, Mayor or Chief Executive)

By: ____

(Typed Name of Sponsor's Designated Official Representative)

Title: ____

Attest:

(Typed Title of Sponsor's Designated Official Representative)

CERTIFICATE OF SPONSOR'S ATTORNEY

I _________________________, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to certify to the above representations under the laws of the State of _______________. Further, I have examined representations and documentation as attached and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State.

Dated at this ____ day of ______________200__.

By; ______________________________________

(Signature of Sponsor's Attorney

Attachment 1-B (Page 2 of 2)

Airport Sponsor Certifications

Pursuant to Title XV, Subtitle A, section 1511 of the American Recovery and Reinvestment Act (Pub. L. 111-5 (Feb. 17, 2009) ("ARRA"), I ___________________*, hereby certify that the infrastructure investment funded by ARRA has received the full review and vetting required by law and that I accept responsibility that such investment is an appropriate use of taxpayer dollars. I further certify that the specific information required by section 1511 concerning each such investment (a description of the investment, the estimated total cost, and the amount of ARRA funds to used) is enclosed and is provided on the _____(Sponsor named website)_____website, available to the public at [http://…(insert link) ...] and linked to Recovery.gov.

I understand that the Sponsor making application for ARRA funding may not receive ARRA infrastructure investment funding unless this certification is received by the FAA with the ARRA grant application and posted on the Sponsor's website.

____
(Name of Sponsor)

(SEAL)

____
(Signature of Sponsor's Designated Official Representative – Must be Governor, Mayor or Chief Executive)

By: ____
(Typed Name of Sponsor's Designated Official Representative)

Title: ____
(Typed Title of Sponsor's Designated Official Representative)

Attest:

CERTIFICATE OF SPONSOR'S ATTORNEY

I ________________________, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to certify to the above representations under the laws of the State of _______________. Further, I have examined representations and documentation as attached and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State.

Dated at this ____ day of ______________200__.

By; ______________________________________
(Signature of Sponsor's Attorney

** In accordance with section 1511 of ARRA, the Certifying Official may be either the Governor, mayor, or other chief executive, as appropriate.*

Attachment 2

Transparency and Oversight Requirements

CERTIFICATIONS. (Sec.1511)
With respect to covered funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Such certification shall include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and shall be posted on a website and linked to the website established by section 1526. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made and posted.

REPORTS ON USE OF FUNDS. (Sec. 1512)
A section of the ARRA referred to as the ''Jobs Accountability Act'' sets forth certain reporting requirements.

***SPONSOR REPORTS** – Airport sponsors (''recipients'') are required, not later than 10 days after the end of each calendar quarter to submit a report to the FAA that contains—*
(1) the total amount of ARRA funds received from the FAA;
(2) the amount that was expended or obligated to projects or activities; and
(3) a detailed list of all projects for which recovery funds were expended or obligated, including—
(A) the name of the project;
(B) a description of the project;
(C) an evaluation of the completion status of the project;
(D) an estimate of the number of jobs created and the number of jobs retained by the project; and
(E) the purpose, total cost, and rationale for funding the infrastructure investment with funds made available, and name of the person to contact if there are concerns with the infrastructure investment.
(4) Detailed information on any subcontracts or subgrants awarded by the sponsor to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

***AGENCY REPORTS** – Not later than 30 days after the end of each calendar quarter, the FAA shall make the information in reports submitted by the sponsor above publicly available by posting the information on a website.*

***COMPLIANCE** – As a condition of receipt of funds under this Act, FAA shall require any sponsor receiving ER funds to provide the information required in **SPONSOR REPORTS** section above.*
***REGISTRATION** – Sponsors required to report information elements to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282) (as noted in **SPONSOR REPORTS** above), must register with the Central Contractor Registration database or complete other registration requirements as determined by the Director of the Office of Management and Budget.*

Attachment 3

General Reporting Requirements

PERIODIC REPORTS (Sec. 1201(c))

GENERAL *– Notwithstanding any other provision of law, each sponsor shall submit to the FAA periodic reports on the use of the funds provided by the ARRA. Such reports shall be collected and compiled by the FAA and transmitted to Congress. The sponsors shall take appropriate action to ensure the accuracy and consistency of such reports.*

CONTENTS OF REPORTS *– For each grant receiving funding under the ARRA, the sponsor shall include in the periodic reports information tracking-*
(A) the amount of Federal funds appropriated, allocated, obligated, and outlayed under the appropriation;
(B) the number of projects that have been put out to bid under the appropriation and the amount of Federal funds associated with such projects;
(C) the number of projects for which contracts have been awarded under the appropriation and the amount of Federal funds associated with such contracts;
(D) the number of projects for which work has begun under such contracts and the amount of Federal funds associated with such contracts;
(E) the number of projects for which work has been completed under such contracts and the amount of Federal funds associated with such contracts;
(F) the number of direct, on-project jobs created or sustained by the Federal funds provided for projects under the appropriation and, to the extent possible, the estimated indirect jobs created or sustained in the associated supplying industries, including the number of job-years created and the total increase in employment since the date of enactment of this ARRA; and
(G) for each covered program report information tracking the actual aggregate expenditures by the sponsor for projects eligible for funding under the program during the period beginning on February 17, 2009 through September 30, 2010, as compared to the level of such expenditures that were planned to occur during such period as of February 17, 2009.

TIMING OF REPORTS*.—Each grant recipient shall submit the first of the periodic reports required under this subsection not later than 90 days after February 17, 2009 and shall submit updated reports not later than 180 days, 1 year, 2 years, and 3 years after such date.*

Attachment 4

"RED FLAG" Indicators for Common Fraud Schemes and How to Report Suspected Fraud

The following are brief descriptions of selected fraud schemes commonly seen on transportation projects, along with sample "Red Flag" indicators for each scheme. It is important to note that the presence of one or more indicators does not prove fraud, nor are the indicators listed all-inclusive for each of the schemes described.

Bid Rigging and Collusion
In bid rigging and collusion schemes, contractors misrepresent the competition against each other when, in fact, they agree to cooperate on the winning bid to increase job profit. Watch for:

- Unusual bid patterns: too close, too high, rounded numbers, or identical winning margins or percentages.
- Different contractors making identical errors in contract bids.
- Bid prices dropping when a new bidder enters the competition.
- Rotation of winning bidders by job, type of work, or geographic area.
- Losing bidders hired as subcontractors.
- Apparent connections between bidders: common addresses, personnel, or phone numbers.
- Losing bidders submitting identical line item bid amounts on nonstandard items.

Materials Overcharging
In materials overcharging schemes, a contractor misrepresents how much construction material was used on the job and is then paid for excess material to increase job profit. Watch for:

- Discrepancies between contractor-provided quantity documentation and observed data, including yield calculations.
- Refusal or inability to provide supporting documentation.
- Contractor consistently loading job materials into equipment away from inspector oversight.
- Truck weight tickets or plant production records with altered or missing information.
- Photocopies of quantity documentation where originals are expected.
- Irregularities in color or content of weight slips or other contractor documents used to calculate pay quantities.

Time Overcharging
In a time overcharging scheme, a consultant misrepresents the distribution of employee labor on jobs in order to charge for more work hours or a higher overhead rate, to increase profit. Watch for:

- Unauthorized alterations to time cards and other source records.
- Billed hours and dollars consistently at or near budgeted amounts.
- Time cards filled out by supervisors, not by employees.
- Photocopies of timecards where originals are expected.
- Inconsistencies between a consultant's labor distribution records and employee timecards.

Product Substitution
In product substitution schemes, a contractor misrepresents the product used in order to reduce costs for construction materials. Watch for:

- Any mismarking or mislabeling of products and materials.
- Contractor restricting or avoiding inspection of goods or service upon delivery.

- Contractor refusing to provide supporting documentation regarding production or manufacturing.
- Photocopies of necessary certification, delivery, and production records where originals are expected.
- Irregularities in signatures, dates, or quantities on delivery documents.
- High rate of rejections, returns, or failures.
- Test records reflect no failures or a high failure rate but contract is on time and profitable.
- Unsigned certifications.

Disadvantaged Business Enterprises (DBE) Fraud

In disadvantaged business enterprises schemes, a contractor misrepresents who performed contract work in order to appear to be in compliance with contract goals for involvement of minority or women-owned businesses. Watch for:

- Minority owner lacking background, expertise, or equipment to perform subcontract work.
- Employees shuttling back and forth between prime contractor and minority-owned business payrolls.
- Business names on equipment and vehicles covered with paint or magnetic signs.
- Orders and payment for necessary supplies made by individuals not employed by minority-owned business.
- Prime contractor facilitated purchase of minority-owned business.
- Minority-owned business owner never present at job site.
- Prime contractor always uses the same minority-owned business.

Quality-Control Testing Fraud

In quality-control testing schemes, a contractor misrepresents the results of quality control (QC) tests to falsely earn contract incentives or to avoid production shutdown in order to increase profits or limit costs. Watch for:

- Contractor employees regularly taking or labeling QC samples away from inspector oversight.
- Contractor insisting on transporting QC samples from the construction site to the lab.
- Contractor not maintaining QC samples for later quality assurance (QA) testing.
- Contractor challenging results, or attempting to intimidate QA inspectors who obtain conflicting results.
- Photocopies of QC test results where originals are expected.
- Alterations or missing signatures on QC test results.

Bribery

In bribery schemes, a contractor compensates a government official to obtain a contract or permit contract overcharges. Watch for:

- Other government inspectors at the job site noticing a pattern of preferential contractor treatment.
- Government official having a lifestyle exceeding his/her salary.
- Contract change orders lacking sufficient justification.
- Oversight officials socializing with or having business relationships with contractors or their families.

Kickbacks

In kickback schemes, a contractor or subcontractor misrepresents the cost of performing work by secretly paying a fee for being awarded the contract and therefore inflating job costs to the government. Watch for:

- Unexplained or unreasonable limitations on the number of potential subcontractors contracted for bid or offer.
- Continuing awards to subcontractors with poor performance records.
- Non-award of subcontract to lowest bidder.
- “No-value-added” technical specifications that dictate contract awards to particular companies.

Conflicts of Interest

In conflict of interest schemes, a contracting or oversight official has an undisclosed financial interest in a contractor or consultant, resulting in improper contract award or inflated costs. Watch for:

- Unexplained or unusual favoritism shown to a particular contractor or consultant.

- Government official disclosing confidential bid information to a contractor or assisting the contractor in preparing the bid.
- Employee having discussions about employment with a current or prospective contractor or consultant.
- Close socialization with and acceptance of inappropriate gifts, travel, or entertainment from a contractor.
- Vendor or consultant address is incomplete or matching employee's address.
- Government official leasing or renting equipment to a contractor for performing contract work.

Reporting Concerns About Fraud, Waste, or Abuse

OIG maintains a Hotline to report allegations of fraud, waste, and abuse in DOT programs or operations. Allegations may be reported by DOT employees, contractors, or the public. The OIG Hotline is available 24 hours a day, 7 days a week. Individuals who contact the Hotline, via telephone or letter, are not required to identify themselves. However, persons who report allegations are encouraged to identify themselves in the event additional questions arise as the OIG evaluates or pursues their allegations.

Report suspicions and allegations of fraud, waste, and abuse to OIG by using one of the following methods:

- Online complaint form: www.oig.dot.gov/hotlineform.jsp
- Telephone: (800) 424-9071
- Fax: (540) 373-2090
- E-mail: hotline@oig.dot.gov
- Mail: DOT Inspector General
P.O. Box 708
Fredericksburg, VA 22404-0708