



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 29, 2013

The Honorable Gene L. Dodaro
Comptroller General
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

In the enclosed letters, the U.S. Department of Transportation has reported multiple violations of the Antideficiency Act by the Federal Motor Carrier Safety Administration (FMCSA), totaling \$25,560,024. For each of these matters, we have determined that there was no willful or knowing intent on the part of the responsible parties to violate the law. Further, we have taken a number of corrective actions, both to hold responsible officials accountable for lapses in internal controls leading to such violations, and to improve FMCSA's system of administrative funds control.

Pursuant to section 1351 of Title 31, United States Code, the Comptroller General is to receive a copy of each Antideficiency Act report on the same day such reports are transmitted to the President and Congress. The enclosed letters satisfy this requirement. My staff is available to respond further to any of the Government Accountability Office's inquiries regarding this material.

Sincerely yours,

Ray LaHood

Enclosures



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 29, 2013

The President
The White House
Washington, DC 20500

Dear Mr. President:

The purpose of this letter is to report several violations of the Antideficiency Act (ADA), as required by sections 1517(b) and 1351 of Title 31, United States Code. These violations involved authorizing or making an obligation or expenditure in excess of an appropriation (31 U.S.C. § 1341 (a)(1)(A)), or in excess of an administrative control of funds (31 U.S.C. § 1517(a)). The violations were associated with the Federal Motor Carrier Safety Administration's (FMCSA) Administrative Expense account (69X8055), Motor Carrier Safety Grant account (69X8158), and Motor Carrier Safety Operations and Programs account (69X8159). The violations occurred over a period of several years and involved a series of transactions by FMCSA. The multiple violations reported here total \$25,560,024.

Summary of Antideficiency Act Violations

CVISN Violations. During Fiscal Years (FY) 2005 through 2010, FMCSA issued grant awards that violated the conditions of the Commercial Vehicle Information Systems and Networks (CVISN) grant program and exceeded statutory funding limits by \$21,498,020, constituting a series of ADA violations. These limits were established by Section 4126 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Under SAFETEA-LU, FMCSA could award no more than \$2.5 million to a State to support "core deployment" activities. In addition, under the statute, FMCSA could not award CVISN funds for "expanded deployment" projects until a State completed core deployment. Further, a State could not receive more than \$1 million per fiscal year in expanded CVISN funding. In total, FMCSA exceeded these established statutory caps by \$21,498,020 as follows¹:

- 21 States were awarded more than \$2.5 million to support core deployment projects. These violations totaled \$18,339,460.
- 20 States were awarded expanded funds before they completed core deployment. These violations totaled \$1,330,000.
- 3 States received more than \$1 million in expanded funds in a fiscal year. These violations totaled \$1,828,560.

Nevada Agreement Violation. In addition, in FY 2007, FMCSA issued a CVISN grant award in the amount of \$1,064,331 to the State of Nevada. At the time of award, FMCSA had already

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awarded \$24,997,673 in CVISN funds. The obligation to Nevada resulted in FMCSA exceeding by \$1,062,004 the total amount provided for CVISN grants in the FY 2007 appropriation. This also exceeded what was apportioned for this program by the same amount.

Improper “Reprogramming” Violation. During FY 2008, FMCSA “reprogrammed” funds in the CVISN and Performance Information Systems Management grant programs to the Motor Carrier Safety Assistance Program (MCSAP) and Safety Data Improvement Program (SaDIP). Unfortunately, the funding levels FMCSA administratively changed through this procedure were enumerated in statute and could not be adjusted legally through a reprogramming. As a result of FMCSA’s actions, the Agency incurred obligations in the MCSAP and SaDIP grant programs that exceeded the funding provided in the U.S. Department of Transportation’s FY 2008 Appropriations Act by \$3,000,000. This improper “reprogramming” of funds also caused FMCSA to incur obligations in the MCSAP grant program in excess of the amount apportioned.

Responsible Officials

In order to ensure that ADA violations do not occur in the future, a strong and effective system of internal financial controls has been established. At the time of the subject violations, the principal responsibility for internal financial controls resided with the Chief Financial Officer (CFO) and the Budget Director. Although these individuals were responsible for establishing and maintaining internal financial controls at FMCSA, they needed, in part, to rely on others to ensure that the controls were properly designed and operating effectively. The Agency’s officials who took specific actions that resulted in ADA violations, and are therefore responsible for these violations, are:

CVISN Violations:

- Marlene Thomas, former FMCSA Associate Administrator for Administration and CFO;
- Terry Shelton, former FMCSA Associate Administrator, Office of Research and Information Technology;
- Michael Griffith, former FMCSA Director, Office of Analysis, Research and Technology;
- Kenneth Leonard, former FMCSA Director, Office of Analysis, Research and Technology;
- Jeff Secrist, former FMCSA Chief, Technology Division, Office of Analysis, Research and Technology; and
- Jeff Loftus, FMCSA Chief, Technology Division, Office of Analysis, Research and Technology.

Nevada CVISN Agreement Violation:

- Michael Griffith, former FMCSA Director, Office of Analysis, Research and Technology;
and

- Jeff Secrist, former FMCSA Chief, Technology Division, Office of Analysis, Research and Technology.

Improper “Reprogramming” Violation:

- Kathleen O’Sullivan, former FMCSA CFO;
- William Quade, FMCSA Associate Administrator for Enforcement and Program Delivery; and
- Terry Shelton, former FMCSA Associate Administrator, Office of Research and Information Technology.

Remedial Actions

Consistent with the procedures outlined by the Office of Management and Budget for reviewing these matters, each official named as responsible for these violations was given an opportunity to explain his or her conduct and cite any mitigating circumstances. This information was taken into account in determining each official’s overall role and responsibility.

Several of the officials cited for both the CVISN and Nevada CVISN ADA violations are no longer with the Agency and are not, therefore, subject to administrative discipline by FMCSA for this conduct. They include Marlene Thomas, former Associate Administrator for Administration and CFO; Michael Griffith, former Director, Office of Analysis, Research and Technology; and Terry Shelton, former Associate Administrator, Office of Research and Information Technology. Each of the officials who have remained with the Agency has been counseled regarding his conduct and has received additional appropriate fiscal law and program management training.² The following Agency employees received letters of counseling: Kenneth Leonard, Jeff Secrist, and Jeff Loftus.

For the improper “reprogramming” violation, Kathleen O’Sullivan, the former CFO, received verbal counseling. Ms. O’Sullivan and William Quade, Associate Administrator for Enforcement and Program Delivery, were required to attend appropriations law training. As stated above, Terry Shelton is no longer with the Agency.

Beyond the corrective administrative actions cited here, no further remedial measures provided for under the statute are contemplated. There is no evidence that actions by any of the responsible officials involved a knowing and willful violation of the Antideficiency Act. Accordingly, the General Counsel has not referred these matters to the U.S. Department of Justice for further legal action.

² This includes Kathleen O’Sullivan, former CFO, who has subsequently left FMCSA to take a position with another Agency but who received counseling while she was employed by FMCSA.

System of Administrative Control of Funds

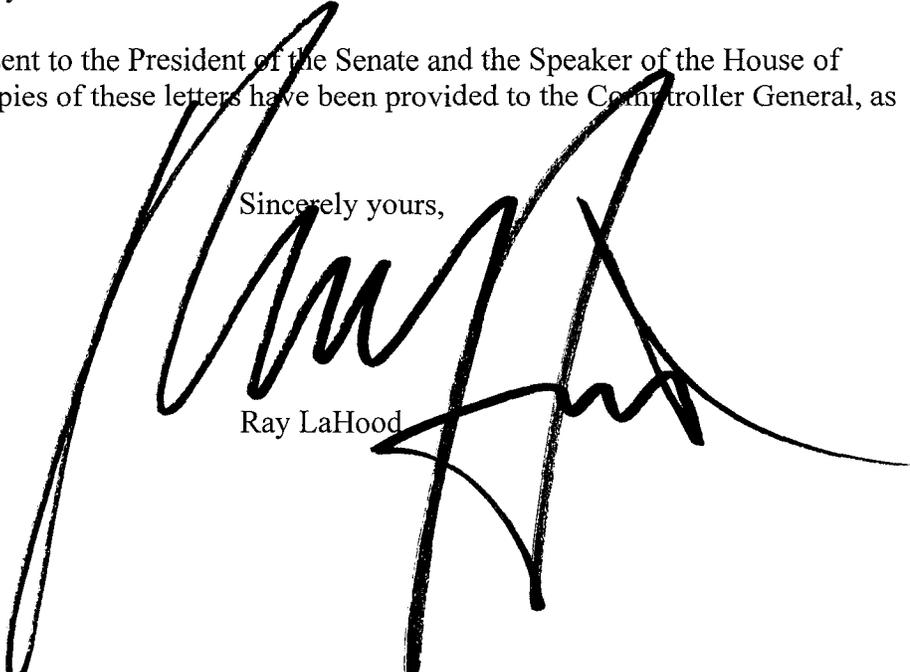
With respect to the problems reported here, the principal failings were the result of poor financial management practices and the lack of established procedures. To prevent a recurrence of these types of situations, FMCSA has revisited all internal guidance regarding the administrative control of funds to strengthen and improve these procedures. To avoid similar serious issues in its grant programs, FMCSA also has realigned the responsibility for the administration of CVISN grant functions to an organizational component better suited for these activities. In addition to these consequential steps, FMCSA is standardizing grants management and implementing a new grants management system—Grant Solutions—to facilitate this change. New procedures also call for a greater role in grants management and oversight for the Office of Chief Counsel and CFO. Moreover, FMCSA will require that employees involved with grants management or administration complete fiscal and project management training.

We appreciate the seriousness of any ADA violation. We have worked hard to identify all of the factors associated with these problems and have taken the steps needed to correct weaknesses in our systems and procedures. As required by statute, we are also informing Congress and the Government Accountability Office of these violations.

Similar letters have been sent to the President of the Senate and the Speaker of the House of Representatives. Also, copies of these letters have been provided to the Comptroller General, as required by statute.

Sincerely yours,

Ray LaHood





THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 29, 2013

The Honorable Joseph R. Biden
President of the Senate
Washington, DC 20510

Dear Mr. President:

The purpose of this letter is to report several violations of the Antideficiency Act (ADA), as required by sections 1517(b) and 1351 of Title 31, United States Code. These violations involved authorizing or making an obligation or expenditure in excess of an appropriation (31 U.S.C. § 1341 (a)(1)(A)), or in excess of an administrative control of funds (31 U.S.C. § 1517(a)). The violations were associated with the Federal Motor Carrier Safety Administration's (FMCSA) Administrative Expense account (69X8055), Motor Carrier Safety Grant account (69X8158), and Motor Carrier Safety Operations and Programs account (69X8159). The violations occurred over a period of several years and involved a series of transactions by FMCSA. The multiple violations reported here total \$25,560,024.

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Responsible Officials

In order to ensure that ADA violations do not occur in the future, a strong and effective system of internal financial controls has been established. At the time of the subject violations, the principal responsibility for internal financial controls resided with the Chief Financial Officer (CFO) and the Budget Director. Although these individuals were responsible for establishing and maintaining internal financial controls at FMCSA, they needed, in part, to rely on others to ensure that the controls were properly designed and operating effectively. The Agency’s officials who took specific actions that resulted in ADA violations, and are therefore responsible for these violations, are:

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Consistent with the procedures outlined by the Office of Management and Budget for reviewing these matters, each official named as responsible for these violations was given an opportunity to explain his or her conduct and cite any mitigating circumstances. This information was taken into account in determining each official’s overall role and responsibility.

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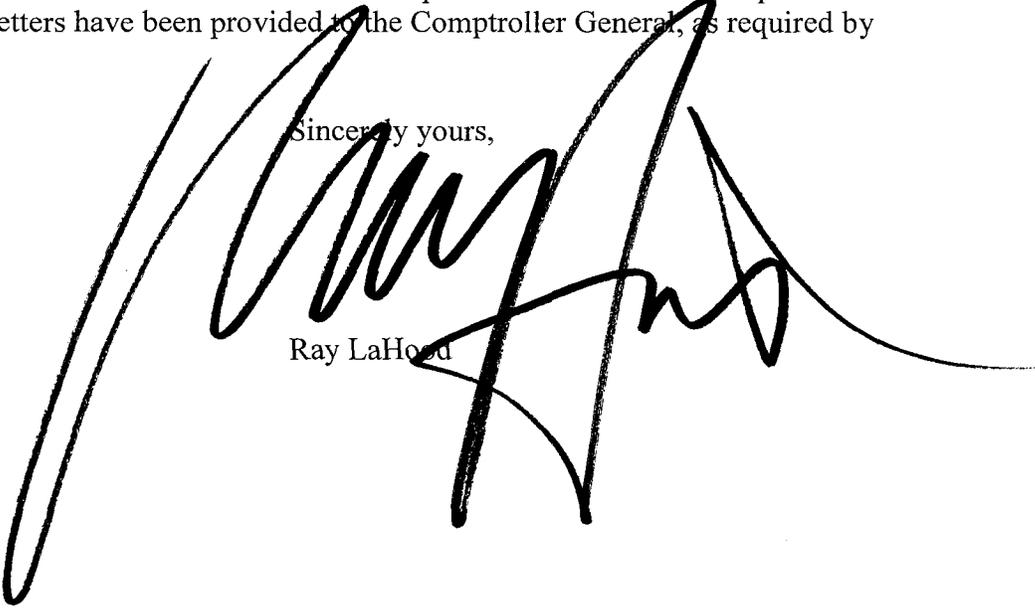
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Similar letters have been sent to the President and the Speaker of the House of Representatives. Also, copies of these letters have been provided to the Comptroller General, as required by statute.

Sincerely yours,



Ray LaHood



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 29, 2013

The Honorable John Boehner
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

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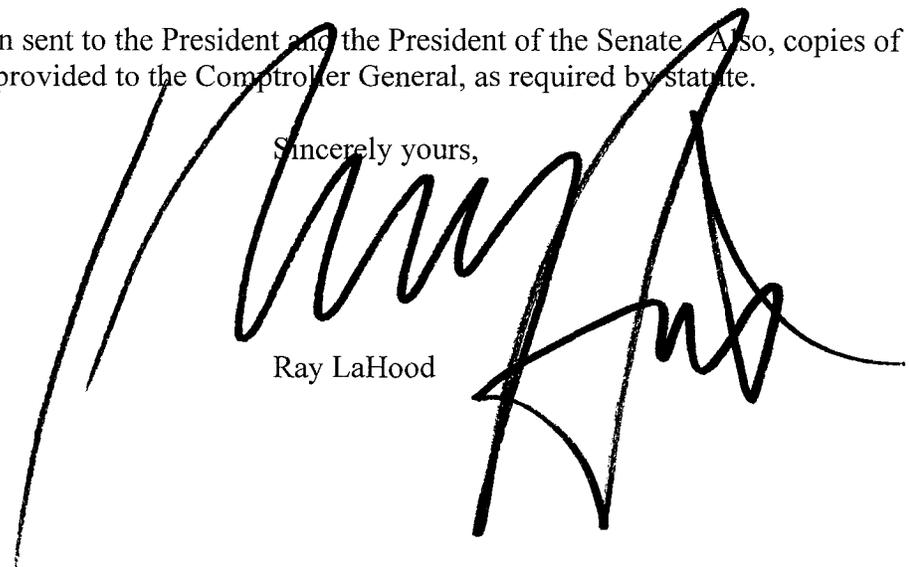
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Sincerely yours,

Ray LaHood

A large, stylized handwritten signature in black ink, which appears to be 'Ray LaHood', is written over the typed name. The signature is highly cursive and extends across the width of the typed name.