

American Recovery and Reinvestment Act (Recovery Act) of 2009  
Risk Management Plan  
State of Michigan  
(June 3, 2009)

The American Recovery and Reinvestment Act of 2009 (Recovery Act) has been established to stimulate the national economy, create or save millions of jobs, and address infrastructure needs. Given the level of Federal funding to be provided and the time frame in which it is to be used, every tax dollar spent must have accountability and transparency. Efforts are being made to prevent the risk of fraud, waste, error, and abuse as well as to ensure a high level of quality is being reached for transportation projects.

The Federal Highway Administration – Michigan Division (FHWA) in conjunction with the Michigan Department of Transportation (MDOT), the County Roads Association of Michigan (CRAM) and the Michigan Municipal League (MML) have identified a number of risk elements associated with investing the Recovery Act funding. In addition, we have developed a number of mitigation strategies that will aid in the successful delivery of the Recovery Act program. These strategies are intended to insure increased accountability and transparency while the program objectives are being met for Michigan.

MDOT has implemented a series of overriding institutional activities to oversee and manage the delivery of the Recovery Act transportation program within the State of Michigan. A Barrier Buster Team has been established in order to identify and work through apparent barriers to ensure the effective and timely delivery of the Recovery Act program projects. In addition, the MDOT and FHWA have identified single point reporting coordinators in each organization in order to efficiently manage the myriad of Recovery Act reporting requirements.

The following are risk elements and mitigation strategies that have been identified:

1. Increase in local agency funding from the Recovery Act may lead to increased opportunities for risk due to: increased program without increased staff; increased reliance on consultants for design and construction engineering; previously identified risk of Force Account billing errors; and previously identified history of premature obligation of funds for local projects.

Mitigation Strategies:

- MDOT Local Agency Program (LAP) area will develop a separate process for local agency Force Account work and establish reporting requirements through the LAP program area.
- MDOT will re-issue a Bureau of Highways Informational Memorandum for Oversight of Local Agency Construction Projects (BOH-IM 2009-06). This document will provide guidance to MDOT staff on their role in the oversight of federally funded local agency projects.

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- Each MDOT construction area will assess their resources and respond as necessary to insure adequate staffing is in place to manage all federal aid projects. ARRA funded projects must be recognized for the increased expectations for accountability and transparency.
  - MDOT and FHWA will conduct regional ARRA coordination meetings. These meetings will include the local agencies that will participate in investing ARRA funding.
  - FHWA and MDOT to initiate a joint Recovery Act oversight program to increase LAP project inspections and implement recommendations from previous FHWA reviews of the local agency construction program.
  - MDOT LAP will review consultant selection procedures for all local agency ARRA projects where CE is funded with ARRA funds.
  - MDOT will coordinate the ARRA obligations for all local agency projects and insure that all projects have been identified through the local TIP processes.
  - MDOT has implemented a requirement that all ARRA funded local agency projects will be let through the MDOT letting process, except for local agency Force Account work.
  - FHWA will perform random sample reviews of local agency Recovery Act project PS&E packages and will review LAP consultant selection procedures.
  - MDOT will coordinate any independent Office of Inspector General (OIG) and Government Accountability Office (GAO) audits of local Recovery Act projects with the affected local agency.
  - Establish team of MDOT Recovery Act liaisons (ARRA Delivery Team) to provide a resource for both MDOT and local project engineers. Provide initial training and follow up as needed.
2. Changes in project funding, project authorization procedures and billing procedures will require significant manual effort which may lead to: authorization errors, change order errors, and progress billing errors.

### Mitigation Strategies:

- Implement active controls during Recovery Act project authorization such as verification of 1511 certification, STIP listing, lump sum vs. pro rata, and tapered match.
  - Increase number of ARRA billing reviews to ensure LPA coverage.
  - MDOT and FHWA have implemented processes to confirm posting of 1511 certification prior to obligation.
  - All local agency Recovery Act pro rata and tapered match projects will be processed and reviewed manually at regular intervals.
3. Inconsistencies in project descriptions between TIP, STIP, 1511 certification, 1586 reports, and FMIS may lead to: errors in tracking and reporting; inaccurate job creation data; lack of accountability and transparency.

### Mitigation Strategies:

- Implement quality control procedures jointly with FHWA and Local Agencies to ensure record consistency in reporting and tracking changes in Recovery Act projects.
- A single point of contact has been assigned for the Recovery Act tracking and reporting responsibility.

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- Create 1511 certifications directly from STIP/TIP eliminating potential for discrepancies. Quality Assurance Reviews are done multiple times prior to obligation or authorizations.
  - MDOT has implemented a project change process to ensure changes are reviewed, documented, and decisions are made at the appropriate levels.
  - Local Agency Programs has implemented a process to hold payment to a local agency until verification all reporting requirements have been met.
  - Contractor reporting to be reviewed and verified by MDOT staff prior to submittal to FHWA. MDOT has issued Construction Advisory (CA 2009-06) to provide guidance to field staff on ARRA reporting requirements.
4. Increased program size could magnify effects of previously identified construction risks including: inspection and documentation on projects with warranties; increased use of design build contracts; independent assurance testing on HMA projects; QC/QA procedures on non-warranty projects; prevailing wage compliance.

### Mitigation Strategies:

- MDOT has issued Bureau of Highway Instructional Memorandum 2009-04 to adjust guidance to field staff necessary to implement FHWA recommendations based on findings of previous process reviews for warranties. This guidance would apply to all ARRA projects that incorporate warranties.
  - All Recovery Act design/build projects will be designated as full FHWA oversight projects in accordance with current stewardship agreement in order to provide adequate oversight (except ITS project in Grand Rapids – JN105798A).
  - MDOT has issued Construction Advisory 2009-05 as a reminder to field staff to emphasize QC/QA procedures for Recovery Act projects with emphasis on chain of custody, sampling procedures, sample storage, and documentation.
  - MDOT will issue a Construction Advisory to adjust guidance to field staff emphasizing the documentation requirements for Recovery Act projects where the delivery tickets are considered to be the source documents
  - MDOT will issue Bureau of Highway Instructional Memorandum 2009-07 to adjust guidance to field staff necessary to insure adherence to Davis Bacon and prevailing wage requirements. This guidance would apply to all federal aid projects with special attention on Recovery Act projects.
5. Increased program size resulting from the Recovery Act that is delivered in a short time frame may lead to: reduced plan quality and design errors through reliance on consultants and perception that design standards will be waived; larger lettings with less bidders and increased bid prices.

### Mitigation Strategies:

- MDOT has implemented an expedited consultant selection process in order to respond to the tight timeframes associated with the delivery of the Recovery Act projects.
- MDOT will perform reviews in accordance with the pilot bid analysis program on a sample of the Recovery Act projects to insure compliance.
- FHWA will perform random sample reviews of local agency Recovery Act project PS&E packages through LAP.

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- MDOT LAP area will be utilizing consultant services to assist in the review and processing of local agency Recovery Act project bid packages to insure timely delivery.
- MDOT has added supplemental lettings to insure ample opportunity exists to let local agency Recovery Act projects in a timely manner.
- MDOT has provided extensive instructions and guidance to local agencies on Recovery Act processes, procedures and requirements.
- MDOT has coordinated with all of the planning organizations to assist in the delivery of the Recovery Act transportation program within the state of Michigan. This is being accomplished in part by a series of meetings and webinars with local agency representatives.

**2009 Top Risk Management Activity Status: The following items have been identified by FHWA – Michigan Division as additional emphasis areas to be monitored for the 2009 construction program with special attention on the Recovery Act projects.**

1. DBE program administration. Continue and include as an emphasis area in Recovery Act projects.
2. QC/QA for Materials: Continue and include as emphasis area in Recovery Act projects.
3. Warranties: Continue with emphasis during Recovery Act projects.
4. Bridge Deck Construction: Continue and include during Recovery Act projects.
5. ADA: Insure ADA compliance on Recovery Act projects.
6. Prevailing Wage Compliance. Continue and include on Recovery Act projects.

Approved By:

  
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