



TED STRICKLAND
GOVERNOR
STATE OF OHIO

CERTIFICATION UNDER SECTION 1201 OF
THE AMERICAN RECOVERY AND REINVESTMENT ACT:

Pursuant To Title XII, section 1201 of the American Recovery and Reinvestment Act (Pub. L. 11-5 (Feb. 17, 2009)) ("ARRA"), I Ted Strickland, the Governor of the State of Ohio, hereby certify to the Secretary of Transportation that the State of Ohio will maintain its effort with regard to State funding for the types of projects in DOT "covered programs" funded under ARRA. The attached list of DOT "covered programs" identifies the amount of funds the State plans to expend from State sources from February 17, 2009 to September 30, 2010, for the types of projects under the DOT "covered programs" funded under ARRA.

The maintenance of effort certification is based on the assumptions listed below. The State of Ohio may not be able to achieve the funding levels certified if these assumptions do not hold true. All of the projections of state funds to be expended for the covered programs between February 17, 2009 and September 30, 2010 are based on the following assumptions:

- *Assumes General Revenue Funds will be provided to ODOT at the levels established in the As Introduced version of State House Bill 1 which is the State's operating budget bill for state fiscal years 2010 and 2011. Due to harsh economic conditions the State has been forced to make several incremental budget cuts to reduce previously authorized funding to State agencies by a total of 20% over the course of state fiscal years 2008 and 2009. Since FY 2000, the State's GRF funding to ODOT for the non-highway modes of transportation (Rail, Public Transit, and Aviation) has been reduced by over 60% in total.*
- *Assumes ODOT's state motor fuel revenue and other state revenues used to support payments on capital highway projects come in at the projected levels as documented in the 2010/2011 ODOT budget proposal.*
- *Capital project estimates are based on an assumed level of growth of inflation over time. The estimates included assume the State's inflation levels are consistent with the levels as documented in the 2010/2011 ODOT budget proposal.*
- *The Transportation Budget bill for fiscal years 2010 and 2011 is still moving through the legislative process and will not be passed until March 31, 2009. Therefore, this MOE certification under section 1201 does not take into account any legislative changes that may take place between now and March 31, 2009 that may affect the amount of funding reflected in the certification.*
- *Assumes that ODOT is able to issue state bonds to support capital projects as documented in the 2010/2011 ODOT budget proposal. Because the bond market has been volatile over the past six months, ODOT reserves the right to react and adjust bonding authority where appropriate.*
- *Assumes the Highway Trust Fund (HTF) remains solvent and there will be an influx of funding upwards of \$6 billion or more to the HTF to maintain federal funding levels in Federal Fiscal Year 2010 at Federal Fiscal Year 2009 levels, until the federal reauthorization bill is passed. The rationale behind this is that if we don't receive the federal funding expected then we won't be spending the state match for those projects.*

Since the definition of Maintenance of Effort is based on the assumptions listed above, I understand that if the State of Ohio is unable to maintain the level of funding identified in this list of the types of projects under the DOT "covered programs" funded under ARRA, the State of Ohio will thereafter be prohibited by the Secretary of Transportation from receiving additional limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for fiscal year 2011.

Ted Strickland

Ted Strickland, Governor, State of Ohio

Signed this 19 day of March, 2009

Attachment

For the Certification under section 1201
State Sources of Funding from February 17, 2009 to September 30, 2010

Supplemental Discretionary Grants for a National Surface Transportation System - \$0

To the extent that the state provides funding in this federal category, it is included in the "Highway Infrastructure Investment" category.

Supplemental Funding for Facilities and Equipment – Federal Aviation Administration - \$0

Grants-in-aid for Airports – Federal Aviation Administration - **\$2.9 million**

Highway Infrastructure Investment – Federal Highway Administration - **\$786 million**

Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service – Federal Railroad Administration - \$0

Capital Grants to the National Railroad Passenger Corporation – Federal Railroad Administration - \$0

Rail Grants - **\$3.5 million**

Transit Capital Assistance – Federal Transit Administration - **\$22 million**

State funds spent for transit capital assistance are used for both capital and operating projects.

Fixed Guideway Infrastructure Investment – Federal Transit Administration - \$0

Capital Investment Grants – Federal Transit Administration - \$0

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Risk Assessment
Department of Transportation
Chapter 1201 Certification

The Department of Transportation Maintenance of Effort Certification includes six assumptions related to the state transportation expenditures. If one or more of these assumptions do not hold, the state expenditures for transportation projects will likely decrease below the amount identified in the Maintenance of Effort Certification. Federal Highway Administration (FHWA) and US Department of Transportation are aware many of these concerns since other states are in similar situations.

Below is each ODOT identified assumption and the potential associated risks as identified by OBM.

1. ODOT will receive the level of GRF funding called for in the Executive Budget proposal.
 - **Associated Risk** – General revenue funding levels will be determined by the Ohio General Assembly in House Bill 1, however these funding levels represent 90% of the department’s FY09 adjusted appropriation. Though dependent upon the outcome of the Operating Budget, it is unlikely that ODOT would receive GRF appropriations below their assumption included in the MOE Certification.
 - **Risk Level** - Low
 - **Mitigating Factors** – The Executive Branch and the General Assembly will ensure that ODOT has adequate GRF funding for the 10/11 Biennium.

2. State Motor Fuel revenue for FY10 & FY11 will hold flat at FY09 levels.
 - **Associated Risk** – Currently, ODOT and the Department of Taxation have seen roughly a 1% decreases in motor fuel tax receipts due to a decrease in consumption for FY09 that would deflate the assumed revenue for FY10 & FY11. Furthermore, if fuel prices increase during the summer, consumption, and therefore tax receipts, could drop even further than FY09 levels. There is a moderate- to high risk that state motor fuel tax revenue will be below the estimates. This is especially true for FY10 if the economy is slow to revive.
 - **Risk Level** – Moderate- to High
 - **Mitigating Factors** – The ODOT MOE Certification includes a condition that anticipates this eventuality.

3. Assumes that inflation for roadwork materials will be 8% for FY09, 7% for FY10, and 6% for FY11.
 - **Associated Risk** – Currently, inflation is projected to be at 8% for construction materials for FY09. Thus far in the fiscal year, inflation has proven to be far less due to a decrease in consumption. It is possible that inflation will fall short of the 7% assumption for FY10 and should reach or slightly exceed the 6% in FY11 identified by ODOT depending on the economy. If average inflation for the FY09-11 proves to be lower than the amounts assumed, ODOT would need

additional projects in order to spend the full amount identified in the MOE Certification. It may be difficult to begin new projects within a short time frame because these projects require thorough planning and design phases. There is a low risk that ODOT would not have enough projects relative to the infrastructure expenditures for FY10 & FY11 identified in the MOE Certification.

- **Risk Level** – Low
 - **Mitigating Factors** – The number of requests received by local governments and municipalities applying for infrastructure funding should provide a sufficient reserve if state projects come under budget. Additionally, ODOT has its own reserve list of projects should there be additional funding.
4. Appropriations and funding levels set in HB2 will not be significantly altered during the legislative process.
- **Associated Risk** – Currently, the Ohio Senate has removed provisions for the elimination of the motor fuel evaporation tax credit which amounted to roughly \$54 million per year and still requires ODOT to transfer \$200 million to the Public Works Commission for the Local Transportation Improvement Program passed in the Jobs Bill. Depending on the outcome of the Conference Committee, it is possible that ODOT could receive appropriations and funding levels below their assumption included in the MOE Certification.
 - **Risk Level** – Low
 - **Mitigating Factors** – Ohio has a long history of reaching a bipartisan consensus when it comes to state budgets and funding.
5. ODOT will continue to have the ability to go to market and sell bonds as planned for the FY10/11 biennium.
- **Associated Risk** – Based on the assessment from OBM Debt Management, ODOT should not have difficulty entering the market for bond sales provided financial institutions continue to have ongoing stability. Based on this information, there is little to no risk that bond market conditions would decrease state expenditures for transportation projects.
 - **Risk Level** – Low
6. Assumes that the US Highway Trust Fund remains solvent through FY11.
- **Associated Risk** - The Congressional Budget Office projects that the US Highway Trust Fund could see a deficit of \$6-8 billion in Federal FY2010. In 2008, Congress transferred \$8 billion in general funds to the Highway Trust Fund in order to secure the obligations for the fiscal year. At this time, there was some concern raised by members of Congress arguing that the Highway Trust Fund should live within its means rather than requiring supplemental funding. Based on this information, there is a moderate risk that the federal government would not infuse the Highway Trust Fund with supplemental funding as part of the transportation reauthorization causing ODOT to reduce its federal allocation for projects identified in the MOE Certification.

- **Risk Level** – Moderate
- **Mitigating Factors** – The US Highway Trust Fund is out of Ohio’s control and if the Trust Fund becomes insolvent, then the FHWA will mitigate a solution to ensure the federal obligations are met.

Other Risks

Depending on the scenario and the state of the economy there are potential risks that could impact ODOT’s assumptions in the Maintenance of Effort Certificate. These risks include:

1. Increase in the federal gas tax rate.
 - **Associated Risk** - An increase in the federal gas tax as a means to ensure solvency of the Highway Trust Fund could potentially impact a number of areas and assumptions in the MOE Certificate. The impact could include increased construction costs, reduced state motor fuel tax receipts, and the amount of federal funding the state receives. Based on discussions with ODOT, this is not likely to occur as part of the Transportation Reauthorization and thus is a low risk.
 - **Risk Level** – Low
 - **Mitigating Factors** – The federal motor fuel tax is out of Ohio’s control.