



April 17, 2009

Mr. Gerald Ross
Georgia Department of Transportation
One Georgia Center
600 West Peachtree NW
Atlanta, Georgia 30308

Re: Transparency and Accountability in Use of ARRA Funding

Dear Mr. Ross:

The Georgia Department of Transportation has been given a daunting task and has worked diligently to meet strict timelines and to inform the public. We are writing to ask that the Georgia Department of Transportation provide greater openness and clarity to the citizens of Georgia on how the State's allocation of funds under the American Recovery and Reinvestment Act of 2009 (ARRA) are being utilized. We are sending a similar request to Governor Perdue.

Accountability and transparency are central themes in the ARRA, and both the Act itself and subsequent guidance documents impose a variety of requirements to ensure that these objectives are met. Beyond identifying *what* projects have been funded, these goals of transparency and accountability encourage GDOT to explain *why* particular projects are being funded. As GDOT moves from Phase I into Phase II of its transportation stimulus funding, we ask that GDOT clarify the decisions made in Phase I and provide greater transparency with respect to the decisions made in Phase II. We also offer suggestions on how GDOT can accomplish this.

On March 19, 2009, the State Transportation Board approved a proposed Phase I list of ARRA stimulus projects, including 136 projects at a cost of \$512 million. On March 20, 2009, the Atlanta Regional Commission (ARC), the largest metropolitan planning organization in Georgia, proposed a Phase I project list including 43 projects at a cost of \$176 million. On April 9, 2009, Governor Perdue issued a press release announcing his Section 1511 Certification of the "first batch" of projects proposed by GDOT and ARC, totaling 67 road projects at a cost of \$207 million.¹

¹ <http://www.dot.state.ga.us/informationcenter/gastimulus/Documents/Releases/Perdue-4-9-09.pdf>

We see at least four areas where GDOT can bring greater clarity to the decisions made in Phase I of the ARRA funding process and greater transparency to the decisions that will be made in Phase II of the process.

I. Need for More Detail In Eligibility Determination

In December 2008, responding to a request by the State Transportation Board, counties and local governments submitted projects for funding through the ARRA. On March 16, 2009, GDOT issued a determination of projects that were deemed eligible or “non-eligible” for ARRA funding. This non-eligibility document identifies a brief “Reason for Exclusion” for each project.”² Well over a dozen different reasons for exclusion were cited, including reasons that are full of jargon (“Off-system bridge not in CWP”) and reasons that provide little substantive information (“Not eligible”). To provide greater clarity on why particular projects have been deemed non-eligible, GDOT should revise this list to clearly articulate three pieces of information: (i) all of the criteria used to determine the eligibility or non-eligibility of a project; (ii) what was considered in applying these criteria; and (iii) a key explaining what each of the “Reasons for Exclusion” descriptions mean. If a separate eligibility determination is made for Phase II of the ARRA funding, GDOT should likewise publicize this information for the Phase II eligibility determination at the outset.

Further, a number of projects were deemed non-eligible for reasons that are either vague or inconsistent with the STP program.³ The projects proposed by Cobb County (or cities within Cobb County) illustrates the types of projects that are appropriate for STP funding under federal law and FHWA guidance but have been deemed non-eligible by GDOT.

Location	Project Name	Reason for Exclusion
Cobb County	Paratransit Facility	Not a transportation project
Cobb County	Purchase 20 buses	Not Eligible for FHWA, could be eligible for FTA
Cobb County	Purchase Breeze Card Machines	Not a transportation project
Cobb County	Rehab of the Marietta Park & Ride	Not eligible
Cobb County	Busbee Pkwy at Big Shanty Extension Park & Ride Lot	Not eligible.
Kennesaw / Cobb County	Pedestrian Facility Enhancement	Not eligible
Kennesaw / Cobb County	Storm drain piping replacement for parking lots	Not a transportation project
Smyrna / Cobb County	Multi-use trail on Atlanta Road from Flemings St to Spring-Concord Intersection	Not eligible for stimulus

² <http://www.dot.state.ga.us/informationcenter/gastimulus/Documents/Noneligible%20Stimulus%20Projects-3-16-09.pdf>

³ A summary of STP program funds eligible uses is included as Attachment 1.

All of these projects fall within the types of projects suitable for funding through the STP program.⁴ If GDOT is utilizing additional criteria for stimulus funding beyond those contained in the statute and FHWA guidance, those criteria should be made public. The Phase I Non-Eligibility document does not contain sufficient information for an interested member of the public to determine why specific projects were deemed non-eligible.

II. Need for Greater Detail in Criteria for Project Prioritization

Given the broad range of projects covered by STP funding and the pervasive need for investment in Georgia’s transportation infrastructure, it is unsurprising that GDOT’s request for projects produced far more eligible transportation projects than can be funded through Georgia’s allocation of ARRA funding. Therefore, it was necessary for GDOT and the other funding agencies to establish some process for prioritizing certain projects for funding.

GDOT approached this prioritization problem by establishing specific “Investment Areas”, setting funding targets in those Investment Areas, and identifying criteria for prioritizing projects within the Investment Areas. The Investment Areas, percentages and criteria for project prioritization are detailed in the chart below, take from the GDOT website.⁵

Investment Area	Proposed Percentage +/- 10%	Criteria for Project Prioritization
Bridges	10%	All unfunded, ready-to-go bridges, State Bridge Maintenance Engineer prioritization
Safety Local Economic Development	10%	B/C ratio, accident history, IT3 activity centers, Operational improvements for new development
Congestion Relief/Capacity	26%	Delayed in STIP/TIP due to funding, IT3, PPrP scores, B/C ratio (include PE placeholder for IT Recommendations)
Maintenance Interstate Rehabilitation Resurfacing	50%	PACES rating, AADT, LARP criteria for local resurfacing requests
Mandatory Enhancement	4%	TE commitment, Ready-to-go, enhancement-eligible

This chart represents an excellent first step by GDOT to provide a clear and transparent explanation for how the eligible projects are being prioritized. However, an additional level of detail is necessary for interested members of the public to understand how the contents of the chart are translated into a prioritized list of projects.

⁴ See, Attachment I, 23 U.S.C. 133(b); and <http://www.fhwa.dot.gov/legsregs/directives/policy/att2.htm>

⁵ <http://www.dot.state.ga.us/informationcenter/gastimulus/Pages/ProjectCategories.aspx>

First, the project descriptions in GDOT's Phase I project list and its STIP Administrative Modification list do not directly correspond with the five Investment Areas identified in the chart. Instead, the Phase I proposed project list and Administrative Modification list use over a dozen different work type descriptions and it is often unclear how those project descriptions relate to the Investment Areas listed above.⁶ For example, the projects described as "signal projects" in the Phase I project list could fall within either the safety or congestion relief Investment Areas. Without standardized descriptions, interested members of the public cannot accurately apply GDOT's investment criteria and percentages to the actual projects contained in the various lists.

Second, it is unclear how GDOT is evaluating and weighting the Criteria for Project Prioritization listed in the chart. GDOT's chart lists multiple criteria for evaluating projects in each Investment Area, and projects will score differently under the various criteria. Without some formula for weighting and integrating these different criteria into a single evaluation, it is impossible to understand how the final prioritization is reached. Further, some of the criteria (such as conformity with IT3) are difficult to quantify and rate in any empirical manner. Without a clear and transparent approach for how the multiple criteria are being quantified and weighted, it is impossible for interested members of the public to know why one project was prioritized for funding whereas another project was not. If a standardized approach is not being utilized and the criteria are applied in some form of *ad hoc* balancing, that fact should be stated.

Third, these state-level priorities operate against the backdrop of the federal ARRA priorities of maximizing job creation and economic benefit, and inclusion of projects in economically distressed areas.⁷ GDOT should make clear how these federal criteria are being integrated into the Criteria for Prioritizing Projects.

The need for additional detail in the application of the project prioritization process is necessary both retrospectively for the Phase I projects and prospectively for the Phase II projects. GDOT should prepare a document showing the prioritization analysis for the Phase I projects and this information should be provided contemporaneously with the release of the Phase II proposed project lists.

III. Need for Public Review and Comment in Phase II of the ARRA Funding

ARRA imposed a strict deadline for identifying the projects and obligating a portion of the money in Phase I of Georgia's stimulus allocation. Phase II of ARRA funding, however, is not subject to the same onerous timeframe and GDOT should take this additional time to allow a greater level of public involvement than was available in Phase I. Specifically, GDOT should put the proposed Phase II project list, including the supporting prioritization criteria analysis, out for public review and comment before the Phase II project list is finalized. Providing a formal period of public review and comment will allow a greater level of transparency and accountability than was available in the Phase I project selection.

⁶ Bridges, widening, interchange, roadway project, turn lanes, signals, ATMS/ITS, intersection improvement, resurface & maintenance, concrete rehab, miscellaneous improvements, landscaping, TE-Bike/Ped Facility, TE-Landscape/Beautify, TE-Rehab Hist Trans Bldg, sidewalks, Bicycle/Ped. Facility. See, <http://www.dot.state.ga.us/informationcenter/gastimulus/Documents/Phase%20One/Hwy-BridgeProjectList-Phase1-County.pdf> and <http://www.dot.state.ga.us/informationcenter/gastimulus/Documents/Phase%20One/FHWATransmittalLetter.pdf>

⁷ <http://www.dot.state.ga.us/informationcenter/gastimulus/Pages/NonEligible.aspx>

IV. Need for Greater Clarity in the Sequence of Events

In the three months since ARRA's enactment, GDOT has worked quickly to develop and adopt the list of projects funded in Phase I of the stimulus funding. Over that time, the proposed project list has evolved from 148 projects at a cost of \$512 million, to a Phase I STIP Amendment list of 133 projects at a cost of \$389 million, into the list certified by the Governor containing 67 projects at a cost of \$207 million. Each step of this process involved important decisions of interest to Georgians, both in how their tax dollars are being used and whether the projects in their neighborhoods will be built.

To allow the public to understand and follow this process as it continues, GDOT should provide a timeline that details the ARRA process to this point and for the forthcoming decisions and events. Further, GDOT should post all ARRA-related decisions that have been reached by the Board up to this point on the website and note when ARRA related items will be before the State Transportation Board. Providing this information will make it easier for interested members of the public to follow the implementation ARRA and the use of their tax dollars.

GDOT should be commended for its efforts to publicize a wide variety of ARRA-related information through its website and allow interested members of the public to monitor the implementation of the ARRA. These efforts are important not only to evaluate the law's success but also to lay the groundwork for a clearer, more transparent approach to project selection in the state of Georgia. Thank you for your consideration of these matters and please do not hesitate to contact us with any questions or concerns.

Sincerely,



Jim Durrett
Livable Communities Coalition



Brian Gist
Southern Environmental Law Center

cc: Meg Pirkle
State Transportation Board

ATTACHMENT 1

Eligible uses of STP funds under 23 U.S.C. § 133(b):

- 1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways appropriately classified and bridges on any public road, including work to accommodate other transportation modes.
- 2) Capital costs for transit projects eligible for assistance under the Federal Transit Act, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus.
- 3) Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways in accordance with Section 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990.
- 4) Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.
- 5) Highway and transit research and development and technology transfer programs.
- 6) Capital and operating costs for traffic monitoring, management, and control facilities and programs.
- 7) Surface transportation planning programs.
- 8) Transportation enhancement activities: projects that enhance surface transportation by improving cultural, historic, aesthetic and environmental aspects. Projects are defined as: historic and archaeological enhancements, scenic and environmental enhancements, bicycle and pedestrian enhancements. (see below for more information)
- 9) Transportation control measures listed in Section 108 (f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 USC 7408(f)(1)(A)).
- 10) Development and establishment of management systems under Section 303.
- 11) Natural habitat and wetlands mitigation efforts.
- 12) Infrastructure-based intelligent transportation systems capital improvements.
- 13) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities. Projects shall be carried out during reconstruction, rehabilitation, resurfacing or restoration of the transportation facility and shall not exceed 20 percent of the total cost.

- 14) Advanced truck stop electrification systems.
- 15) Projects relating to intersections that: have disproportionately high accident rates; have high congestion; and are located on a Federal-aid highway.
- 16) Environmental restoration and pollution abatement on a 4R project. The expenditures for this activity may not exceed 20 percent of the total cost of the project.
- 17) Control of terrestrial and aquatic noxious weeds and establishment of native species.