

Congress of the United States
Washington, DC 20515

November 26, 2013

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

Dear Mr. Dodaro:

Congress has appropriated, and the Department of Transportation through the Federal Railroad Administration (FRA) has obligated, over \$10.1 billion in High Speed Intercity Passenger Rail (HSIPR) grant funds—\$3.9 billion of which were awarded to the California High-Speed Rail Authority (Authority) for Phase 1 of the California High Speed Rail project (project). The California State Auditor has raised serious concerns regarding the financial and oversight risks associated with the California HSR project.¹ Furthermore, the project has had several recent setbacks, including an unfavorable state court ruling on the project's conformance to requirements outlined in California Proposition 1A,² which authorized the sale of bonds to support the project.

In a December 2012, FRA and the Authority amended the existing grant agreement to provide the Authority with payment in advance of the State's matching funds, a departure from standard Federal/local cost share agreements where funds must be spent concurrently. Given the magnitude of the project, we are concerned about FRA's stewardship of Federal funds in California and elsewhere. It is of particular concern that FRA executed grant agreements with the Authority and subsequently amended those agreements to allow the expenditure of Federal funds in advance of State matching funds. As a result, taxpayer funds may be at significant risk with questionable likelihood of recovery if the Authority fails to comply with the terms of the agreement. We are also concerned about the extent to which FRA has amended agreements with other state grantees.

On November 25, 2013, a Superior Court of California judge denied California High Speed Rail Authority's request to issue more than \$8 billion in California Proposition 1A state bonds to finance construction of the project. Without these bonds, California will have to find other funding sources to comply with the 50% match required in FRA's grant agreement. Separately, the judge also rescinded

¹ January 24, 2012, *High Speed Rail Authority Follow-Up: Although the Authority Addressed Some of Our Prior Concerns, Its Funding Situation Has Become Increasingly Risky and the Authority's Weak Oversight Persists*, California State Auditor

² 2011, *Tos, Fukuda, County of Kings v. CHSRA et. al.*

the Authority's funding plan for not complying with Proposition 1A bond requirements for legal and environmental clearances.

Curiously, though the Authority has long been aware of the requirement to provide the approximately \$2.7 billion match to Federal funding, the Deputy Attorney General representing the Authority stated that the State is spending only Federal money, and doing so she stated, "**does not commit bond funds. ... and there is no need to match anytime soon.**"

In light of the serious concerns raised due to this recent litigation, we request that the Government Accountability Office address the following questions:

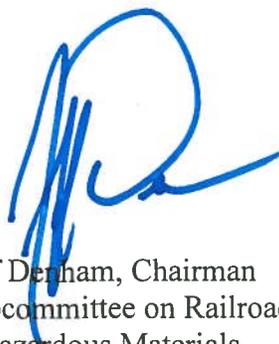
- Is the Authority currently violating, or on the verge of violating its grant agreements with the Federal government? If the Authority is in violation of those agreements, what remedies are available to the Federal government?
- In August, the Authority was found to be non-compliant with State law regarding the project's funding and environmental requirements. What impact does this finding have on the California grant agreements with the Federal government?
- Since the FRA continues to expend grant funds paying the Authority for current activities, do the recent State court rulings put the FRA in violation of any Federal laws, including the Anti-Deficiency Act? If so, what remedies are available to the Federal government?
- What responsibility falls on FRA to re-evaluate the grant agreement in light of these court rulings?

Please coordinate your work and direct any questions on this request to: Mike Friedberg with the House of Representatives Committee on Transportation and Infrastructure and Cheryle Tucker with the House of Representatives Committee on Appropriations. We appreciate your review of this matter.

Sincerely,



Tom Latham, Chairman
Subcommittee on Transportation, Housing
and Urban Development and Related Agencies
Committee on Appropriations



Jeff Denham, Chairman
Subcommittee on Railroads, Pipelines, and
Hazardous Materials
Committee on Transportation and Infrastructure