



**An Introduction to
the American
Recovery and
Reinvestment Act of
2009:
Implications for
Construction
Contractors**

May 26, 2009

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State and Local Incorporation of Federal Requirements

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State And Local Incorporation Of Federal Requirements

- State and local projects funded by ARRA are subject to all federal requirements, just like all federally-funded projects that state and local agencies are used to
 - This will lead to the usual conflicts, *e.g.*, conflict between CA and federal DBE requirements
- New requirements specific to ARRA will be new to state/local officials, with expected inefficiencies

State And Local Approach To New ARRA Requirements

- Many states issuing guidance, *e.g.*:
 - CO DOT has issued standard specs to be added to all ARRA projects
 - NJ has issued guidance on reporting requirements and methods
 - CA Office of Legal Services memo re incorporation of ARRA requirements is overdue (indicating potential conflicts identified but not resolved)
 - TX indicates it may introduce additional reporting requirements (yet to be identified)
 - FL has issued a checklist for local agencies to follow in contracting

Enhanced Oversight Of State And Local Economic Recovery Act

- Bill introduced in the House to improve state and local oversight of ARRA projects
- Would modify ARRA, allowing state and local governments to use stimulus funds for auditing, contract/grant planning and management, investigations of waste/fraud, and data collection
- Also would permit state and local governments to use GSA supply schedules

Practical Challenges And Uncertainties At State And Local Level

- Many state and local agencies have seen recent staffing cuts
- At the same time, ARRA is driving a dramatic increase in work
- One source stated “They’ve cut my staff and quadrupled my work!”
- Early projects – likely to have been backlogged due to funding restrictions
- Second wave of projects – likely to have been rushed through planning and design

Practical Challenges And Uncertainties At State And Local Level (cont'd)

- Compressed planning/design phase will increase need for project administration
- Meanwhile, staff cutbacks may mean less project administration in any event
- Dramatic increase in overruns and claims may result
- Change order authority is limited under ARRA
- ARRA funding is generally limited to original project estimates (*i.e.*, no or limited ARRA funding set aside for change orders and claims)
- Resolution of claims/overruns will be challenging