



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20580

July 06, 2012

The Honorable Jeffrey Zients  
Acting Director  
Office of Management and Budget  
Washington, DC 20503

Dear Mr. Zients:

Enclosed is a letter reporting several violations of the Antideficiency Act (ADA) (31 U.S.C. § 1341(a) (1)), as required by 31 U.S.C. § 1351.

The report of an ADA violation is submitted to the President through you, as the Acting Director of the Office of Management and Budget (OMB Circular A-11, § 145). The multiple violations cited here by the Maritime Administration (MARAD) represent amounts totaling \$5.0 million. Also, in accordance with OMB Circular A-11, we are required to disclose as part of this material the results of the U.S Department of Transportation's (DOT) financial audits for the period covered by these violations. With the exception of 2006, DOT received a clean audit opinion in each of Fiscal Years 2003 to 2008.

For these matters, we have determined that there was no willful or knowing intent on the part of the responsible parties to violate the Antideficiency Act and therefore no disciplinary action was taken. Both responsible officials have retired from Federal service. Further, we have taken a number of corrective actions to improve MARAD's system of administrative funds control and to help prevent the recurrence of similar violations.

To comply with the aforementioned provisions, similar letters have been sent to the President, 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

Enclosure



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

July 06, 2012

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) (31 U.S.C. § 1341(a)), as required by 31 U.S.C. § 1351. The violations of 31 U.S.C. § 1341(a) occurred in the Maritime Administration's (MARAD) Operations and Training account (69 1750). The violations occurred over a period of several years and involved a series of transactions. The multiple violations reported here are for amounts totaling \$5.0 million.

The U.S. Merchant Marine Academy (USMMA), a component of MARAD, is authorized by statute to collect fees from its students. These fees were used to cover the personal expenses of the students, paid collectively on their behalf by the school. However, independent examinations of this activity determined that during Fiscal Years 2003 through 2008 fees were established at levels far in excess of what was actually needed to pay for the personal expenses of the students. These excess fees were diverted to help pay for the school's operations.

In addition to charging students for expenses they did not owe, the fee schedule was established each year in a way contrary to statute (46 U.S.C. § 51314). After 1994, fees could not be increased without notifying Congress. These notifications did not occur. Further, the use of excess fee collections constituted an improper augmentation of the school's annual appropriation. An agency cannot operate beyond the level that can be paid for by its appropriation by using funding from sources outside the Government. The Academy's appropriations were insufficient to fund the additional operating expenses that were incurred from use of the excess fees that were collected. Given this, as well as the associated restriction on fee increases under title 46, utilizing these fees for the school's operations was a violation of the Antideficiency Act.

In the aggregate, students were overcharged by \$8.1 million over 6 academic years. Of this total, \$3.1 million was held in custody by MARAD pending a refund to the students. The remaining \$5.0 million was principally spent for purposes that otherwise should have been covered by the school's annual appropriation. In order to refund these overcharges to the affected students, the FY 2011 Budget proposed, and Congress provided, a special appropriation of up to \$6 million. This is sufficient to cover the \$5.0 million deficiency. As of the end of June, MARAD has completed 99 percent of the needed refunds to overcharged students.

### **Responsible Officials and Remedial Actions**

During the 6-year period that the ADA violations occurred, Vice Admiral (VADM) Joseph Stewart and Mr. James Amoroso were the officials directly responsible for these violations. As the School's Superintendent, VADM Stewart was the approving authority for the schedule of midshipman fees and the subsequent use of these funds. Mr. Amoroso was Director of Resource Management for the school, had direct supervision and control of the fee revenue, knew specifically how the funds were being applied, and supervised and controlled the disbursement of these funds. Both VADM Stewart and Mr. Amoroso have retired from Federal service and are not subject to administrative discipline as a consequence of their conduct.

In addition, there is insufficient evidence to conclude that actions by either of these responsible officials involved a knowing and willful violation of the Antideficiency Act. Accordingly, this matter was not referred to the U.S. Department of Justice for further legal action. Consistent with the procedures outlined by the Office of Management and Budget for reviewing these matters, both VADM Stewart and Mr. Amoroso were given an opportunity to explain their conduct and cite any mitigating circumstances. This information was taken into account in determining each official's overall role and responsibility in these violations.

### **System of Administrative Control**

Since the violations occurred, MARAD and USMMA have revised their internal control procedures to prevent a recurrence of this type of violation and have taken additional actions to improve internal controls at the Academy. For the problems reported here, the principal failings were actions that deviated from well-established norms of Federal financial operations. However, MARAD has made improvements in its system of administrative controls that will help prevent similar problems in the future. As part of its review of the school's internal controls, the Government Accountability Office made several recommendations regarding midshipman fees. Over the past year, the Academy has worked to implement these important recommendations.

The MARAD also has made several organizational changes that have greatly improved USMMA's internal controls. The MARAD established a new position of Assistant Chief Financial Officer (CFO) for Academy Operations, who is assigned to the Academy but reports directly to MARAD's CFO. The Assistant CFO has direct overall responsibility for the Academy's finances and provides day-to-day supervision of the school's budget and financial activities. The MARAD headquarters is working closely with the USMMA leadership and is rebuilding the school's financial staff with individuals who have the skills to ensure that a deficiency will not occur again. In addition, the Department revitalized the Academy's Congressional Board of Visitors, which is expected to meet more regularly and provide another important element of oversight to ensure continuing sound practices.

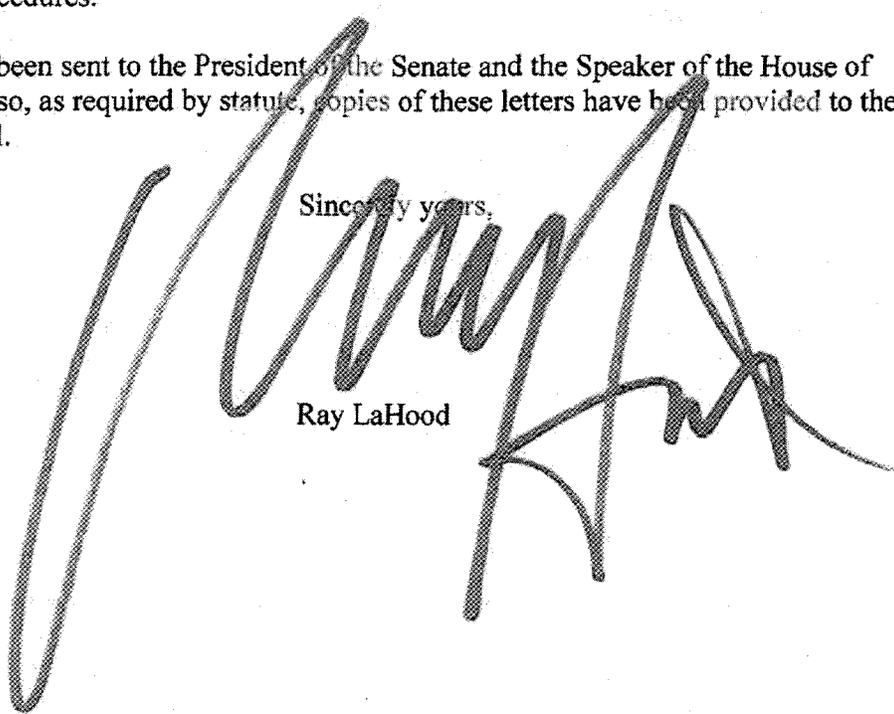
Page 3  
The President

With these changes, we have significantly strengthened the Academy's control environment and improved the efficiency and effectiveness of its operations to preserve the USMMA as a valuable asset for our Nation. We appreciate the seriousness of any ADA violation. We have identified the factors associated with these problems and taken the steps needed to correct weaknesses in our systems and procedures.

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 provided to the Comptroller General.

Sincerely yours,

Ray LaHood

A large, stylized handwritten signature in dark ink, appearing to read 'Ray LaHood', is written over the typed name. The signature is fluid and cursive, with a long, sweeping initial 'R'.



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

July 06, 2012

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

Dear Mr. President:

This letter is to report several violations of the Antideficiency Act (ADA) (31 U.S.C. § 1341(a)), as required by 31 U.S.C. § 1351. The violations of 31 U.S.C. § 1341(a) occurred in the Maritime Administration's (MARAD) Operations and Training account (69 1750). The violations occurred over a period of several years and involved a series of transactions. The multiple violations reported here are for amounts totaling \$5.0 million.

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In addition to charging students for expenses they did not owe, the fee schedule was established each year in a way contrary to statute (46 U.S.C. § 51314). After 1994, fees could not be increased without notifying Congress. These notifications did not occur. Further, the use of excess fee collections constituted an improper augmentation of the school's annual appropriation. An agency cannot operate beyond the level that can be paid for by its appropriation by using funding from sources outside the Government. The Academy's appropriations were insufficient to fund the additional operating expenses that were incurred from use of the excess fees that were collected. Given this, as well as the associated restriction on fee increases under title 46, utilizing these fees for the school's operations was a violation of the Antideficiency Act.

In the aggregate, students were overcharged by \$8.1 million over 6 academic years. Of this total, \$3.1 million was held in custody by MARAD pending a refund to the students. The remaining \$5.0 million was principally spent for purposes that otherwise should have been covered by the school's annual appropriation. In order to refund these overcharges to the affected students, the FY 2011 Budget proposed, and Congress provided, a special appropriation of up to \$6 million. This is sufficient to cover the \$5.0 million deficiency. As of the end of June, MARAD has completed 99 percent of the needed refunds to overcharged students.

### **Responsible Officials and Remedial Actions**

During the 6-year period that the ADA violations occurred, Vice Admiral (VADM) Joseph Stewart and Mr. James Amoroso were the officials directly responsible for these violations. As the School's Superintendent, VADM Stewart was the approving authority for the schedule of midshipman fees and the subsequent use of these funds. Mr. Amoroso was Director of Resource Management for the school, had direct supervision and control of the fee revenue, knew specifically how the funds were being applied, and supervised and controlled the disbursement of these funds. Both VADM Stewart and Mr. Amoroso have retired from Federal service and are not subject to administrative discipline as a consequence of their conduct.

In addition, there is insufficient evidence to conclude that actions by either of these responsible officials involved a knowing and willful violation of the Antideficiency Act. Accordingly, this matter was not referred to the U.S. Department of Justice for further legal action. Consistent with the procedures outlined by the Office of Management and Budget for reviewing these matters, both VADM Stewart and Mr. Amoroso were given an opportunity to explain their conduct and cite any mitigating circumstances. This information was taken into account in determining each official's overall role and responsibility in these violations.

### **System of Administrative Control**

Since the violations occurred, MARAD and USMMA have revised their internal control procedures to prevent a recurrence of this type of violation and have taken additional actions to improve internal controls at the Academy. For the problems reported here, the principal failings were actions that deviated from well-established norms of Federal financial operations. However, MARAD has made improvements in its system of administrative controls that will help prevent similar problems in the future. As part of its review of the school's internal controls, the Government Accountability Office made several recommendations regarding midshipman fees. Over the past year, the Academy has worked to implement these important recommendations.

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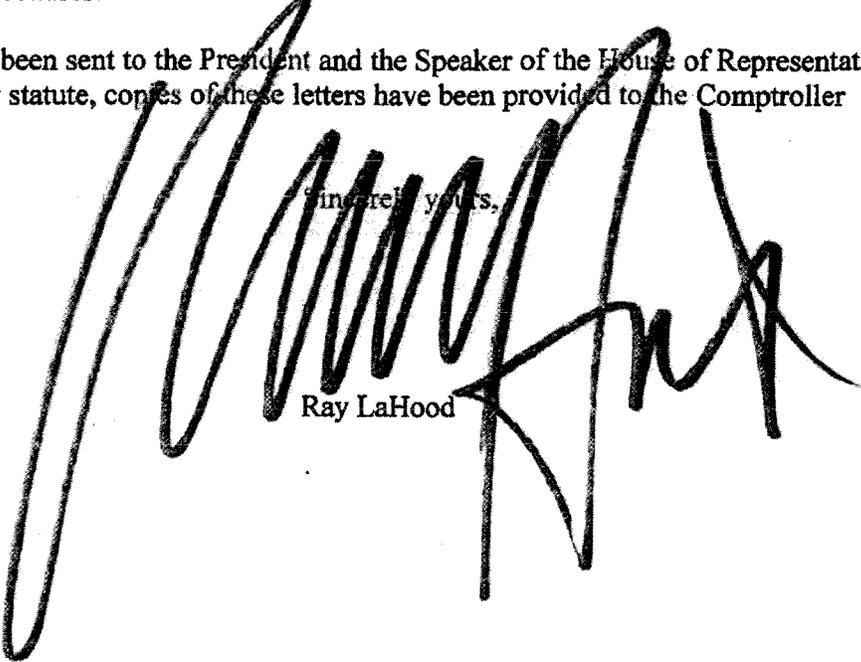
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The Honorable Joseph Biden

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Sincerely yours,



Ray LaHood



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

July 06, 2012

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

Dear Mr. Speaker:

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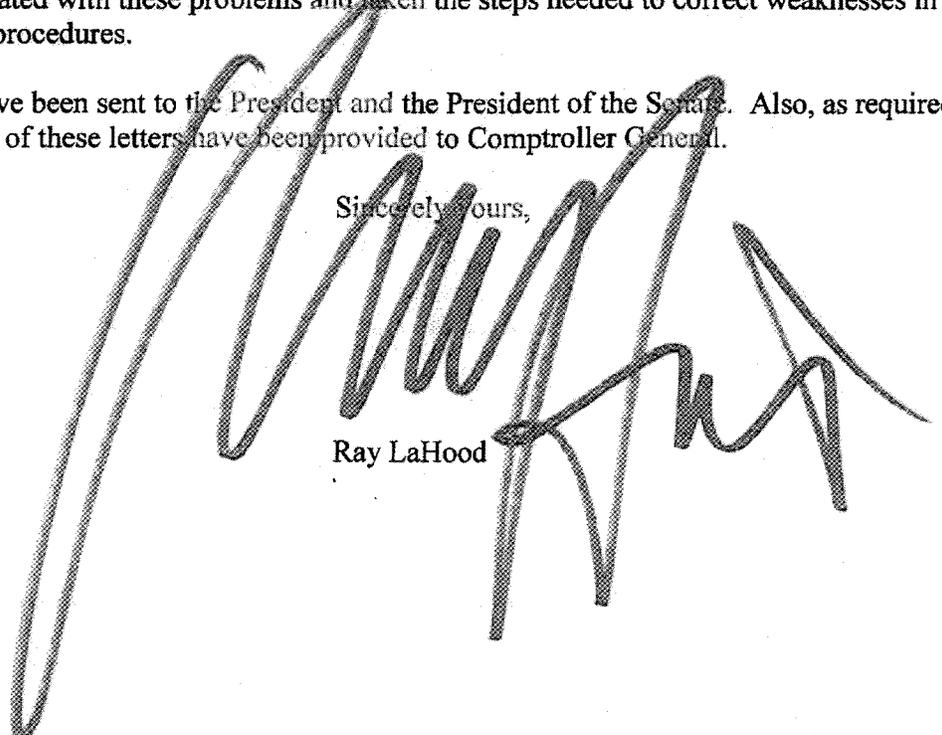
The Honorable John A. Boehner

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Sincerely yours,

Ray LaHood

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THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

July 06, 2012

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 Maritime Administration (MARAD) that total \$5.0 million. 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 to improve MARAD's system of administrative funds control.

Pursuant to 31 U.S.C. § 1351, the Comptroller General is to receive a copy of each Antideficiency Act report on the same date that such reports are transmitted to the President and to 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