



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 (ADA) by the Federal Highway Administration (FHWA), totaling \$11,511,453. 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. None of the appropriations that are the subject of the three reported technical violations of ADA (exceeding an amount available under an appropriations subdivision) were misappropriated, used for an unauthorized purpose, or exceeded budgetary resources that were ultimately available for obligation under the appropriation subdivision. Further, we have taken a number of corrective actions to address the lapses in internal controls leading to such violations and to improve FHWA'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 three 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 Highway Administration's (FHWA) Highway Infrastructure Investment (69-09100504) and TIGER Grants (69-09110106) accounts within the American Recovery and Reinvestment Act of 2009 (Recovery Act) appropriation. The violations occurred during Fiscal Year 2010 and totaled \$11,511,453.

An investigation conducted by FHWA with the assistance of the Office of the General Counsel concluded that there is no evidence of a willful violation of any law, regulation, or policy by any employees involved. None of the appropriations that are the subject of the three reported technical violations of ADA (exceeding an amount available under an appropriations subdivision) were misappropriated, used for an unauthorized purpose, or exceeded budgetary resources that were ultimately available for obligation under the appropriation subdivision.

Summary of Antideficiency Act Violations

First, total obligations incurred by the Refuge Roads and Puerto Rico Highway programs exceeded the administrative subdivision of funds apportioned by the Office of Management and Budget (OMB). For both the Refuge Roads and the Puerto Rico Highway programs, recoveries and subsequent re-obligations resulted in gross obligations that exceeded the administrative subdivision of funds on the latest signed Apportionment and Reapportionment Schedule (SF-132).

In August 2010, FHWA obligated \$3,304,430 in Recovery Act funds for the Refuge Roads grant program. The apportionment in place at the time had released only \$2,258,479 in funding for the program. By incurring obligations of \$1,045,951 in excess of the existing administrative division of funds, an ADA violation occurred. Similar to the issue with Refuge Roads, FHWA obligated \$465,502 more for the Puerto Rico Highway grant program than had been released for obligation in the existing Category B apportionment.

Second, FHWA violated Sections 1514 and 1517(a)(2) of the ADA when it obligated \$10,000,000 in Transportation Investment Generating Economic Recovery (TIGER) Grant

funding for an I-85 improvement project in North Carolina prior to the funds being made expressly available for the project by the Office of the Secretary (OST).

Although OST had approved the project for funding, the funds had not been specifically allotted by OST to FHWA for that particular project.

Responsible Officials

At the time of the over-obligations, the individual responsible for the FHWA's overall budget and financial operations was Ms. Elissa Konove, Chief Financial Officer. The individual responsible for the Agency's budget and associated system of funds control was Mr. Brian Bezio, Director of the Office of Budget, who reported to Ms. Konove. These individuals had overall responsibility for internal controls in place within FHWA, and additional individuals were responsible for the program management and obligation of funds for the Refuge Roads, Puerto Rico Highway, and TIGER programs. These officials were acting responsibly in discharging their responsibilities. Unfortunate gaps in certain internal controls, which have now been remediated, were the proximate cause of these violations. As a result, no disciplinary action is necessary.

Remedial Actions

Because sufficient total budgetary resources were appropriated and apportioned, no further actions are needed to recover or adjust the amount of funding obligated for these programs. The FHWA's Office of the Chief Financial Officer is reviewing all internal guidance regarding the administrative control of funds to determine whether any existing procedures need to be updated or improved. In addition, FHWA is working with the Department to pursue the possibility of a change in the Department's accounting system that will prevent recoveries from automatically being made available for obligation. In addition, FHWA has taken actions to improve the internal controls for TIGER project funding. Currently, all allocation memoranda for TIGER funding are reviewed by the Office of the Chief Financial Officer prior to funding allocation to ensure adequate project funding is available and the specific project has been allotted by OST.

Beyond the corrective actions cited here, no further remedial measures provided for under the statute are contemplated. Given the circumstances, no further action is necessary, and the General Counsel has not referred these matters to the U.S. Department of Justice for further legal action.

System of Administrative Control of Funds

The FHWA has examined the system of administrative controls in place for the Department and the Agency. The principal failing resulting in the violations related to the Refuge Roads and Puerto Rico programs was reliance on a manual process to detect recoveries and adjust amounts

apportioned for recoveries prior to re-obligation. To prevent a recurrence of these types of situations, FHWA has revised internal procedures to enhance the internal controls for reviewing and posting recoveries. Control of funds for recoveries is now set at the fund level, rather than at the Treasury account level, thereby controlling funds at the appropriate fund level.

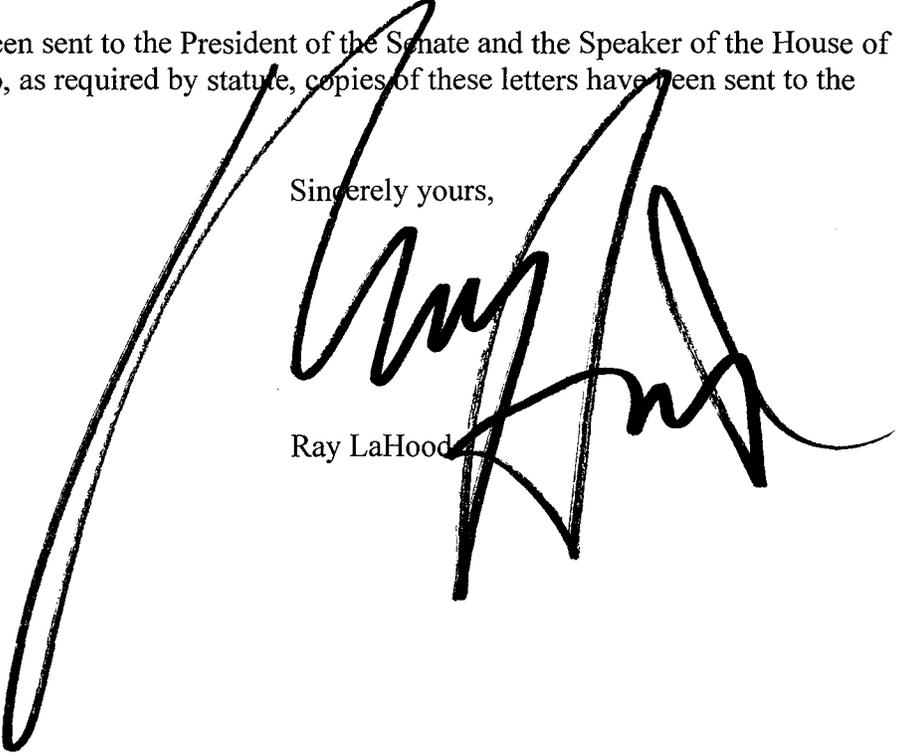
The principal failing resulting in the violation related to the TIGER program was insufficient funds control at the project level to ensure that adequate project funding is available and the specific project has been allotted by OST prior to funds allocation. To prevent a recurrence of these types of situations, FHWA has revised internal procedures to enhance the internal controls for managing TIGER funding.

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, as required by statute, copies of these letters have been sent to the Comptroller General.

Sincerely yours,

Ray LaHood

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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:

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Summary of Antideficiency Act Violations

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Although OST had approved the project for funding, the funds had not been specifically allotted by OST to FHWA for that particular project.

Responsible Officials

At the time of the over-obligations, the individual responsible for the FHWA's overall budget and financial operations was Ms. Elissa Konove, Chief Financial Officer. The individual responsible for the Agency's budget and associated system of funds control was Mr. Brian Bezio, Director of the Office of Budget, who reported to Ms. Konove. These individuals had overall responsibility for internal controls in place within FHWA, and additional individuals were responsible for the program management and obligation of funds for the Refuge Roads, Puerto Rico Highway, and TIGER programs. These officials were acting responsibly in discharging their responsibilities. Unfortunate gaps in certain internal controls, which have now been remediated, were the proximate cause of these violations. As a result, no disciplinary action is necessary.

Remedial Actions

Because sufficient total budgetary resources were appropriated and apportioned, no further actions are needed to recover or adjust the amount of funding obligated for these programs. The FHWA's Office of the Chief Financial Officer is reviewing all internal guidance regarding the administrative control of funds to determine whether any existing procedures need to be updated or improved. In addition, FHWA is working with the Department to pursue the possibility of a change in the Department's accounting system that will prevent recoveries from automatically being made available for obligation. In addition, FHWA has taken actions to improve the internal controls for TIGER project funding. Currently, all allocation memoranda for TIGER funding are reviewed by the Office of the Chief Financial Officer prior to funding allocation to ensure adequate project funding is available and the specific project has been allotted by OST.

Beyond the corrective actions cited here, no further remedial measures provided for under the statute are contemplated. Given the circumstances, no further action is necessary, and the General Counsel has not referred these matters to the U.S. Department of Justice for further legal action.

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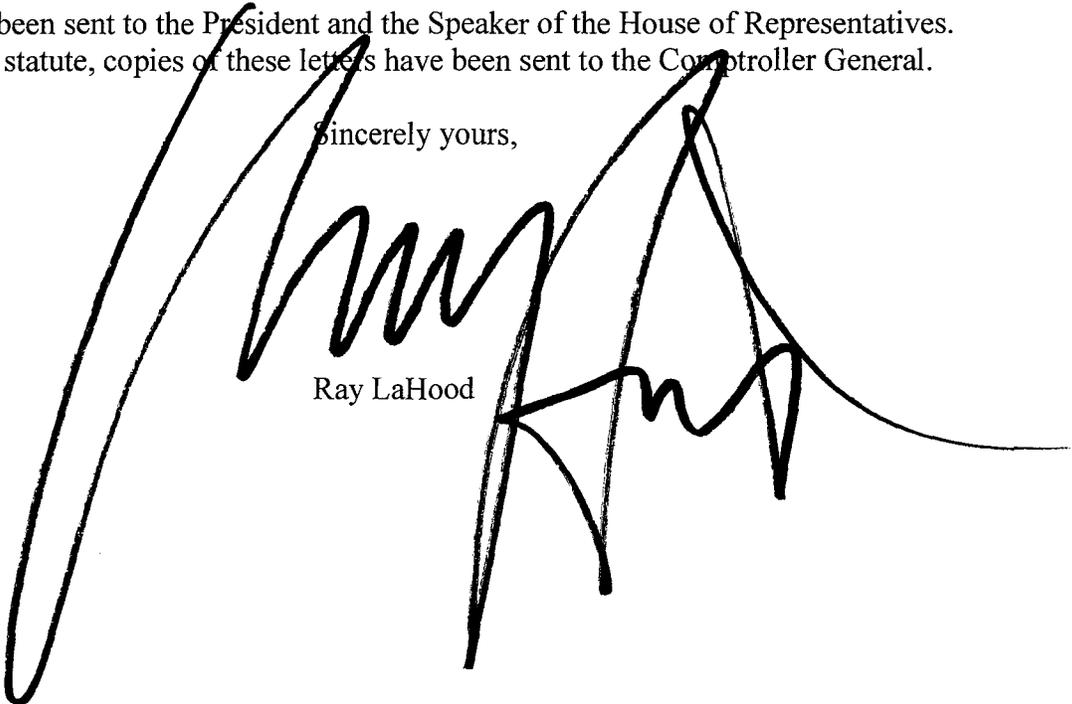
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The principal failing resulting in the violation related to the TIGER program was insufficient funds control at the project level to ensure that adequate project funding is available and the specific project has been allotted by OST prior to funds allocation. To prevent a recurrence of these types of situations, FHWA has revised internal procedures to enhance the internal controls for managing TIGER funding.

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April 29, 2013

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

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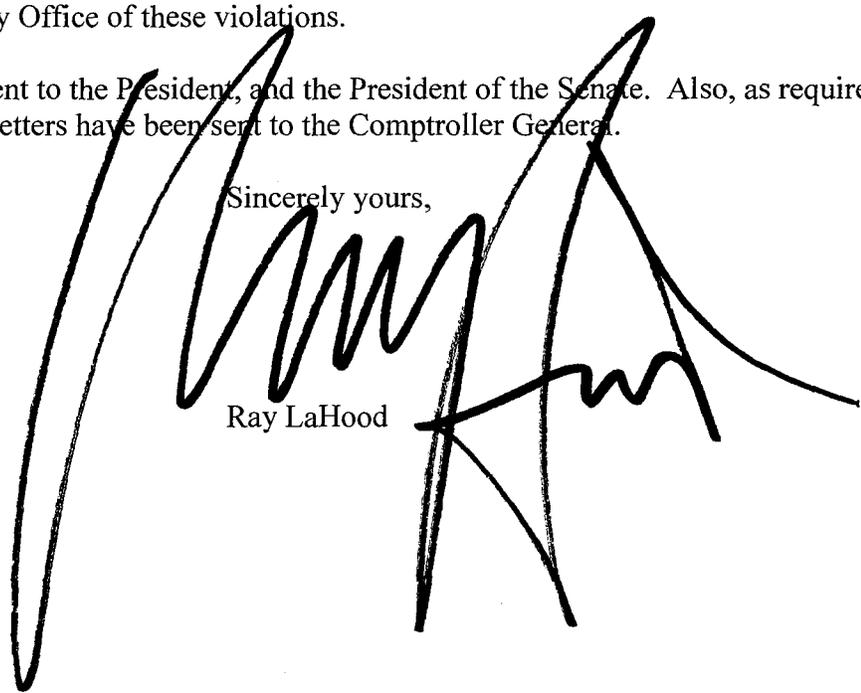
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