



American Recovery & Reinvestment Act

(Recovery Act)

NATIONAL REVIEW TEAM CLOSE-OUT REPORT			
STATE	REVIEW ID	DATE OF REVIEW	RISK AREA(S)
12 - Florida	FL20101213	12/13/2010	CAD, QAS, DQI
FEDERAL PROJECTS REVIEWED		REVIEW TEAM	
ARRA037, ARRA047, ARRA135, ARRA148, ARRA284, ARRA319, ARRA555, ARRA629		Gene Hoelker, Tom Goldstein, Randy Paulk and George Merritt	

PROGRAM-LEVEL OBSERVATIONS

Priority: 1
Risk Area: CAD
Observation: The DBE program is not being monitored and documented consistently in different Districts & the Turnpike. The Anticipated DBE Participation Statement was not being updated to account for all DBE work utilized on a project (whether as a sub or 2nd-tier sub). As an example, a Resident Compliance Specialist indicated they should be listed but documentation was found to indicate they were not being accounted for on the ADBEPS.
Recommendation: FDOT and FHWA Division should evaluate current written procedures, guidance, and training to ensure that the ADBEPS is properly and consistently accounting for DBE work occurring on Federal-aid projects.
Compliance Issue: N
FDOT Response: Equal Opportunity Office is preparing FDOT's response for this Priority

Priority: 2
Risk Area: CAD
Observation: Although the FHWA Florida Division and FDOT have taken strong action to ensure steel being incorporated into Federal-aid projects meets the requirements of Buy America, two of the eight projects reviewed were missing some of the required Buy America and material certifications. On the SR 50 (ARRA284) project, the Buy America and material certifications were not up to date on several items that had been stockpiled or installed. For the US 19 (ARRA629) project, there were letters for the inlet and culvert pipes, certifying compliance with FDOT Specifications but not identifying compliance with Buy America. Also, for this project, there was a separate package with a group of certifications from Nucor (fabricator) that showed compliance with Buy America requirements but the heat numbers with the certifications could not be traced back to the material. For some of the other projects, there were Buy America certifications on file, but in some instances, it was unclear how the material certifications tie to delivery tickets or invoices. Also, on some projects, the steel in the hardware such as nuts and bolts was not taken into account.
Recommendation: The FDOT should continue to ensure that the steel incorporated permanently into federal-aid projects is in compliance with the requirements in 23 CFR 635.410 and Section 6-12.2 of FDOT's Standard Specifications.
Compliance Issue: Y
FDOT Response: FDOT will continue to ensure all steel permanently incorporated into federal-aid projects is in compliance with the requirements in 23 CFR 635.410 and Section 6-12.2 of FDOT's Standard Specifications. The State Construction Office will discuss this observation and recommendation with the District Construction Engineers during the next regularly scheduled quarterly meeting. Specific emphasis will be placed on

ensuring material certifications are directly related to specific delivery tickets or invoices and maintaining current Buy America and material certifications for stockpiled and installed material. FDOT will continue to monitor minimal quantities of foreign steel incorporated into projects does not exceed 0.1% of the total Contract amount or \$2,500, whichever is greater, in accordance with Section 6-12.2 of FDOT's Standard Specifications.

For the US 19 (ARRA629) project, District 7 offers the following response:
District 7 will take measures to ensure that steel incorporated permanently in federal-aid projects complies with the applicable requirements. For the specific District 7 project in question (ARRA629) if the point of origin for the few steel items referenced cannot be determined, Construction personnel will ensure the minimal quantities of foreign steel incorporated into the project does not exceed 0.1% of the total Contract amount or \$2,500, whichever is greater. The observations and recommendations of this review regarding FDOT's compliance with 23 CFR 635.410 and Section 6-5.2 will be discussed with District 7 construction personnel.

For the SR 50 (ARRA284) project, District 5 offers the following response:
During the review the Department had difficulty locating some of the Buy America certifications. The Construction Engineering and Inspection (CEI) staff was aware of the requirement and had advised the contractor early on in the project about submitting these required certifications. The certifications are now up to date, in one file for the project, and available for review.

Priority: 3
Risk Area: CAD
Observation: The Commercially Useful Function DBE Monitoring Report was not being utilized consistently on various projects. Some reviews were not being completed on time, other reviews did not identify 2nd tier DBE subcontractors, and in at least one review, the CUF report did not distinguish when work was sublet to a non-DBE 2nd tier. The CUF forms were not always being submitted within the required 90 days of a DBE starting work on a project.
Recommendation: There are two suggestions for better utilizing the CUF Report. One suggestion is for FDOT and FHWA Division to review training and instructions on how these reports are to be properly filled out. This exercise should seek to distinguish how much commercially useful work a DBE is actually performing from work that is passed down to a 2nd-tier subcontractor. Another suggestion is to consider the benefits of conducting more CUF reviews on larger DBE subcontracts than on smaller DBE subcontracts.
Compliance Issue: N
FDOT Response: Equal Opportunity Office is preparing FDOT's response for this Priority

Priority: 4
Risk Area: QAS

Observation: Several observations were made on the written documentation for hot mix asphalt (HMA) lot submittal packages. There was no documentation in the lot submittal packages explaining why several lots were short (less than 2000 tons) on the following projects: I-75 (ARRA555), US 41(ARRA037), and US 19 (ARRA629). On the I-75 (ARRA555) project, one of the individual pay factors for HMA Lot #1 was less than 0.9, yet there was no documentation in the lot package that explained the actions taken by the Contractor to correct the situation. For lots 1 and 3 on the US 19 (ARRA629) project, the actual spread rates were well over the 5% tolerance of the allowable spread rate, yet there was no documentation of action taken in the lot folders. On the US 19 (ARRA629) project, the documentation for some of the lots was not provided by the Contractor until one to two months after the closing date of the lots. Also, on the US 19 (ARRA629) project, the technician completing the quality control sampling and testing for the Contractor was not in the Quality Control Plan, but was certified.

Recommendation: FDOT should ensure project staffs are documenting any exceptions or noncompliance to the specifications involving HMA sampling and testing in the HMA lot submittal packages and that these packages are being provided in a timely manner from the Contractor. FDOT should consider updating Chapter 9 of FDOT's Preparation and Documentation Manual to reflect some of these observations not covered in the manual.

Compliance Issue: N

FDOT Response: FDOT will continue to ensure project staff document instances of exceptions or specification noncompliance matters involving HMA sampling and testing in the HMA lot submittal packages and that these packages are obtained in a timely manner. FDOT will review Chapter 9 of the Preparation and Documentation Manual to identify observations made herein which may not be covered in the manual and make revisions accordingly. The State Construction Office will discuss this observation and recommendation with the District Construction Engineers during the next regularly scheduled quarterly meeting.

For the US 19 (ARRA629) project, District Seven offers the following response:

District 7 has reviewed its current process for handling asphalt lot packages, plant workloads, staff assignments, etc. in order to ensure asphalt lot packages are transmitted from plant personnel to the CEI offices personnel in a timely manner. We have improved our quality control and checks in place to catch when lot packages were not being completed in a timely manner. This should assist us in avoiding this problem in the future. District 7 CEI personnel will continue to monitor the qualifications of inspection personnel with emphasis placed on ensuring qualified technicians lists in QC plans are up to date and amended if necessary. This observation will be discussed with District 7 construction personnel.

For the I-75 (ARRA555) project, District One offers the following responses:

Asphalt Lots were closed due to no production after 20 days per FDOT Specification 334-5.1.2.2. Upon the FHWA review, a note was added to the lot package explaining this.

Lot # 1 had low air voids which caused the 90% Composite Pay Factor (CPF). There was also an Independent Verification (IV) air void failure. An Engineering Analysis Report (EAR) was submitted by the Contractor and the material was accepted by the Department to leave the material in place at partial pay. Upon the FHWA review, a note was added to the lot package explaining this.

Priority: 5

Risk Area: CAD

Observation: The staff for different projects was interviewed regarding specific environmental commitments on those projects. The staff appeared to be aware of the required permits and most of the commitments given in the contract. However, they did not appear to be familiar with all the commitments given in the PD&E Document/Reevaluation. Some of the commitments were buried in the contract documentation while other commitments were not appropriate to be included in the contract. Some of the Districts have “handoff” meetings between the design and construction offices prior to the beginning of construction to pass on information such as the commitments. However, there did not appear to be a written document with the commitments from the PD&E/Reevaluation that was provided to the construction staff. FDOT has indicated that an environmental specialist has been added to the Central Office Construction Unit to work with the Environmental Management Office to assure the transfer of commitments.

Recommendation: The FHWA Florida Division and FDOT should develop procedures to ensure the specific commitments determined during the environmental and design processes are passed on to the construction staff. It is suggested consideration be given to passing on a single document with all of the commitments from the PD&E Document/Reevaluation.

Compliance Issue: N

FDOT Response: FDOT is aware of the potential for commitments to be overlooked if they are not properly documented in the contract documents (e.g. permits, construction plans, etc). The State Construction Office has already participated in an initial meeting with the Environmental Management Office to discuss the definition of “Environmental Commitments” and the flow of information from Project Development through Project Design to Project Construction. Additional meetings with EMO and the Design Office will be conducted for the purpose of on the recommendations listed in FHWA’s review. FDOT should be able to refine and expand existing procedures to provide a consistent method of documenting commitments from PD&E to Construction.

Priority: 6

Risk Area: CAD

Observation: The pay documentation was reviewed on several projects, both design/build and design/bid/build projects. For the design/build projects, the contractor provided certified quantities and the project staff seemed to verify these quantities, but the verification was either not documented or did not stand on its own without explanations from the staff. There were also observations on pay documentation for design/bid/build projects. On an excavation item paid by plan quantity for the US 301 (ARRA148), the Contractor submitted a certified amount that was an increment of the plan quantity. The project staff verified the quantity through measurements off plan cross-sections, but did not document how the verification was completed. On the US 19 (ARRA629) project, the Contractor submitted a certified quantity for hot mix asphalt on an estimate's worth of quantity and the staff used asphalt tickets that were grouped by the day during the estimate period to verify the Contractor's quantity. A spreadsheet was provided showing the summation of daily amounts of HMA to verify the quantity to be paid for an estimate period. However, the spreadsheet was taken from a computer file and did not have any signatures and dates signed of the staff verifying and checking the quantities. It is important to document the verification of the Contractor's certified costs to ensure overpayment is not occurring, thus potentially causing the inefficient use of funds that could be used on other projects. FDOT seems to have written procedures in Chapter 7 of FDOT's Preparation and Documentation Manual and Subsection 9-5 of FDOT's Standard Specifications for verifying partial payment of lump sum and plan quantity items, but these procedures don't clearly discuss the documentation of the verification including the signature of verifier and date verified.

Recommendation: FDOT's procedures for pay documentation should ensure that the verification of the basis of pay of the Contractor's monthly invoice is documented. Consideration should be given to making the documentation procedures uniform so that a consistent and clear paper trail is provided that can be easily audited. FDOT should consider updating the Preparation and Documentation Manual to further support project staff documenting the verification of the Contractor's certified invoices. It may worth considering a further review of pay documentation on both design/build and design/bid/build projects to determine how verification of pay is being documented on projects throughout the State.

Compliance Issue: N

FDOT Response: FDOT will review procedures related to pay documentation to ensure that the verification of the basis of pay for the Contractor's monthly invoice is clearly documented. Consideration will be given to modifying current documentation procedures so that consistent and clear documentation is provided that can be easily verified. FDOT will review the Preparation and Documentation Manual for the purpose of identifying improvements which would further support project staff documenting the verification of the Contractor's certified invoices. The State Construction Office will discuss this observation and recommendation with the District Construction Engineers during the next regularly scheduled quarterly meeting.

Priority: 7

Risk Area: CAD

Observation: While reviewing the design/build project US 301(ARRA148), the schedules of values (payout schedule) being used for the project was found to not be accurate in many instances. There were instances where item quantities changed by the time final design was completed and construction began. This seemed to create difficulties for the project staff with the monitoring of the actual work completed by the Contractor. For example, on one item the actual amount of pipe placed far exceeded the quantity of pipe provided in the schedule of values and therefore, the project staff had difficulty accurately portraying incremental payments of this item. This issue was discovered late in the review and therefore, was only checked on two of the four design/build projects with only one having this issue. FDOT's Design/Build Guidelines provide some guidance for setting a payout schedule and allowing for some flexibility, but more guidance may be helpful. There is no requirement of the design/build to ensure the accuracy of payout schedule items as the design is advanced and there is limited guidance on the level of detail for the payout schedules.

Recommendation: The FHWA Florida Division and FDOT may want to review design/build projects throughout the State to determine if the payout schedules are being accurately updated as the design is being completed. FDOT should consider requiring the design/build firms to update the schedule of values for a design/build project near the completion of the final design when the project has a very detailed schedule of values. FDOT should consider providing more guidance on setting up a payout schedule.

Compliance Issue: N

FDOT Response: As part of Process Reviews conducted by the State Construction Office, FDOT will review Design-Build projects to determine if the Schedule of Values is being updated as the design phase is being completed. FDOT will review current requirements and give consideration to requiring Design-Build firms update the Schedule of Values near the completion of the final design of the project. FDOT has developed and posted on its website a sample Schedule of Values which can be used as a guideline for Design-Build firms and CEI personnel when developing and/or reviewing the project specific Schedule of Values. The State Construction Office will discuss this observation and recommendation with the District Construction Engineers during the next regularly scheduled quarterly meeting.

Current FDOT specifications governing Design-Build projects address the Schedule of Values as follows:

9-5 Partial Payments.

9-5.1 General: *The Engineer will make partial payments on monthly estimates based on the amount of work that the Contractor completes during the month (including delivery of certain materials, as specified herein below) based on a Contractor approved payout schedule (schedule of values). The Engineer will make approximate monthly payments, and the Department will correct all partial estimates and payments in the subsequent estimates and in the final estimate and payment.*

Current FDOT Request for Proposal (RFP) documents governing Design-Build projects address Schedule of Values as follows:

Design/Build Contract

The Department will enter into a Lump Sum contract with the successful Design/Build Firm. In accordance with Section V, the Design/Build Firm will provide a Schedule of Values to the Department for their approval. The total of the Schedule of Values will be

the lump sum contract amount.

The terms and conditions of this contract are fixed price and fixed time. The Design Build Firm's submitted bid (time and cost) is to be a lump sum bid for completing the scope of work detailed in the Request for Proposal.

Schedule of Values:

The Design/Build Firm will be responsible for invoicing the Department based on current invoicing policy and procedure. Invoicing will be based on the completion or percentage of completion of major, well-defined tasks as defined in the Schedule of Values. Final payment will be made upon final acceptance by the Department of the Design/Build project. Tracking DBE participation will be required under normal procedures according to the CPAM. The Design/Build Firm must submit the Schedule of Values to the Department for approval. No invoices shall be submitted prior to Department approval of the Schedule of Values.

Upon receipt of the invoice, the Department's Project Manager will make judgment on whether or not work of sufficient quality and quantity has been accomplished by comparing the reported percent complete against actual work accomplished.

**For the US 301 (ARRA148) project, District One offers the following responses:
The project team was following the general guidance in Chapter 15 of the FDOT Design-Build Guidelines.**

Priority: 8

Risk Area: DQI

Observation: Overall, the FDOT personnel responsible for updating the Recovery Act Data System (RADS) are doing excellent job of entering all the required data accurately. However, there was some information that was entered inconsistently in their data fields. The lengths entered into RADS did not match the actual lengths for the following projects: I-75 (ARRA555), US 41(ARRA037), and US 301(ARRA148). We were unable to determine if the DBE cumulative amount was correct on the following projects: I-75 (ARRA555), US 41(ARRA037), US 301(ARRA148), US 1(ARRA39), HEFT (ARRA047), SR 70 (ARRA135) and SR 50 (ARRA284). Also, the advertisement date entered for the US 301(ARRA148) project did not match the actual date.

Recommendation: The FDOT should ensure the accuracy of the data entered for the above noted projects and data fields. The FHWA Florida Division should verify the validity of the data.

Compliance Issue: N

FDOT Response: Office of Inspector General is preparing FDOT's response for this Priority

**For the SR 70 (ARRA135) project, District Four offers the following response:
We concur with recommendation.**

The NRT Report notes that their team was "unable to determine if the DBE Cumulative amount was correct" on various projects including the ARRA135(B) project.

On the ARRA135B project, the amount of \$24,801 shown on RADS was the cumulative amount of the DBE payments (at the time of the review) as shown on Bizweb payments made by the contractor. These payments are typically verified thru the following process:

1. Identify DBE sub-contractors listed on the Certification of Sublet Work.
2. Identify pay items that are listed for the respective DBE sub-contractor listed on "Schedule A".
3. Multiplying the quantity installed on the project within that timeframe by the unit prices shown on "Schedule A" of the sublet agreement.
4. Once this amount is calculated it is compared to the Bizweb report.

The NRT team reviewed the DBE Utilization checklist which noted the cumulative amount of \$24,801 and compared it to the Bizweb reports. However, during the review, project personnel were not asked to discuss the internal verification process described above.

Priority: Best Practice
Risk Area: QAS
Observation: All projects require an approved Quality Control Plan (QCP) that includes personnel qualifications, material sources, testing laboratories, and other policies and procedures necessary to ensure the quality of materials and field operations. On the projects reviewed, contractors developed and adhered to appropriate QCPs that met contract specifications. The QCP requirements are considered a best practice.
Recommendation:
Compliance Issue: N

Priority: Best Practice
Risk Area: CAD
Observation: The Resident Compliance Specialist (RCS) function provides a good extension of the FDOT's efforts to comply with Equal Employment Opportunity, Disadvantaged Business Enterprises, prevailing wage rate, and On-the-Job Training requirements. This is considered a best practice.
Recommendation:
Compliance Issue: N

Priority: Best Practice
Risk Area: CAD
Observation: Florida has developed the Contractor Past Performance Rating (CPPR) system that rewards good performance with an increased ability to bid on future projects. This system includes numerical performance ratings in nine areas including pursuit of work, proper maintenance of traffic, timely submittal of documents, timely project completion, cooperation with CEI personnel and utilities, mitigation of cost and time overruns, environmental compliance, performance with contract documents, and DBE utilization. The CPPR is being utilized for design/build projects as well as design/bid/build projects. The use of the CPPR system for contractor performance rating is considered a best practice.
Recommendation:
Compliance Issue: N

Priority: Best Practice
Risk Area: CAD

Observation: The FDOT requires all construction inspection and material testing personnel to become qualified through the Construction Training Qualification Program (CTQP) prior to performing inspection or sampling and testing on projects. CTQP offers training/qualifications in aggregates, asphalt, concrete, earthwork, geo-technical construction methods, structures and construction cost accounting for FDOT. The CTQP also requires recertification every five years. The CTQP maintains an internet accessible database to track all the qualification data related to courses as well as Trainees. The CTQP is considered a best practice.

Recommendation:

Compliance Issue: N

PROJECT-LEVEL OBSERVATIONS

Risk Area: CAD

Federal Project Number: ARRA284

State Project Number: 410983 1

State Contract Number: E5N44

Observation: On the SR 50 (ARRA284) project, the City of Winter Garden requested enhancements to the project to be funded by the City. Prior to selection of the D/B contractor, the District documented that the estimated extra cost of these enhancements would be slightly over \$1.1 million. An agreement was executed with the City to provide a lump sum payment to FDOT. When setting up the contract, the Design/Build Firm should have been required to break out the City's requested enhancements as separate items from the contract's other items on the schedule of values so that it's clear what items are eligible federal funding. Instead, a credit was provided to the project and no Federal-aid was requested for this work. This makes it difficult to track city items to make sure Federal funding is used only on items of eligibility. Thus far, project documents indicate very little money has been drawn from the City contribution, but FDOT indicated the City's contribution would be fully utilized.

Recommendation: FDOT should ensure that funds are appropriately drawn against the City contribution. It is further recommended that any future project set up more defined procedures to separate out pay items that may not be eligible for State or Federal participation.

Compliance Issue: N

FDOT Response: For the SR 50 (ARRA284) project, District Five offers the following response: District 5 has determined the cost of the improvements to be paid by the local funds, and has determined the expenditure for non-eligible items is \$62,000.00 less than monies received from the City. Therefore, there are no federal funds being expended on non-eligible items for this project. The original plan by project personnel was to verify the expenditure of local funds was up to date by the end of the project; however, based on the issue being raised in the review, the project personnel will ensure the division of the expenditures between state and federal funds will be done on a monthly basis.

On future projects, the District will ensure that the construction contract is established such that a separate line item will be established for non-eligible items.

Risk Area: QAS

Federal Project Number: ARRA284

State Project Number: 410983 1

State Contract Number: E5N44

Observation: On the SR 50 (ARRA284) project, it was noted that the HMA verification samples were transported to the testing facility by the contractor's representative. According to FDOT procedures, cores should stay in the custody of the owner's representative.

Recommendation: FDOT should ensure the security and chain of custody provisions for verifications samples and re-emphasize their current policy to field personnel.

Compliance Issue: N

FDOT Response: For the SR 50 (ARRA284) project District Five offers the following response: The District has reviewed the procedures used for chain of custody of the core samples on this project and has determined it is consistent with current FDOT policy. The FDOT has a proactive IV testing of a minimum of one sub-lot of IV cores per LOT in accordance with the Materials Manual as a check and balance.

REVIEW SUMMARY

The FHWA National Review Team (NRT) was in Florida during the week of December 13, 2010 to conduct a Contract Administration (CAD) and Quality Assurance (QAS) Review on American Recovery and Reinvestment Act (ARRA) Projects. A total of eight projects under active construction were reviewed. The NRT broke into two subteams for this review. Team One was comprised of Gene Hoelker and George Merritt whom reviewed the following four projects: FDOT District 6 Project ARRA319, FDOT's Florida Turnpike Commission Project ARRA047, FDOT District 4 Project ARRA135, and FDOT District 5 Project ARRA284. Team Two consisted of Tom Goldstein and Randy Paulk whom reviewed FDOT District 1 projects ARRA555 and ARRA148 and FDOT District 7 projects ARRA037 and ARRA 629. The questions for CAD and QAS included the following topics: required contract provisions, project supervision and staffing, documentation and record keeping, project schedule, contract changes, workmanship, materials sampling and testing, and laboratory qualifications. Additionally, a Data Quality (DQI) review was completed on the data being entered into Recovery Act Data System (RADS) to verify that the correct data in RADS is correct. As contained in this document, there were eight programmatic observations and recommendations, four successful practices, and two project observations and recommendations. Two program observations involved the DBE Program: consistently updating Anticipated DBE Participation and consistently utilizing the Commercial Useful Function DBE Monitoring Report. Five other program observations covered Buy America, pay documentation, hot mix asphalt lot submittal documentation, design/build project schedule of values, and environmental commitments in construction. Finally, one observation consisted of some data being entered into RADS fields not matching the actual data. Also, the following four successful practices were noted: Construction Training Qualification Program (CTQP), Contractor Past Performance Rating (CPPR), Quality Control Plan (QCP), and the FDOT's civil rights compliance oversight. Most of the observations did not involve compliance issues, but rather some opportunities for improvement with the program. FDOT has excellent processes and procedures in place to guide the contract administration and quality assurance of construction projects and has been found to be providing good assurance that these processes and procedures are being followed on the projects. Overall, FDOT's Construction Program appears to comply with Federal requirements.

OVERALL RISK ASSESSMENT

	CAD	QAS	DQI
Satisfactory:	X	X	
Needs Improvement:			
Unsatisfactory:			

ADDITIONAL POTENTIAL RISK AREAS