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United States House of Representatives**

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Ensuring ARRA Funds Are Spent Appropriately To Maximize Program Goals

**Statement of
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Chairman Mica, Ranking Member Rahall, and Members of the Committee:

Thank you for inviting me here today to discuss the Department of Transportation's (DOT) implementation of the American Recovery and Reinvestment Act (ARRA). ARRA designated \$48 billion for new and existing DOT programs to create and save jobs, invest in long-term growth, and improve the Nation's transportation system. In addition to the infusion of billions of dollars into DOT programs, ARRA established extensive new transparency and accountability requirements.

Since ARRA's passage, DOT has been tackling the difficult work of administering the large infusion of ARRA funds. However, more difficult work is ahead. With many major projects entering the construction phase and new high-dollar ARRA projects getting underway, a significant portion of DOT's recovery funds are just now being spent.

My testimony today will focus on four key challenges DOT faces in ensuring ARRA dollars are spent appropriately to maximize program goals: (1) addressing vulnerabilities in its High-Speed Intercity Passenger Rail (HSIPR) and Transportation Investment Generating Economic Recovery (TIGER), two new ARRA-funded discretionary grant programs; (2) meeting ARRA requirements for reporting on jobs and considering economic impact; (3) ensuring grantees provide effective project and financial management; and (4) preventing fraud, waste, and abuse.

IN SUMMARY

DOT faces substantial challenges in ensuring its HSIPR and TIGER programs meet ARRA's reporting, transparency, and program and financial management requirements, and that the significant ARRA dollars obligated under these programs are not wasted. Our ARRA audits—which have primarily targeted the Federal Highway Administration (FHWA), the largest custodian of DOT's ARRA dollars, and the Federal Aviation Administration (FAA)—can help inform DOT regarding the critical decisions it must make in the future. Specifically, DOT needs to improve jobs data reporting and grant selection processes to meet ARRA's transparency and accountability requirements and its goal to optimize economic growth; strengthen project and financial oversight to ensure quality and maximize efficiency; and take proactive measures to combat fraud, waste, and abuse.

BACKGROUND

ARRA designated an unprecedented \$48 billion for DOT programs. According to the Secretary of Transportation, ARRA represents “the largest investment in America's roads, bridges, transit lines, and rail systems since the creation of the interstate highway system.” Key provisions of ARRA are preserving and creating jobs, promoting economic recovery, and investing in transportation infrastructure that will provide long-term economic benefits.

Almost 95 percent of DOT's ARRA funds are distributed to FHWA, the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA) for the construction and maintenance of highway, road, bridge, rail, and transit projects (see table 1). The remaining

ARRA funds are distributed among the Office of the Secretary of Transportation (OST), FAA, the Maritime Administration (MARAD), and the Office of Inspector General (OIG).

Table 1. Distribution of ARRA Funds Within DOT

DOT Operating Administration	ARRA Funds (\$ in millions)	Percent of Total^a
FHWA	\$27,500	57.15%
FRA	\$9,300	19.33%
FTA	\$8,400	17.46%
OST	\$1,500	3.12%
FAA	\$1,300	2.70%
MARAD	\$100	0.21%
OIG	\$20	0.04%
Total	\$48,120	100.00%

Source: ARRA

^aPercentages do not add up due to rounding.

In addition to providing funding for a number of existing DOT programs, ARRA directs DOT to create several new programs and establishes tight time frames for distributing and expending funds and reporting results, such as the number of jobs created. To ensure accountability, the Office of Management and Budget (OMB) has called on Federal agencies to (1) award and distribute funds in a prompt, fair, and reasonable manner; (2) ensure fund recipients and uses are transparent to the public, and the resulting benefits are reported clearly, accurately, and promptly; (3) ensure funds are used for authorized purposes and to mitigate instances of fraud, waste, and abuse; (4) avoid unnecessary project delays and cost overruns; and (5) achieve specific program outcomes and improve results on economic indicators.¹

Both the President and Congress have emphasized the need for accountability, efficiency, and transparency in allocating and expending ARRA funds and have recognized the role of Inspectors General and the Government Accountability Office in accomplishing these objectives. In addition, ARRA created the Recovery Accountability and Transparency Board, consisting of our office and nine other Inspectors General, and added funding to help address the increased workload of monitoring ARRA programs.

In the first year after ARRA’s enactment, OIG focused on identifying key management and funding vulnerabilities—including the need for sufficient personnel with grant oversight expertise—to better position DOT to meet ARRA requirements and ensure funds are spent

¹ OMB “Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” February 18, 2009.

wisely.² DOT developed an oversight plan that outlined key actions to address identified vulnerabilities. We are monitoring DOT's progress in mitigating these management and funding risks. Additionally, we have initiated a number of audits that target high-risk areas. Exhibit A lists our completed and ongoing ARRA work to date.

ADDRESSING VULNERABILITIES IN NEWLY CREATED HIGH-SPEED RAIL AND INTERMODAL PROGRAMS

FRA and OST are responsible for administering, respectively, the HSIPR and TIGER discretionary grant programs—two programs DOT expects to continue beyond ARRA. Standing up the programs requires direct oversight of grantees constructing large infrastructure projects—a role FRA and OST have not previously performed. FRA and OST have encountered challenges in establishing necessary oversight controls. Failure to address these challenges could have cost and schedule implications in the future.

FRA Faces Significant Challenges in Meeting Responsibilities Under Its Expanded Role in High-Speed Rail

Historically, FRA has focused on promoting and overseeing railroad safety. In 2008, FRA's role was significantly expanded to include the development of high-speed rail.³ ARRA accelerated this expansion by adding \$8 billion to HSIPR and established tight deadlines for program design and implementation. Most notably, ARRA required FRA to issue within 120 days of its enactment, interim guidance detailing grant application requirements. FRA met this mandate and awarded ARRA HSIPR grant funds in January 2010.

Despite this accomplishment, FRA continues to face challenges in managing and administering the HSIPR program. Our work indicates that FRA has not issued sufficient guidance for preparing forecasts of net benefits of high-speed rail projects or for establishing access agreements between states and their freight railroad partners. The forecasts provide the basis for the sustainability of the service and thus FRA's future award decisions. The access agreements, particularly the Service Outcome Agreements,⁴ are critical for FRA to ensure that the investment achieves the anticipated public benefits. Finally, FRA has yet to finalize policies and procedures that would ensure a core set of grant management responsibilities—such as programmatic and financial reporting and monitoring contractors' performance in constructing projects—are consistently executed to meet Federal requirements. Yet, FRA has continued to concurrently solicit and review HSIPR applications, issue HSIPR grant awards, and obligate the funds.

As of March 2011, FRA had obligated \$5.4 billion of the \$8 billion of ARRA funds awarded under HSIPR. Less than 1 percent of that amount has been expended by grantees. With the

² OIG Report Number MH-2009-046, "American Recovery and Reinvestment Act of 2009: Oversight Challenges Facing the Department of Transportation," March 31, 2009. OIG Report Number MH-2010-024, "DOT's Implementation of the American Recovery and Reinvestment Act: Continued Management Attention Is Needed To Address Oversight Vulnerabilities," November 30, 2009. OIG reports and testimonies are available on our website: www.oig.dot.gov.

³ The Passenger Rail Investment and Improvement Act of 2008 required FRA to establish a high-speed rail discretionary grant program and authorized \$3.725 billion in program funding over 5 years.

⁴ Service Outcome Agreements are tri-party agreements between the state, operator, and freight railroad companies addressing responsibilities, such as project ownership, maintenance, and passenger rail performance, to ensure the project benefits are realized. Typical agreements outline the number of train frequencies and on-time performance levels the freight railroad is required to support.

majority of HSIPR implementation and construction ahead, FRA has an opportunity and an obligation to build in oversight controls before grantees spend a significant amount of program money. We are currently examining the challenges FRA faces in awarding, obligating, and disbursing grant funds. Doing so will determine how well FRA is managing its grant lifecycle process; assessing the economic and financial viability of proposed projects; ensuring Federal investments are allocated to the most worthy projects; and developing sufficient guidance on state-freight railroad access agreements to ensure these projects meet HSIPR program goals.

Effective Coordination Between OST and Operating Administrations is Key To Executing TIGER Grants

OST's TIGER program is also in the early stages of implementation. In February 2010, OST awarded \$1.5 billion in discretionary grants to 51 recipients across the Nation for multimodal surface transportation projects. These projects are expected to have a significant impact by creating jobs and providing economic recovery. As of April 1, 2011, 3.6 percent of TIGER funding had been expended.

OST is on track to meet its ARRA required deadline to fully obligate funds for all TIGER projects by September 30, 2011. However, the grant agreements for 27 of the projects have completion dates beyond February 2012—the congressional goal for completing TIGER projects. Further, while OST completed an OMB-required risk assessment early in the TIGER program, which contained many risks related to project selection, it will need to focus now on identifying risks related to project implementation and carry out effective mitigation actions addressing these risks.

We are examining OST's and the Operating Administrations' ability to oversee TIGER program performance and the efficient use of ARRA funds. Effective oversight and management of the TIGER program is highly dependent on OST's coordination with the Operating Administrations, although OST is ultimately responsible for ensuring ARRA requirements are met. OST relies heavily on the four Operating Administrations currently administering TIGER grants—FHWA, FTA, FRA, and MARAD—to carry out the program. To date, we have observed that FHWA, FTA, and MARAD have oversight procedures in place, but FRA is still in the process of developing them. In addition, Operating Administrations have varying requirements for grantee reporting, and OST officials informed us that their biweekly discussions with Operating Administrations are not documented. We will continue to assess the sufficiency of the oversight procedures and evaluate the impact of our initial observations.

MEETING NEW ARRA REQUIREMENTS FOR JOBS REPORTING AND CONSIDERING ECONOMIC IMPACT

On FAA-administered ARRA-funded projects, we identified weaknesses in the Agency's jobs data reporting—some of which extend across DOT—and its grant selection process. A lack of rigor in jobs data reporting and grant selection hinders the Department's efforts to meet ARRA's transparency and accountability requirements and its goal to optimize economic growth.

Jobs Data Reporting Errors Affect Efforts To Assess the Impact of FAA's ARRA Projects

FAA has weaknesses in its DOT Section 1201 reporting on ARRA jobs, based on our ongoing audit. Section 1201, which is unique to DOT's ARRA programs,⁵ requires grant recipients to periodically report to Congress on (1) the number of direct on-project jobs created or sustained by each project receiving ARRA funds and (2) to the extent possible, the estimated indirect jobs created or sustained in the associated supplying industries. We focused on FAA's Airport Improvement Program (AIP)⁶—which received \$1.1 billion to enhance the Nation's airport system. We found that 65 of 268 AIP grantees provided monthly reports to FAA on cumulative job hours recorded for ARRA projects that showed fewer hours than the month before, indicating that an error occurred at some point in reporting. While some of these errors may have been corrected before the issuance of the DOT Section 1201 report in May 2010,⁷ we found several instances where incorrect data from airports were reported in the Section 1201 report, including the fact that one airport reported over 100,000 more job hours than actually occurred.

DOT's Job Reporting Lacks Transparency Regarding Limitations in the Methodology

Certain weaknesses in jobs reporting extend beyond FAA to DOT's process for estimating and reporting jobs information to Congress under Section 1201. For example, DOT's latest report did not include an estimate of the number of indirect jobs. DOT's planned method to separate indirect jobs from total jobs in future reports does not consider factors such as wage increases, that can reduce indirect jobs—which means DOT's indirect jobs estimates could be overstated. In addition, the report does not state exactly how DOT calculated the total number of jobs funded or note whether jobs were created or sustained. As a result, the full extent to which ARRA funding for DOT projects results in direct on-project jobs or indirect industry jobs is also unclear.

By taking action to address these weaknesses, DOT would enhance transparency over this important area and better satisfy the Section 1201 reporting requirement. In discussing overall job reporting issues with us, DOT officials explained that the total jobs were calculated using the President's Council of Economic Advisers (CEA) methodology of dividing total dollar outlays by \$92,000. They also explained the basis for not distinguishing between created and sustained ARRA jobs. We recognize the validity of the CEA methodology and the reasonableness of not

⁵ An additional jobs reporting requirement established under Section 1512 initially required each recipient of ARRA funds to report quarterly the estimated number of jobs created and retained by ARRA-funded projects or activities. Subsequent OMB guidance on Section 1512 eliminated the distinction between created and retained jobs for reporting purposes.

⁶ AIP provides funds primarily to enhance safety and security, maintain the infrastructure, increase capacity, and mitigate airport noise.

⁷ DOT's Section 1201 Report, dated May 7, 2010, includes data from February 17, 2009, through January 31, 2010.

trying to distinguish between created or sustained jobs. However, by providing additional explanations in future reports on the limitation in the job counting methodology, valuable information on the limitations in the methods would be communicated. In addition, inclusion of estimates on indirect jobs would more fully comply with the reporting requirement the Congress has established.

FAA’s Grant Selection Process Lacked the Rigor Needed To Ensure ARRA’s Economic Goals and Transparency Requirements Were Met

FAA’s process for awarding \$1.1 billion in AIP grants complied with five key ARRA requirements, but fell short on two others.⁸ ARRA required agencies to use merit-based criteria in selecting projects, including the ability of projects to optimize economic activity relative to Federal dollars obligated. According to FAA, it has met this requirement because economic factors, such as airport growth and long-term usage, are considered when FAA develops its Airport Capital Improvement Plan (ACIP)—a rolling plan of AIP-eligible projects. However, it was not apparent that FAA applied economic factors when developing its list of potential ARRA grant candidates from the ACIP. Instead, FAA established selection requirements beyond those required by Congress and the President, including geographic distribution and limits on the size of awards. By doing so, FAA dispersed ARRA funds widely, but not necessarily to airports experiencing growth or most likely to increase long-term use of the selected airports. For example, five small airfields in Alaska collectively received \$59 million—as much funding as Texas and more than New York, Florida, and Illinois. Only California received more ARRA funding.

FAA also fell short of meeting ARRA’s transparency requirements in its prioritization of projects. Of the 360 projects FAA selected for ARRA funds, FAA publicly disclosed information on its selection process for about 280 higher priority projects⁹—not on the more than 80 lower priority projects selected. Until FAA discloses to the Congress and the public why lower priority projects were funded, it will not have fully met ARRA transparency requirements.

⁸ ARRA, OMB, and the President required FAA in making awards to (1) use its normal discretionary grant process; (2) award 50 percent of funds in 120 days, and remaining funds in 1 year; (3) give priority to projects that can be completed in 2 years; (4) ensure ARRA funds do not supplant planned expenditures; (5) increase oversight beyond normal levels; (6) design transparent merit-based selection criteria; and (7) design selection process to optimize economic activity relative to Federal dollars obligated.

⁹ For ARRA purposes, higher priority projects are those scoring equal to or higher than 62 in FAA’s National Priority Rating system.

ENSURING EFFECTIVE PROJECT AND FINANCIAL OVERSIGHT AND MANAGEMENT OF ARRA FUNDS

FHWA and FAA have taken actions to improve oversight of projects. However, both Agencies continue to face significant challenges in effectively using these oversight mechanisms and ensuring ARRA funds are appropriately spent. Further, strong financial oversight of grantees and expanded use of single audits¹⁰ are needed to prevent or detect improper payments.¹¹

Improved FHWA Oversight Mechanisms Are Critical To Efficiently Complete Highway Projects

FHWA is responsible for overseeing more than half of DOT's ARRA funds, which have been obligated to over 13,000 highway projects ranging from relatively simple paving projects to more expensive highway and bridge projects. As of April 22, 2011, FHWA reported that over half of these projects were completed with 72 percent of ARRA funds expended. To ensure its remaining ARRA dollars—many of which are obligated to more complex projects or higher risk grantees—are spent wisely, it will be critical for FHWA to maximize use of existing oversight mechanisms.

Within 3 months following ARRA's passage, FHWA developed and implemented independent National Review Teams (NRT) to assess states' management capabilities and recommend corrective actions. While the teams were conducting thorough assessments of states' management of ARRA funds, FHWA had yet to fully address identified vulnerabilities. For example, 12 percent of NRT observations on program vulnerabilities were not included in summary reports to FHWA Division Offices, limiting accountability for needed corrective actions. Moreover, FHWA had conducted only limited analyses of NRT results, preventing FHWA from identifying national trends or emerging risks and assessing the effect of states' corrective actions. FHWA took action to address the issues in our review and strengthen the NRT process.

Opportunities to improve project performance, cost, and quality through value engineering (VE)¹² may also be lost if FHWA fails to take prompt action to ensure states conduct VE studies. Federal law requires all federally aided highway and bridge projects with an estimated total cost equal to or exceeding \$25 million and \$20 million, respectively, to undergo VE studies during project concept and design. In May 2010, FHWA revised its VE policy and created performance measures for states. However, our ongoing review of high-dollar ARRA projects found some states did not complete VE studies during the project design and concept phase, as required. FHWA is updating its regulations to include VE requirements, years after Congress required it to

¹⁰ The Single Audit Act requires state or local grantees to maintain a system of internal control over all Federal programs in order to demonstrate compliance with pertinent laws and regulations. Single Audit Act reviews are conducted to determine whether grantees are complying with these requirements. Independent single audits are conducted annually, in accordance with OMB Circular A-133, to determine whether grantees are complying with these requirements.

¹¹ An improper payment is defined as being any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payment for services not received, and any payment that does not account for credit for applicable discounts. OMB guidance also instructs agencies to report payments for which insufficient or no documentation was found as improper payments.

¹² VE studies aim to objectively review reasonable design alternatives on highway and bridge projects.

do so in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).¹³

FHWA's actions to address weaknesses in the oversight of local public agencies' (LPA)¹⁴ infrastructure projects have also had limited impact. FHWA has acknowledged the risks associated with LPAs, including a lack of state resources to perform adequate oversight of LPAs, LPAs' inadequate resources for contract administration and quality assurance procedures, noncompliance with Federal labor requirements, and improper processing of contract changes. We found continued noncompliance with Federal requirements for LPA projects in some states, and we will be making recommendations to improve oversight of project costs and quality.

FHWA delegates much of its oversight responsibility for Federal-aid highway projects to states, but it is ultimately accountable for ensuring projects comply with Federal requirements. We are examining the agreements that define Federal and state oversight roles and responsibilities and whether those agreements address Federal requirements and program risks. For some projects, FHWA has retained approval responsibilities regarding project design, plans, contract awards, and inspections—referred to as “full oversight.” We will determine whether this type of oversight helps ensure that ARRA projects meet Federal requirements relating to quality and cost. We are also assessing FHWA's oversight of states' practices for awarding ARRA-funded highway contracts. Consistent with ARRA, DOT regulations require recipients of all Federal-aid program funds to use bidding practices that are effective in securing competition. Optional FHWA contract award guidance for state grantees suggests an effort be made to maximize competition by a number of methods, including not publicly disclosing the bidders' list, not publishing the engineer's estimate, extending advertising periods, and dividing large projects into smaller ones. Promoting best practices for improved competition could achieve cost savings in ARRA-funded and other Federal-aid contracts.

Strong Financial Oversight of Grantees and Use of Single Audits Are Needed To Prevent or Detect Improper Payments

We have identified vulnerabilities in Operating Administrations' financial oversight of ARRA grantees and their compliance with OMB's ARRA accountability requirements. For example, FAA has primarily focused its oversight of AIP grantees on construction status of projects, not on ensuring grantees comply with FAA and OMB financial requirements. While FAA took several actions to increase its project oversight of AIP grantees—including adding technical expertise and conducting site visits—a national consulting firm that FAA hired to review ARRA payments determined that 14 of 24 ARRA-recipient airports did not have adequate documentation to justify their ARRA payment requests, as required by FAA. These results are consistent with findings we reported in December 2010 on FAA's financial oversight of non-ARRA-funded AIP program grants. We concluded that FAA's approach to AIP grant oversight is inadequate to effectively prevent or detect improper payments.

We have identified several potential causes for the shortcomings in FAA's financial oversight of AIP grantees. First, FAA relies on grantees to self-certify that they adhere to the specifics of

¹³ Pub. L. No. 109-59 (2005).

¹⁴ LPAs are agencies, other than state transportation agencies, that administer Federal-aid projects through design and/or construction—for example city and county governments.

their grant agreements and collect and maintain documentation that validates their ARRA payment requests. Second, FAA does not review grantee payment requests beyond summary documentation, which does not include actual contractor and subcontractor invoices for ARRA-funded work. Third, ARRA grantees approve change orders for ARRA-funded contract work without conducting FAA-required cost or price analyses, and without seeking FAA approval. Finally, FAA employees at a number of locations around the country often cited staff and resource limitations as impediments to their ability to more rigorously oversee airport sponsors' use of ARRA funds.

Full compliance with OMB single audit requirements for ensuring grantees' implement effective corrective action plans would help FAA and DOT's other Operating Administrations prevent improper payments. Since May 2010, we have issued 66 Single Audit Action memorandums on deficiencies in grantees' procedures or in their operations in overseeing ARRA funds. Common deficiencies include improper reporting and inadequate monitoring of sub-recipients. Based on an ongoing audit of DOT's implementation of single audit recommendations, Operating Administrations frequently issued untimely and incomplete management decisions on single audit findings, failed to include evaluations of grantees' corrective action plans, and did not follow through with grantees to confirm that they implemented corrective actions. Specifically, 16 questioned costs findings, totaling \$3.7 million, awaited final decision or repayment for an average of 20 months. We evaluated the tracking systems to identify grantees with unresolved findings and problematic single audit histories at five Operating Administrations—FTA, FRA, FHWA, FAA, and NHTSA. FTA had an effective tracking system, but the tracking systems at FHWA, FAA, and NHTSA were ineffective and FRA did not have a tracking system.

We recently initiated an audit of oversight of improper payments in FTA's ARRA programs; and we are planning a similar audit of FHWA's ARRA programs.

COMBATING COMMON FRAUD, WASTE, AND ABUSE SCHEMES THROUGH PROACTIVE MEASURES

Since ARRA's enactment, OIG has worked proactively with DOT to deter fraud schemes through ongoing outreach, targeted assessments of projects with fraud risk indicators, and investigations of criminal and civil complaints. Weaknesses in DOT's suspension and debarment (S&D) program increased the risk of inappropriately awarding contracts to contractors that could defraud DOT. The surge in ARRA funding and significant construction activity underscores the need for DOT and OIG to continue to aggressively pursue counter-fraud efforts and maintain sound internal controls to prevent, recognize, and report fraud.

Proactive Measures Help DOT Combat Common Fraud Schemes

Ongoing outreach and assessments are key to combating fraud, waste, and abuse in ARRA-funded programs. To date, OIG has provided 269 fraud awareness and prevention presentations to over 18,800 Operating Administration officials, state DOT officials, local transit authority staff, and aviation authorities. These presentations aim to alert stakeholders to common fraud schemes: false statements, claims, and certifications; disadvantaged business enterprise fraud; collusive bid rigging; product substitution; bribery and kickbacks; and conflicts of interest. OIG has also participated in fraud prevention task forces with law enforcement partners, including

U.S. Attorney’s Offices; other Federal, state, and local OIGs; local prosecutors; and the Federal Bureau of Investigation. Operating Administrations’ outreach to ARRA contract recipients is critical to ensuring recipients of Federal grants and contracts have meaningful ethics programs and sound internal controls to recognize, prevent, and report fraud.

With many high-dollar ARRA projects entering the construction phase, OIG’s and DOT Operating Administrations’ use of independent risk assessments are also critical to identifying and stopping fraud. For example, OIG is examining projects where the winning bid was substantially below the engineer’s estimate. Some contractors intentionally underbid projects, only to make up the lost revenues in fraudulent change orders and false claims. Operating Administrations could conduct similar analyses as part of their ARRA oversight activities. Doing so would be consistent with OMB’s direction to ensure agencies take strong action to mitigate instances of fraud, waste, and abuse in the ARRA program.

Finally, we continue to investigate criminal and civil complaints related to ARRA. As of March 2011, we have 51 open ARRA investigations (see table 2)—45 of which the Department of Justice is reviewing for potential prosecution.

Table 2. Open Investigations Into Allegations of ARRA Fraud, by Operating Administration, as of March 31, 2011

Allegation	FHWA	FAA	FTA	DOT	Total
False Statements, Claims, Certifications	15	1	2	1	19
Disadvantaged Business Enterprise Fraud	10	4	3	0	17
Prevailing Wage Violations	5	0	1	0	6
Anti-Trust Violations, Bid Rigging, Collusion	4	1	1	0	6
Kickbacks	1	0	0	0	1
Corruption ^a	0	1	0	0	1
ARRA Whistleblower	1	0	0	0	1
Total	36	7	7	1	51

Source: OIG

^a This type of investigation involves allegedly dishonest or fraudulent conduct by individuals who are responsible for the oversight of ARRA funded projects.

Attention to Effective Suspension and Debarment Practices Can Help Prevent Fraud and Waste

One of the strongest deterrents against contract fraud, waste, and abuse is DOT's ability to make timely S&D decisions and promptly report them to the Government's tracking system.¹⁵ However, weaknesses in DOT's S&D program have increased the risk of awarding contracts and grants to individuals or firms that could defraud the Department.¹⁶

In January 2010, we reported that it took DOT an average of over 300 days to reach a suspension decision and over 400 days to reach a debarment decision, giving unethical, dishonest, or otherwise irresponsible parties ample opportunity to bid for and receive contracts. These delays were due largely to lengthy and unnecessary reviews being conducted before deciding cases and a lack of priority assigned to DOT's S&D workload. DOT's management controls were also inadequate for ensuring that suspensions or proposed debarments of parties found to be irresponsible were made within DOT's required 45-day limit. The cumulative effect of these weaknesses increased the risk that DOT and other agencies could have awarded contracts and grants to parties that DOT may ultimately suspend or debar.

DOT and FAA initiated corrective actions in response to recommendations we made. Notably, in March 2010, DOT issued a revised S&D policy, which clarified the oversight and management role of the Office of the Senior Procurement Executive. The policy also requires that the Department take action to suspend or debar within 45 days of a referral by the Inspector General or others, or to document the reasons why action is not being taken. While these agency actions represent positive steps, sustained focus is needed to ensure DOT and FAA make S&D decisions in a timely manner and provide strong management oversight for the program.

CONCLUSION

In closing, I want to emphasize the importance of addressing identified challenges now—before many ARRA projects fully enter the construction phase and large scale projects, including HSPIR, are launched. OIG embraces its key role in helping to ensure accountability, efficiency, and transparency over DOT's portion of the massive recovery program. We will continue to assist the Department in its efforts through our audit and investigation activities until all ARRA funds are spent. We are committed to promptly notifying DOT and Congress of actions needed to prevent fraud, waste, and abuse and achieve ARRA goals.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions you or other Members of the Committee may have.

¹⁵ The Excluded Party Listing System is a web-based system maintained by the General Services Administration used to track S&D decisions and affected parties Governmentwide.

¹⁶ OIG Report ZA-2010-034, "DOT's Suspension and Debarment Program Does Not Safeguard Against Awards to Improper Parties," January 7, 2010, and OIG Testimony CC-2010-036 before the Committee on Oversight and Government Reform, United States House of Representatives, "Weaknesses in DOT's Suspension and Debarment Program Limit Its Protection of Government Funds," March 18, 2010.

EXHIBIT A. OIG'S RECOVERY OVERSIGHT WORK

Completed ARRA Work		
Title	Type of Product	Date Issued
Top Management Challenges Facing the Department of Transportation	Testimony	March 10, 2009
American Recovery and Reinvestment Act of 2009: Oversight Challenges Facing the Department of Transportation	Report	March 31, 2009
American Recovery and Reinvestment Act: DOT's Implementation Challenges and the OIG's Strategy for Continued Oversight of Funds and Programs	Testimony	April 29, 2009
American Recovery and Reinvestment Act: DOT's Implementation Challenges and the OIG's Strategy for Continued Oversight of Funds and Programs	Testimony	April 30, 2009
DOT's Suspension and Debarment Program	ARRA Advisory	May 18, 2009
Sampling of Improper Payments in Major DOT Grants Programs Department of Transportation	ARRA Advisory	June 22, 2009
FAA's Process for Awarding ARRA Airport Improvement Program Grants	ARRA Advisory	August 6, 2009
Status of Operating Administrations' Processes to Conduct Limited Quality Reviews of Recovery Act Recipient Data	Report	October 6, 2009
DOT's Implementation of the American Recovery and Reinvestment Act: Continued Management Attention Is Needed to Address Oversight Vulnerabilities	Report	November 30, 2009
DOT's Suspension and Debarment Program Does Not Safeguard Against Awards To Improper Parties	Report	January 7, 2010
Letter to Senator Mark Pryor on DOT OIG's Recovery Act Oversight Activities	Congressional Correspondence	February 19, 2010
Recovery Act Data Quality: Errors in Recipient Reports Obscure Transparency	Report	February 23, 2010

Completed ARRA Work

Title	Type of Product	Date Issued
Weaknesses in DOT's Suspension and Debarment Program Limit its Protection of Government Funds	Testimony	March 18, 2010
Federal Railroad Administration Faces Challenges in Carrying Out Expanded Role	Testimony	April 29, 2010
FHWA's Oversight of the Use of Value Engineering Studies on ARRA Highway and Bridge Projects	ARRA Advisory	June 28, 2010
Letter To Ranking Member Issa Regarding DOT's Use of ARRA Signage	Congressional Correspondence	August 17, 2010
ARRA Websites Vulnerable to Hackers and Carry Security Risks	Report	October 22, 2010
Actions Needed To Strengthen The Federal Highway Administration's National Review Teams	Report	January 6, 2011
Amtrak Made Significant Improvements in its Long-Term Capital Planning Process	Report	January 27, 2011
FAA Fulfilled Most ARRA Requirements in Awarding Airport Grants	Report	February 17, 2011

Ongoing ARRA Work

Title
ARRA Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service Programs
Oversight of Federal-aid Highway Projects Administered by Local Public Agencies
FHWA's Federal-Aid Highway Program Oversight of Procurement Practices for ARRA-Funded Contracts at State Departments of Transportation
Review of Job Creation Under the American Recovery and Reinvestment Act of 2009
High Speed Rail Forecasting Best Practices
FTA's Oversight of the Dulles Corridor Metrorail Project
FHWA's Oversight of High-Dollar ARRA Highway Projects
FTA's Oversight of Major Transit Projects in New York City
High-Speed Rail and Intercity Passenger Rail Infrastructure Access Agreements
Transportation Investment Generating Economic Recovery Discretionary Grants
FAA's Oversight of ARRA Expenditures
FRA's Progress in Administering Major Grants
Improper Payment Oversight in FTA ARRA Programs
DOT's Implementation of Single Audit Recommendations and Cost Recovery
Quantitative Analysis of the Causes of Amtrak's Delays