



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590  
APR 22 2009

Dear Governor:

We continue to make tremendous progress in carrying out the U.S. Department of Transportation infrastructure provisions of the American Recovery and Reinvestment Act of 2009 (the Recovery Act or Act), and I want to thank you and your staff for your ongoing work towards that goal. Your efforts, and those of your counterparts in other States, are resulting in new jobs and improved infrastructure across the country.

As we gain experience under the Act, we continue to update the States on implementation matters. This letter follows up on the Act's section 1201(a) maintenance of effort (MOE) certification, which you submitted by the March 19 statutory deadline.

Our initial review of the section 1201(a) certifications received from the States indicates that there is substantial variation among the States in the way they calculated and certified to their planned level of effort regarding State funding for the types of projects that are funded by the Recovery Act for the statutory period of February 17, 2009, through September 30, 2010. In order to help ensure that there is an equitable starting point for measuring whether States have met their MOE requirements, I am providing this enclosed additional guidance and an opportunity for States to review and amend their section 1201(a) MOE certifications by May 22, 2009, as appropriate.

The section 1201(a) certification submitted by your State included language that appears to condition the MOE amount on future events or other matters. The statute provides that States must certify to the planned level of expenditures from State sources as of February 17, 2009. Section 1201 does not authorize the inclusion of conditions. In addition, there is a possibility that your State may need to amend its MOE amount due to the method of calculation.

I encourage you to consider the information outlined in the additional guidance enclosed with this letter and take action as warranted to ensure that your State's section 1201(a) certification is consistent with this guidance. We would like all States to be eligible to participate in the August 2011 redistribution of obligation authority. Section 1201(b) of the Recovery Act makes compliance with MOE certification and performance requirements a prerequisite to such eligibility.

If you have any questions about the section 1201(a) certification or the review requested by this letter, please contact Terence Carlson, Deputy Assistant General Counsel, at (202) 366-9152 or e-mail him at [TigerTeam@dot.gov](mailto:TigerTeam@dot.gov). All executed amended section 1201(a) certifications must be submitted to the Secretary of Transportation c/o of Joel Szabat, Deputy Assistant Secretary for Transportation Policy at [TigerTeam@dot.gov](mailto:TigerTeam@dot.gov).

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Ray LaHood', written over a large, stylized graphic element that resembles a signature or a set of initials.

Ray LaHood

Enclosure



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The section 1201(a) certification submitted by your State included language that may have been intended to explain certain matters or to provide conditions to the MOE amount certified. The statute provides that States must certify to the planned level of expenditures from State sources as of February 17, 2009. Section 1201 does not authorize the use of conditional language. In addition, there is a possibility that your State may need to amend its MOE amount due to the method of calculation.

I encourage you to consider the information outlined in the additional guidance enclosed with this letter and take action as warranted to ensure that your State's section 1201(a) certification is consistent with this guidance. We would like all States to be eligible to participate in the August 2011 redistribution of obligation authority. Section 1201(b) of the Recovery Act makes compliance with MOE certification and performance requirements a prerequisite to such eligibility.

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The section 1201(a) certification submitted by your State listed some, but not all, of the Recovery Act's covered programs. This may have been because your State did not plan to expend State funds for the programs not listed in the certification during the period from February 19, 2009 through September 30, 2010. However, without an explicit representation to that effect, we are unable to determine that your certification is complete. In addition, there is a possibility that your State may need to amend its MOE amount due to the method of calculation.

I encourage you to consider the information outlined in the additional guidance enclosed with this letter and take action as warranted to ensure that your State's calculation of MOE is consistent with this guidance. We do not want any States to be at a disadvantage when MOE performance is evaluated to determine which States are eligible to participate in the August 2011 redistribution of obligation authority.

If you have any questions about the section 1201(a) certification or the review requested by this letter, please contact Terence Carlson, Deputy Assistant General Counsel, at (202) 366-9152 or e-mail him at [TigerTeam@dot.gov](mailto:TigerTeam@dot.gov). All executed amended section 1201(a) certifications must be submitted to the Secretary of Transportation c/o of Joel Szabat, Deputy Assistant Secretary for Transportation Policy at [TigerTeam@dot.gov](mailto:TigerTeam@dot.gov).

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I want to commend you for submitting a certification that generally adopts the language in section 1201(a), as recommended in my February 27 guidance on Recovery Act certification requirements. There is a possibility, though, that your State may need to amend its MOE amount due to the method of calculation.

I encourage you to consider the information outlined in the additional guidance enclosed with this letter and take action as warranted to ensure that your State's section 1201(a) certification is consistent with this guidance. We would like all States to be eligible to participate in the August 2011 redistribution of obligation authority. Section 1201(b) of the Recovery Act makes compliance with MOE certification and performance requirements a prerequisite to such eligibility.

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