U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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April 29, 2011

SUMMARY OF SUBJECT MATTER

TO: Members of the Committee on Transportation and Infrastructure

FROM: Committee on Transportation and Infrastructure Staff

SUBJECT: Hearing on "Stimulus Status: Two Years and Counting"

PURPOSE OF HEARING

The Committee on Transportation and Infrastructure will meet on Wednesday, May 4, 2011, at 10:00 a.m., in room 2167 of the Rayburn House Office Building to examine the audit work performed by the General Accountability Office (GAO), the Department of Transportation Inspector General (DOT IG), and the Environmental Protection Agency Inspector General (EPA IG) on implementation the American Recovery and Reinvestment Act (P.L. 111-5) (the "Stimulus Bill"). GAO and the two IGs have performed extensive audit work on the implementation of funded programs from the Department of Transportation (DOT), including the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Aviation Administration (FAA), and the Federal Railroad Administration (FRA), and the Environmental Protection Agency (EPA). The audits have uncovered significant lapses in oversight by the implementing agencies, mismanagement of grants and funds, and lack of transparency.

THE STIMULUS BILL

On February 17, 2009, the Stimulus Bill was signed into law in response to the struggling U.S. economy. The stated purpose of the Stimulus was to:

- Preserve and create jobs and promote economic recovery;
- Assist those most impacted by the recession;
- Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
- Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and

- Stabilize state and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

Further, the Obama Administration promised the Stimulus bill would create new jobs and save existing ones, spur economic activity and invest in long-term growth, and foster unprecedented levels of accountability and transparency in government spending.[1]

The legislation contained numerous spending and revenue provisions that can be grouped in several categories:

- Providing funds to states and localities—for example, by raising federal matching rates under Medicaid, providing aid for higher education, and increasing financial support for some transportation projects;
- Supporting people in need—such as by extending and expanding unemployment benefits and increasing benefits under the Supplemental Nutrition Assistance Program (formerly the Food Stamp program);
- Purchasing goods and services—for instance, by funding construction or investment activities that could take several years to complete; and
- Providing temporary tax relief for individuals and businesses—such as by raising exemption amounts for the alternative minimum tax, adding a new Making Work Pay tax credit, and creating enhanced deductions for depreciation of business equipment

The Congressional Budget Office (CBO) originally estimated the total cost of the Stimulus Bill to be $787 billion, and has since revised that figure in January 2011 to $812 billion.[2]

The law provided $64.1 billion of infrastructure investment for programs within the jurisdiction of the Committee on Transportation and Infrastructure, including:

- $27.5 billion for highways and bridges;
- $8.4 billion for transit;
- $9.3 billion for passenger rail;
- $1.5 billion for competitive surface transportation grants;
- $1.3 billion for aviation;
- $5.26 billion for environmental infrastructure;
- $4.6 billion for the U.S. Army Corps of Engineers (Corps);
- $5.575 billion for Federal buildings;
- $150 million for the Economic Development Administration (EDA);
- $210 million for Firefighter Assistance Grants;
- $240 million for Coast Guard facilities and bridge alterations; and
- $100 million for Maritime Administration Small Shipyard Grants.

[1] http://www.recovery.gov/About/Pages/The_Act.aspx
[2] http://www.cbo.gov/ftpdocs/99xx/doc9989/hr1conference.pdf (original); http://www.cbo.gov/ftpdocs/120xx/doc12039/01-26_FY2011Outlook.pdf (updated in January 2011, page 13).

State of the Economy

According to the Bureau of Labor Statistics (BLS), unemployment in February 2011 remains above the Obama Administration promised 8.0%, if the Stimulus Bill passed, at 8.8% for the Nation. However, the percentage of part-time workers who want full-time work was 9.7% in mid-March, essentially unchanged from the 9.6% in both February measurements and higher than the 9.1% at the end of January, and underemployment, a measure that combines the percentage of part-time workers wanting full-time work with the percentage who are unemployed, was 19.9% in mid-March.[3]

Department of Transportation

Highway ($27.5 billion) - The Federal Highway Administration (FHWA) has obligated for states to use $26.3 billion on the improvement of roads and bridges. FHWA has reimbursed to states $18.9 billion. This amount represents 68% of appropriated funds available to highway projects.

Stimulus funded highway obligations were used primarily for pavement improvement projects, such as resurfacing, reconstruction, and rehabilitation of existing roadways.

Pavement improvement: reconstruction/rehabilitation (25%)
Pavement improvement/resurface (22%)
Pavement widening (16%)
New road construction (6%)
Bridge replacement (5%)
Bridge improvement (5%)
New bridge construction (3%)
Other (18%)

Transit ($8.8 billion) - The Federal Transit Administration (FTA) has obligated $8.7 billion for the purchase or rehabilitation of buses and other transit vehicles, construction or rehabilitation of passenger and maintenance facilities. FTA has reimbursed to transit authorities $5.6 billion, or 63% of its appropriation.

Stimulus public transportation funds were used primarily for upgrading transit facilities and improving bus fleets

Rail ($9.3 billion) –

Amtrak ($1.3 billion): Amtrak has obligated $1.3 billion all in Washington, DC, and outlaid $1.1 billion or 84% of its appropriation.

High-Speed Rail and Intercity Passenger Rail Grants (HSIPR) ($8 billion): The Stimulus Bill provided $8 billion for HSIPR grants. Of this, a total of only $109.1 million was awarded to

[3] http://www.gallup.com/poll/146666/Gallup-Finds-Unemployment-Mid-March.aspx

projects on the Northeast Corridor: $60 million to complete engineering and environmental work for a new tunnel in Baltimore; $9.4 million for station and track improvements at Baltimore-Washington International station; $38.5 million for the final design of a new bridge to replace the Portal Bridge in New Jersey; and $1.2 million for track design work in Rhode Island.

Aviation ($1.3 billion) – The Federal Aviation Administration (FAA) has obligated $1.08 billion for the Airport Improvement Program (AIP) and Facilities and Equipment (F&E) projects. So far, the FAA has reimbursed to grant recipients $1.04 billion, or 80% of the appropriation. Projects included runway improvements, taxiway improvements, apron improvements, terminal buildings, and aircraft rescue and firefighting buildings improvements.

Transportation Investment Generating Economic Recovery (TIGER Grants) ($1.5 billion) – The Stimulus Bill provided a discretionary grant for a National Surface Transportation System. These grants were to be awarded on a competitive basis for capital investment in surface transportation projects that will have a significant impact on the Nation, a metropolitan area or a region. As with the other programs in the Stimulus, the Administration promised an unprecedented level of transparency. However, DOT has yet to explain the reasoning and basis behind project selections for TIGER Grants, as will be discussed by the GAO report on TIGER and HSIPR grants. Thus far, DOT has obligated $1.4 billion and has reimbursed $64 million to grant recipients.

THE ENVIRONMENTAL PROTECTION AGENCY

As of April 28, 2011, the EPA has obligated $4.677 billion of the $4.7 billion appropriated for the Clean Water State Revolving Fund, Brownfields, and Superfund programs. The EPA has only outlaid and reimbursed $3.751 billion (or 80% of the appropriated Stimulus funds).

Clean Water State Revolving Fund ($4 billion) - Titles II and VI of the Clean Water Act provide for grants to States and municipalities and the establishment of clean water state revolving loan funds (SRFs) , respectively, for the construction of treatment works. The SRFs are available to make low interest loans, buy or refinance local debt, subsidize or insure local bonds, make loan guarantees, act as security or guarantee of state debt, earn interest, and pay administrative expenses. All projects must be those that will assure maintenance of progress towards the goals of the Act and meet the standards and enforceable requirements of the Act. SRF monies also may be used to implement other water pollution control programs such as nonpoint source pollution management and national estuary programs. EPA has approved 57 states and territories for funding under the SRF program. According to the EPA, currently, nearly $5 billion is available from the SRFs for new loans each year. Cumulatively, SRFs have provided over $74 billion in loans for wastewater projects.

Brownfields ($100 million) - Brownfields are properties with no viable responsible owner where the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant. Types of brownfields include inactive factories, gas stations, salvage yards, or abandoned warehouses. These sites drive down property values, provide little or no tax revenue, and contribute to community blight.

There are estimated to be 450,000 to one million brownfields sites in the United States. Redevelopment of these abandoned sites can promote economic development, revitalize neighborhoods, enable the creation of public parks and open space, or preserve existing properties, including undeveloped green spaces. The Brownfields Program was authorized under the Brownfields Revitalization and Environmental Restoration Act. The authorization of appropriations for brownfield grants expired in 2006. The program supports State and local brownfields assessment and cleanup activities and State voluntary cleanup programs, and protects many parties engaged in voluntary brownfields cleanups from Superfund liability.

Superfund ($600 million) – The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, commonly referred to as "Superfund," was enacted to develop a comprehensive program to clean up the nation's worst abandoned or uncontrolled hazardous waste sites. The EPA has the major responsibility for carrying out this Act. The law makes designated responsible parties pay for hazardous waste cleanups wherever possible and provides for a hazardous substances trust fund, the Superfund, to pay for remedial cleanups in cases where responsible parties cannot be found or otherwise be held accountable. Superfund is also available for responding to emergency situations involving hazardous substances. In addition, the law was intended to advance scientific and technological capabilities in all aspects of hazardous waste management, treatment, and disposal. Superfund imposes liability on certain persons that generated hazardous substances found at a site, present and certain former owners and operators of a site, and certain transporters who disposed of hazardous substances at a site. As interpreted by the courts, liability under Superfund is strict, joint and several, and retroactive.

GOVERNMENT ACCOUNTABILITY OFFICE AUDIT WORK

Lack of Transparency

SURFACE TRANSPORTATION: Competitive Grant Programs Could Benefit from Increased Performance Focus and Better Documentation of Key Decisions (GAO-11-234)
March 30, 2011
INTERCITY PASSENGER RAIL: Recording Clearer Reasons for Awards Decisions Would Improve Otherwise Good Grantmaking Practices (GAO-11-283)
March 10, 2011

Background – On February 24, 2010, then-Ranking Member Mica sent two separate letters to the Secretary of Transportation, Ray LaHood, asking for the Department to provide all records relating to the selection of high-speed rail grant and TIGER grant recipients awarded under the Stimulus Bill. The Secretary never provided responses to now-Chairman Mica with answers to his request.

As a result, on May 13, 2010, Chairman Mica joined Senator Bond in requesting GAO review DOT's evaluation and selection process for the HSIPR and TIGER grants and the extent to which information that process was made public. Senator Inhofe joined the request on September 23, 2010.

Findings – The GAO concluded there was a lack of transparency in the grant evaluation and selection process for both the HSIPR and TIGER grant determinations. DOT could improve their processes for awarding grants by providing better documentation of each agencies' decision-making.

Both reports found insufficient documentation for DOT's and the Federal Railroad Administration's (FRA) selections of rail projects for $8 billion in stimulus funding and $1.5 billion in Transportation Investment Generating Economic Recovery (TIGER) grants. In both cases, GAO says there was insufficient public information about decisions that led to grant awards, although auditors do not criticize the overall process.

HSIPR - The FRA had "vague" rationales for its final selection criteria when deciding where to send $8 billion in high-speed rail grants funded by the stimulus law, GAO said. Often, stated criteria were repeats of demands listed in the funding announcement. While GAO said FRA was able to provide reasons for selection criteria when asked and that the projects with higher technical scores were overwhelmingly chosen over those that did not fare as well, the rail-grant report recommends that selection information be available as part of a comprehensive record. That, GAO says, would shield FRA from "criticism over the integrity of those decisions," especially for a program that has a "very public profile."

TIGER grants - The GAO report found of the 51 applications that received grants, 26 were in a pool of highly recommended applications from an evaluation team, while the other 25 were recommended by another team. That meant some projects, particularly those in the central and western United States, did not get funding because the second team was examining geographic representation.

"Because no internal documentation from Review Team meetings exists in which final decisions to recommend or reject projects for award were made, DOT cannot definitively demonstrate the basis for its award selections, particularly the reasons why recommended projects were selected for half the awards over highly recommended ones," the report states.

The report recommends that DOT better document its decisions and work with Congress to provide more information on its merit-based selections, especially because the Obama administration has both expressed a desire to move forward with this type of multimodal grant project. More transparency, the report says, would protect DOT from "criticism that projects were selected for reasons other than merit."

<u>Overall Mismanagement of the Stimulus Bill Implementation</u>

RECOVERY ACT: Opportunities to Improve Management and Strengthen Accountability over States' and Localities' Uses of Funds (GAO-10-999)
September 2010

Findings –

Contract Data from FHWA's Stimulus Bill Data System Continues to Be Inaccurate

In May 2010, GAO reported that while progress has been made in awarding Stimulus contracts and initiating work, the accuracy of contract data in FHWA's Recovery Act Data System (RADS) is of concern. Among other information, the Stimulus requires the DOT to report to Congress on the number of projects for which contracts have been awarded, for which work has begun, and for which work had been completed, and the amount of federal funds associated with these contracts. DOT established RADS because it had not previously collected and reported such information for the regular federal highway formula program. DOT relies on states to enter data into RADS and uses automated data checks and rules, as well as periodic reviews by FHWA Division office officials located in every state, to improve the accuracy of state-reported data.

GAO continued to find problems with the accuracy of RADS contract data. For example, more than 3,100 contracts were shown as having been awarded on the same date the funds were obligated. GAO also found that about 1,400 contracts were reported as awarded before FHWA obligated the funds. Because contracts are normally awarded several weeks or months after funds are obligated by FHWA, the numbers and amounts of contracts awarded and work begun is likely overstated. Because FHWA does not have accurate data from states in RADS, it is not able to use RADS to meet the Stimulus reporting requirements for contracts.

FHWA officials acknowledged that they cannot use data from RADS to provide information on contract award amounts. Officials said they instead use data from FHWA's financial management system to meet the Stimulus reporting requirements for contracts because this system receives more checks for data accuracy. However, using FHWA's financial management system can also overstate the amount of funds under contract. FHWA reports data at the project level, not at the contract level; this is important because one project can include several contracts. When reporting at the project level, FHWA reports the entire project as being under contract once one contract is awarded, even if several more remain to be awarded.

As noted above, the Stimulus requires DOT to report not only the number of projects, but also the total amount of federal funds associated with contracts that have been awarded, work has begun, and work is completed. FHWA has taken some steps to improve data accuracy in RADS, but officials said that there was no date for when they would implement changes. These officials said they have assembled a state advisory group to look at the challenges that exist in RADS and make recommendations on improvements. FHWA officials said they have not had sufficient resources to incorporate additional data checks into the software that would check for errors. Such checks could ensure that milestones are sequentially entered, thereby improving the accuracy of these data.

Obligation and Reimbursement of Regular FHWA Formula Funds Slowed during the Stimulus Bill, Raising Questions about Whether Stimulus Funds Had the Full Economic Stimulative Effect Intended

While states have been working to have FHWA obligate funds for constructing Stimulus projects, GAO found that, compared with previous years, many states were slower in obligating and expending regular federal highway formula funds. FHWA officials stated that with the emphasis placed on the economic benefits to be gained, the obligation of Stimulus funds and meeting the act's statutory deadlines have taken priority. States are facing drastic fiscal conditions, and FHWA officials.

Nationally, as of June 30, 2010 (the end of the third quarter of the fiscal year), states had $19.7 billion remaining to be obligated, 63 percent more funds than they did at the same time for the 3 previous years.

In addition, while funding available to states for highways has increased in each of the last 3 fiscal years, GAO found that as of July 31, 2010, the reimbursement of regular federal highway formula program funds were lower compared with the reimbursement at the same point in the 3 previous fiscal years. This trend was also true on a monthly average basis. Specifically, the reimbursement of regular federal highway formula funds for the first 10 months of fiscal year 2010 has been almost 18 percent (or about $4.3 billion) less than the average reimbursement in the previous 3 fiscal years.

In the last 3 months of fiscal year 2010, state highway agencies not only have to request FHWA obligate over $500 million in remaining Stimulus funds, but also $19.7 billion of regular federal highway formula funds. Nationally, GAO found 16 states with over twice the amount of unobligated funds, while 5 states had fewer unobligated funds than in the past. Some state officials told us they had not been obligating regular federal highway formula funds as quickly because they had been focusing on meeting the Stimulus obligation deadlines and did not have the resources to do both.

Because states did not spend regular federal highway formula funds at the same pace as in previous years, while also spending Stimulus funds, the full economic benefits of Stimulus funds are likely to be delayed. Specifically, if states had awarded contracts and begun expending those regular federal highway formula funds at the same rate as in previous years and in conjunction with spending Stimulus funds, states would have experienced an earlier stimulus effect. Funding being obligated now for projects will need up to several months to award contracts and initiate construction, and the effect on the economy comes when construction is initiated and workers are employed.

DOT Is Developing Plans to Assess the Impact of the Stimulus but Has Not Committed to Assessing Long-Term Benefits

The goals of the Stimulus were not only to promote economic recovery and to preserve and create jobs but also to make investments in transportation and other infrastructure that would provide long-term economic benefits. However, the Stimulus did not include requirements that DOT or states measure the impact of funding on highway and transit projects to assess whether these projects ultimately produced long-term benefits. In GAO's May 2010 report, they noted that, although DOT developed performance plans to measure the impact of Stimulus transportation programs, these plans generally did not contain an extensive discussion of specific goals and measures needed to assess the impact of Stimulus projects. As GAO has reported, it is important for organizations to measure performance to understand the progress they are making toward their goals.

Publicly Available Information Continues to Overstate the Extent to Which Stimulus Funds Were Directed to Economically Distressed Areas

In July 2009, GAO reported substantial variation in the extent to which states prioritized projects in economically distressed areas and how they identified these areas. Many states based their project selections on other factors and only later identified whether these projects were in economically distressed areas. GAO also found instances of states developing their own eligibility requirements for economically distressed areas using data or criteria not specified in the Public Works and Economic Development Act of 1965, as amended. In response to GAO's recommendation, FHWA, in consultation with the Department of Commerce, issued guidance to the states in August 2009 that defined "priority," and directed states to give priority to projects that were located in an economically distressed area and could be FHWA's guidance set out criteria for states to use to identify economically distressed areas based on "special need." Three states—Arizona, California, and Illinois—developed their own eligibility requirements or applied a special-need criterion that overstated the number of counties, and thus the amount of funds, directed to economically distressed areas. For example, California designated <u>all</u> counties as economically distressed, and GAO identified 219 projects with an estimated cost of $1.1 billion coded as being in economically distressed areas that should not have been so coded

In May 2010, GAO recommended FHWA advise these states to correct the designations, and in July 2010, FHWA instructed its division offices to advise the states to revise their designations and to report these projects as being in non-economically distressed areas. In December 2009, DOT testified to the House Committee on Transportation and Infrastructure that 57 percent of projects were in economically distressed areas—including 99 percent and 100 percent of Stimulus highway funding in California and Arizona, respectively. However, as noted above, this data had not yet been corrected by DOT and therefore overstated the amount of funding, and this testimony is DOT's only public accounting of how states implemented this provision of the Stimulus. Because FHWA's July guidance did not direct states other than Arizona, California, and Illinois to correct existing entries, GAO reviewed RADS data on projects in economically distressed areas and found about <u>2,300 projects</u> that did not appear to meet FHWA's guidance for classifying projects in economically distressed areas and thus appeared to contain errors that would result in an overstating of the funds directed to these areas. For instance, over 2,100 of these entries did not include an explanation justifying the designation of an area as economically distressed.

DOT stated it does not intend to correct this information because the Stimulus Bill does not contain a specific requirement that DOT report on the extent to which distressed areas prioritized and directed funds to economically distressed areas. However, without accurate publicly available information, it is difficult to determine the extent to which Stimulus funds were directed to areas most severely impacted by the recession or to know the extent to which states prioritized these areas in selecting projects for funding.

<u>DEPARTMENT OF TRANSPORTATION INSPECTOR GENERAL AUDIT WORK</u>

<u>Overall Mismanagement of the Stimulus Bill Implementation</u>

ACTIONS NEEDED TO STRENGTHEN THE FEDERAL HIGHWAY ADMINISTRATION'S NATIONAL REVIEW TEAMS (Report Number: MH-2011-027)

Background - As with other Federal-aid highway programs, FHWA is relying on its 52 Division Offices to provide oversight of Stimulus projects. FHWA created national review teams (NRT) to independently assess states' management of Stimulus funds. FHWA expected NRTs to conduct quick reviews to help meet the Stimulus' tight time frames, including a requirement that all funds be obligated by September 30, 2010, and expended by September 30, 2015. Through these NRT assessments, FHWA aims to identify problems requiring corrective actions as well as national trends and potential new risks.

NRTs conduct reviews using standard guides and enter results directly into RADS. As a review progresses, the NRT discusses findings with Division Office and state transportation staff. To close a review, the NRT provides a report to the Division Office that summarizes the results, provides a rating for each review area, and lists observations and recommendations. The summary report forms the basis of a corrective action plan, which the Division Office enters into RADS to track the status of each corrective action. The Directors of Field Services receive a monthly status report on each Division Office.

Based on a review of NRT data as of May 2010, DOT IG identified vulnerabilities that demonstrated the need for increased management oversight. For example:

• Approximately 12% of NRT observations were not included in summary reports that Division Offices use to identify instances where corrective actions are needed.

• A significant number of corrective actions were not properly recorded in FHWA's Recovery Act Database System (RADS), including nearly 17 percent that had no target action date recorded.

Without comprehensive summary reports and target action dates, FHWA could not be certain that all corrective actions were taken, or fully assess its Stimulus risk management efforts.

FHWA HAD NOT TAKEN SUFFICIENT STEPS TO ENSURE TIMELY AND EFFECTIVE IMPLEMENTATION OF CORRECTIVE ACTION PLANS

Without complete and accurate data, FHWA cannot fully assess its Stimulus risk management efforts. FHWA Division Offices are working with states to implement corrective actions addressing NRT findings, but several vulnerabilities could reduce the NRTs' effectiveness unless they are addressed. Specifically, DOT IG identified NRT findings that were not included in NRT review summary reports and instances where Division Offices did not correctly report corrective action plan data.

DOT IG identified a high number of observations with valid recommendations that had not been included in NRT summary reports completed by May 21, 2010. Based on DOT IG's analysis, FHWA did not include over 100 observations with valid recommendations—about 12 percent of all observations with recommendations. In addition, the NRTs did not include information in RADS on how states addressed these issues—providing less assurance that they implemented corrective actions.

Since January 2010, Division Offices have been required to enter complete corrective action plans in RADS within 4 weeks of the start of an NRT review and update them on a monthly basis. However, of the 637 observations requiring actions in the NRT summary reports that DOT IG reviewed as of May 2010, nearly 107 observations (about 17 percent) had no target action date recorded, and over 60 (about 9 percent) had no status recorded. The absence of complete reporting diminishes FHWA's ability to measure the effectiveness of the NRT oversight approach and ensure that states take timely corrective action.

DOT IG also identified instances where Division Offices changed target action dates in RADS because states delayed corrective actions, instead of reporting them as behind schedule. As a result, the number of actions behind schedule may be higher than RADS indicates. These data vulnerabilities could impact FHWA's ability to oversee the status of corrective actions and inhibit FHWA's efforts to measure the effectiveness of the NRT oversight approach and ensure timely corrective action.

LACK OF CLEAR ROLES COULD HINDER FHWA'S EFFORTS TO ADDRESS IDENTIFIED PROBLEMS

The Directors of Field Services are key to the ultimate success of the NRT approach because they are responsible for monitoring Division Offices' oversight, including Stimulus-funded projects, and report directly to FHWA Headquarters. However, the NRT charter is silent on the role that Directors of Field Services should play in ensuring corrective actions are appropriate, implemented in a timely manner, and address all findings. Further, DOT IG interviewed the Directors who revealed they each viewed their roles differently. Establishing clear roles would not only benefit STIMULUS implementation, but could also lead to lasting improvements in states' management of the Federal-aid highway program.

INSUFFICIENT DATA AND RADS LIMITATIONS IMPEDED FHWA EFFORTS TO ANALYZE NRT RESULTS AND IDENTIFY NATIONAL TRENDS AND EMERGING RISKS

For each project reviewed, the NRT provides a "yes," "no," or "not applicable" response to standard checklist items, with optional comments. DOT IG found that more than 17,000 or nearly 35 percent of all responses across the six STIMULUS risk areas we reviewed were answered "not applicable." FHWA officials told DOT IG that the system default was set to "not applicable." Further, only about 27 percent of the "not applicable" responses included explanatory comments and NRTs were not required to add explanatory comments.

In setting up RADS, FHWA did not incorporate features to facilitate quick analysis of NRT data. At the time of DOT IG audit, FHWA was using a time-consuming manual process to categorize NRT observations by program area. FHWA officials stated that team members manually reviewed (about 1,000) NRT observations and slotted them into 1 of 59 categories. Because the process was subjective, similar observations may have been categorized across different risk areas—potentially distorting or obscuring trends.

FAA FULFILLED MOST ARRA REQUIREMENTS IN AWARDING AIRPORT GRANTS

(AV-2011-053)
Date Issued: February 17, 2011

Background – The Stimulus provided $1.1 billion for the FAA to invest in Airport Improvement Program (AIP) projects. These funds were intended for airport projects that could achieve several key goals, including investing in transportation infrastructure to provide long-term economic benefits, create jobs, and promote economic recovery. The Stimulus established tight timeframes for distributing and expending funds and emphasized preference for projects that could be completed in 2 years.

In August 2009, DOT IG issued an advisory to the Office of the Secretary outlining our concerns with FAA's process for awarding Stimulus grants. DOT IG questioned the economic merit of some lower scoring projects and highlighted several Stimulus recipients with grant management problems identified in prior single audit reports. Based on these preliminary findings, DOT IG initiated this audit to determine the extent to which FAA's process for awarding Stimulus grants complied with Stimulus requirements and other associated guidance.

DOT IG found the FAA was not fully transparent in its grant selection process and the FAA did not pick the best projects to enhance economic impact but rather used other, non-economic factors in their selection.

FAA's Selection Process Was Not Fully Transparent

FAA should have and could have been more transparent about the results of its selection process. FAA emphasized in public testimony its goal to select the highest priority projects, defined by FAA as an NPR score of at least 62. Yet, FAA awarded over 80 grants to lower-scoring projects.

Overall, lower-scoring projects comprised $289 million, or almost 26 percent of total Stimulus dollars. Until FAA is more transparent about its reasons for selecting each low scoring project—as required by the President's direction—concerns will remain that it did not maximize efforts to ensure that only the highest priority projects received Stimulus funding.

Further, FAA was not transparent in the process used to select the 24 non-hub terminal projects that were included in the 80 low-scorers. Terminal projects are not normally funded due to their low NPR scores (i.e., less than 40). Yet, FAA did not provide justifications for selecting the 24 terminal projects for Stimulus funding even though it required regional officials to document their justification of all other low scoring projects. Instead, for Stimulus purposes, FAA classified terminal projects as "special focus area initiatives" with an NPR equivalent rating of 62—noting that many of the older facilities no longer meet current building standards.

Finally, FAA was not fully transparent in reporting the grant amounts it awarded. Rather than reporting actual amounts, FAA only reported estimated amounts on its public website, which is in keeping with FAA's normal AIP process. FAA should have modified this process to meet the President's direction to be fully transparent in reporting Stimulus grant award amounts.

FAA Did Not Enhance Its Selection Process To Optimize Economic Activity

FAA did not enhance its normal AIP process to consider projects on the basis of their potential to optimize economic activity, as required by Presidential direction. According to FAA, no additional steps were needed because long-term economic benefits are inherent in its AIP selection and planning process.

Nevertheless, the Agency did not consider economic factors or the results of economic studies in prioritizing and selecting projects for Stimulus funding. Such economic information should have been considered given the Presidential direction that agencies design selection processes and affirmatively determine in advance that each project could optimize economic activity.

Consequently, FAA selected some projects that do not appear, without supporting analysis, to optimize economic activity. For example, DOT IG identified 14 airports receiving Stimulus funding that serve communities with limited demand for flight services. Overall, these 14 airports received a total of about $72 million in Stimulus grants. Of these 14 airports, FAA awarded $59 million to 5 village airfields in Alaska serving a total population of less than 1,800 residents. These five airfields received as much as all Stimulus airport recipients in the State of Texas and more than any other state except California.

FAA's Selection Process Limited the Candidate Pool by Overemphasizing Geography and Adopting an Accelerated Timeline

FAA's ability to optimize economic activity was further limited because FAA applied restrictions not required by the Stimulus or Presidential direction. These restrictions include (1) allocating Stimulus funds geographically according to their historical AIP funding distribution, (2) setting an internal goal to have all funds obligated by the end of FY 2009 (5 months ahead of the February 2010 Stimulus deadline), and (3) establishing caps of $15 million per project/$20 million per sponsor. Although these restrictions served several FAA purposes, they worked against optimizing economic activity and the purpose of the Stimulus Bill.

WEAKNESSES IN DOT'S SUSPENSION AND DEBARMENT PROGRAM LIMIT ITS PROTECTION OF GOVERNMENT FUNDS (CC-2010-036)
March 18, 2010

Background - Significant delays in DOT's suspension and debarment decisionmaking process have given unscrupulous contractors ample opportunity to bid for and receive contracts.

Findings –

Delays in Decisionmaking
On average, it took over 300 days to reach a suspension decision and over 400 days to reach a debarment decision. About 70 percent of DOT's suspensions DOT IG reviewed took more than the required 45 days, and the average processing time was 301 days. These delays are largely due to lengthy and unnecessary reviews conducted before deciding cases and a lack of priority assigned to DOT's S&D workload.

Lack of DOT Management Controls
DOT's management controls are not adequate to safeguard the DOT's efforts to exclude prohibited parties that agencies must suspend or to propose debarment. A weakness surrounding DOT's main S&D policy is its inability to clearly define that DOT needs to suspend—or propose debarment—of parties within a required 45-day limit.

DOT's S&D Program is also limited by the absence of strong program oversight. Delegation of S&D program management to OST and the nine operating administrations has created gaps in DOT's knowledge of program weaknesses that warrant corrective actions. While DOT has taken measures to close these gaps, they have proven ineffective.

The cumulative effect of these weaknesses increases the risk that DOT and other agencies will award Stimulus contracts and grants to parties that DOT will ultimately suspend or debar.

RECOVERY ACT DATA QUALITY: ERRORS IN RECIPIENTS' REPORTS OBSCURE TRANSPARENCY (Recovery Funds Working Group Committee, Chairman Calvin L. Scovel, III)
Date Issued: February 23, 2010

Background - The Stimulus requires certain recipients of funds to provide quarterly reports, beginning in October 2009, with specific details about the funds they received. The reports are to include the total amount of funds received, a list of projects for which the funds are being used, and information about the number of jobs created or saved as a result of the funds received. On June 22, 2009, OMB issued guidance to Federal agencies and funding recipients with information to effectively implement reporting requirements on the use of Stimulus funds. The guidance requires that within 22 to 29 days after each quarter Federal agencies are to perform a limited data quality review of the information submitted and notify recipients if two key data problems are found—material omissions and significant reporting errors.

In September 2009, as part of the multi-phased reviews being conducted by the Recovery Board in conjunction with OIGs responsible for Stimulus Bill oversight, 21 Offices of Inspector General assessed whether their agencies had processes for conducting limited data quality reviews of recipient award reports. The OIGs found that 17 of the 21 agencies had designed processes to identify significant errors and material omissions.

Errors in Key Award and Job Elements Were the Most Prevalent

The most common inaccuracies in recipients' first quarterly reports were in key award identification and job elements. Agencies identified numerous instances of incorrect award identification and job data. For example, DOT officials identified 1,200 jobs that were erroneously listed under the Veterans Administration because the Iowa Department of Transportation entered the wrong funding agency code.

Federal Agencies Identified Several Factors that Contributed to Report Errors

Agencies identified several factors that contributed to errors discovered in recipient award reports. The most common factors were (1) recipients misinterpreting OMB and agency guidance, (2) technical challenges, (3) recipients not knowing or having incorrect codes or numbers, and (4) human error.

ENVIRONMENTAL PROTECTION AGENCY INSPECTOR GENERAL AUDIT WORK

Overall Mismanagement of the Stimulus Bill Implementation

EPA FACE MULTIPLE CONSTRAINTS TO TARGETING RECOVERY ACT FUNDS
(Report No. 11-R-0208)
April 11, 2011

Background – Stimulus funding for EPA programs was designed to protect and increase "green" jobs, sustain communities, restore and preserve the economic viability of property, promote scientific advances and technological innovation, and ensure a safer, healthier environment. In its Stimulus Plan, EPA stated these programs were "chosen carefully both for their ability to put people to work now and for their environmental value." The plan further explains that the Agency sought to address location-specific, community-based public health and environmental needs using Stimulus dollars, because investing in these needs would assure that job creation, economic growth, and environmental benefits accrue at the local level as well as nationwide.

The Stimulus did not define "those most impacted by the recession." However, Congress specified in the joint conference report they expected the states, as much as possible, to target the additional subsidized monies to communities that could not otherwise afford State Revolving Fund loan. This provision applied to the funds disbursed through the State Revolving Fund (SRF) programs, which accounted for approximately 83 percent of EPA's Stimulus funds. A March 2009 EPA Office of Water memorandum to Regional Water Management Division Directors provided "disadvantaged communities, environmental justice communities," as examples of those that could not otherwise afford an SRF loan.

Findings – After obligating over $7 billion in Stimulus funds, EPA is unable, both on a programmatic and national basis, to assess the overall impacted by the recession. Stimulus funds were intended to create or save jobs, address environmental and other challenges, and assist those most impacted by the recession. EPA specifically sought to address location-specific, community-based public health and environmental needs with its Stimulus dollars. While EPA was able to track financial expenditures, it considered but could not execute an effort to track the distribution of its Stimulus funds to economically disadvantaged communities. The effort was hindered by the absence of the definitions, data, and measures.

Without Tracking, Impact of Stimulus Funds on Economically Disadvantaged Communities Unknown - The Stimulus included goals related to creating jobs and reaching those most impacted by the recession. EPA did not have a plan or strategy in place to integrate these goals into program operations and funding decisions. EPA did not systematically identify or seek to direct program funds to those projects or communities that are, for socioeconomic reasons, more in need than others. Although EPA has an Office of Environmental Justice and several tools to help identify potential environmental justice communities, it does not have baseline assessment data on a nationwide basis for socioeconomic factors or unemployment.

EPA's Ability to Target Stimulus Funds Was Limited - The Office of Management and Budget (OMB) issued multiple guidance memoranda addressing, among other topics, how to report the numbers of Stimulus Act jobs created or retained. Short timeframes and the resulting emphasis on "shovel ready" projects also contributed to targeting challenges. The development and funding of potential new projects in disadvantaged communities was also hampered by a lack of time and resources to prepare applications, as well as a lack of priority for those economically disadvantaged areas that have environmental needs. Moreover, among the Stimulus-funded programs at EPA, the states made the funding decisions for 86 percent of the funds.

Variations Existed Among EPA Guidance, Documents, Public Outreach Materials, and Stimulus Goals - Overall, there was an absence of actionable EPA guidance or overall strategy on how to achieve Stimulus goals and Agency priorities beyond environmental protection. Some managers stated that the Agency was only responsible for the environmental protection and infrastructure purposes of the Stimulus Bill, with job creation as a secondary consideration. Of the five Stimulus Bill purposes, only one (to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits) is directly related to EPA's mission. Guidance from OMB to EPA as well as guidance from EPA to states generally focused on achieving funding obligation deadlines and reporting jobs created and retained.

Stimulus Bill Funding Decisions Not Driven by Job Creation - Prior to the passage of the Stimulus, EPA was not required to, and did not set targets for, job creation. With passage of the Stimulus, EPA did not establish guidance on how this priority could be incorporated in Stimulus Bill project selections. Per OMB guidance, job creation data were reported by fund recipients to a national database. EPA did not independently track the numbers or locations of new or retained jobs.

Emphasis on Shovel-Ready Projects Adversely Impacted EPA's Ability to Address Some Environmental and Economic Needs - The challenges included the lack of time to prepare applications, lack of priority for areas with both economic and environmental needs, and the inability of these communities to prepare timely and complete proposals. EPA programs require all applicants (regardless of environmental or health conditions) to meet program criteria. For

Superfund eligibility, the community must have already been on the National Priorities List. For water and wastewater projects, applicants must demonstrate a level of preparedness to include making sure that permits and design plans are obtained and complete.

Conclusions - The extent to which EPA's Stimulus Bill funds were targeted and spent, jobs created, and results achieved in economically disadvantaged communities are unknown. EPA's contributions under the Stimulus Bill emphasized environmental protection and remediation. These benefits were achieved through supplemental funding of existing programs. EPA was able to meet Stimulus Bill funding obligation deadlines; however, it was unable to systematically target or track funds to fully address the Stimulus' intent. EPA's Stimulus-funded projects were selected primarily by states.

Lack of Oversight

EPA MUST IMPLEMENT CONTROL TO ENSURE PROPER INVESTIGATIONS ARE CONDUCTED AT BROWNFIELDS SITES (Report No. 11-P-0107)
February 14, 2011

Background – Parties awarded federal Brownfield grants must conduct all appropriate inquiries (AAI) in accordance with federal law and regulations to obtain certain landowner liability protections. EPA Brownfields project officers (POs) have responsibility for oversight and monitoring compliance with Brownfields grant terms and conditions awarded to grantees in their jurisdiction.

Findings - EPA does not review AAI reports to assure the reports meet EPA's AAI final rule requirements. None of the 35 AAI reports EPA IG reviewed, generated from $2.14 million in grant awards, contained the required elements to document that AAI was done in compliance with federal requirements. This occurred because the Agency does not have management controls requiring EPA POs to conduct oversight of AAI reports to assure they meet federal documentation requirements. EPA relies on grant recipients to self-certify compliance with federal AAI requirements. According to EPA, grantees who do not comply with federal requirements for proper AAI investigations may be ineligible for future grants. Improper AAI investigations create risk that the environmental conditions of a property have not been properly or adequately assessed. Consequently, decisions about uses of redeveloped or reused brownfields properties may be based on improper assessments. Ultimately, threats to human health and the environment could go unrecognized.

EPA Lacks Controls to Ensure AAI Requirements Are Met for ARRA Work - In fiscal year 2009, EPA's Brownfields Program awarded 89 Assessment grants, totaling $25.8 million, from Stimulus funds. Stimulus guidance directs that funds are spent and accounted for properly and efficiently, and that some results and outcomes are timely and accurately documented. However, EPA does not have guidance, and has not implemented new controls, to assure that deliverables from STIMULUS-funded Brownfields grants, such as AAI reports, adhere to federal requirements.

EPA Should Improve Its Contractor Performance Evaluation Process for Contractors Receiving Recovery Act Funds (Report No. 10-R-0113)
April 26, 2010

Findings - EPA had not completed in a timely manner 30 of 36 (83 percent) of the required contractor performance evaluations for contractors awarded Stimulus funds. Contracting officers (COs) are required to complete and document the evaluation within 95 business days after each 12 months of contract performance. On average, EPA completed the evaluations 109 business days late, generally because there was no system in place to monitor evaluation timeliness. Consequently, contractor past performance evaluation information was not available to EPA when it awarded a new Stimulus contract totaling $5.4 million. Consideration of contractor performance prior to award reduces the risk of providing funds to a contractor with a history of poor performance.

Further, COs did not consider all available sources of information when preparing performance evaluations for contractors to which they awarded Stimulus funding. When preparing the performance evaluation of a contractor, the CO is required to use information from the technical and contracting offices. EPA did not always provide the Financial Monitoring Review, Defense Contract Audit Agency, and Office of Inspector General report directly to COs. COs found the database in which the Office of Acquisition Management houses this information difficult to access. As a result, EPA awarded $109 million in Stimulus funds to contractors with cost control and other performance issues.

EPA NEEDS DEFINITIVE GUIDANCE FOR RECOVERY ACT AND FUTURE GREEN RESERVE PROJECTS (Report No. 10-R-0057)
February 1, 2010

Findings - EPA has not provided clear and comprehensive guidance to States for how to determine the eligibility of green reserve projects. EPA was promoting a green approach to wastewater and drinking water programs for at least a year prior to the STIMULUS's enactment. Despite that experience, EPA did not develop and issue clear and comprehensive guidance in time to meet many of the States' needs. For example, EPA did not provide guidance on how to solicit and select green projects until after many States had finished doing so, and some States felt the need to resolicit for green projects while others did not. EPA's guidance and subsequent updates have not addressed important aspects of project selection. At the time of this review, EPA had not established water and energy efficiency threshold ranges for many types of green projects. Also, the Agency still had not provided sufficient information to States on how to develop business case justifications for non-categorical projects. Moreover, changes over time in EPA's guidance for how to determine project eligibility resulted in EPA regions applying different standards for approving States' green project proposals. EPA cannot provide a reasonable assurance that its green reserve projects will meet Congress' objectives without issuing guidance that sets definitive expectations. Additionally, future green funding may face similar issues.

WITNESSES

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