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OVERSIGHT HEARING ON THE BOSTON CENTRAL ARTERY/TUNNEL PROJECT

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

MAY 3, 2000

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

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OVERSIGHT HEARING ON THE BOSTON CENTRAL ARTERY/TUNNEL PROJECT

WEDNESDAY, MAY 3, 2000

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room SR–253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

Staff members assigned to this hearing: Ann Begeman, Charlotte Casey, and Rob Freeman, Republican Professional Staff; Carl Bentzel, Democratic Senior Counsel; and Debbie Hersman, Democratic Professional Staff.

OPENING STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Good morning. In an effort to fulfill our Committee's many duties, we are continuing to conduct hearings on legislation and to work to move bills through the legislative process. We also conduct oversight hearings on Federal programs under our jurisdiction, as well as on issues of public concern that have been brought to the Committee's attention.

Today's hearing is designed to take a careful and in-depth look into the Boston Central Artery/Tunnel project, the biggest, most costly public works project in U.S. history, and commonly referred to as the Big Dig. This project has suffered from gross mismanagement and what appears to have been a complete lack of critical Federal oversight. As such, it has experienced billions of dollars in cost overruns.

The Central Artery/Tunnel project was originally estimated to cost $2.5 billion in 1985. Today, it is estimated to cost U.S. taxpayers a staggering $13.6 billion. Almost daily, the Boston Globe or the Boston Herald publish a new and more embarrassing Big Dig story than the previous day's exposé, noting the project's mismanagement and many cost overruns.

This Committee needs to know what assurances we have that Federal and State highway officials responsible for overseeing this project finally have had their wake-up call. It is my hope that this hearing will enable us to explore the complete and utter failure of the parties involved in this immense multi-billion dollar transportation project, including Federal and State officials and project managers. We must ensure that this project's mismanagement and oversight neglect are a thing of the past.

It is also my hope that the witnesses, each of whom is critically involved with the Big Dig project, will provide the Committee with their candid views on their role in the project and their individual perspectives concerning how and why the project's cost have skyrocketed.

I also encourage each witness to offer specific suggestions on what actions Congress, the administration, State officials and project contractors should undertake to preclude future mismanagement of this or other federally funded transportation projects.

One area I would like to explore in some detail with the Secretary is the outstanding Federal financing obligation to the Central Artery/Tunnel project. While some Federal Highway Administration (FHWA) officials contend that the Federal funding level is capped, I am not convinced. There is no statutory cap on the Federal funding share for the project, nor, to my knowledge, is there a written agreement signed by the State and the FHWA capping the Federal funding share for the project. I fear that as of today, we really still do not know the final price to America's taxpayers.

Further, I am not confident in the FHWA's ability to fulfill its stewardship responsibilities over the expenditure of American's gas tax dollars. Last year, this Committee spent a considerable amount of time on another issue that highlighted the FHWA's poor stewardship—truck safety. In many meetings on truck safety, we received nearly unanimous views by a wide range of interested parties that the FHWA lacked leadership in its safety enforcement efforts.

Many felt that the FHWA's poor leadership was attributable to its more demanding role in overseeing the multi-billion dollar Federal highway construction program. Ultimately, we took away FHWA's motor carrier safety jurisdiction in an effort to improve truck safety.

Perhaps the FHWA's problems stem more from poor performance generally rather than from its oversight responsibility for the highway funding program. If FHWA wants the Congress to permit it to continue to have any Federal responsibilities, it had better reform itself immediately.

Much of the public attention on the Big Dig in recent months stems from the independent audit work carried out by the Department of Transportation Inspector General, Kenneth Mead, and his staff. This Committee holds the IG's office in very high regard. We know that your auditors had projected cost estimates, which were proven correct, that were initially widely criticized by FHWA and Massachussetts Central Artery officials. Unfortunately, your auditors were accurate, and the Committee appreciates the leadership demonstrated by you, Mr. Mead, on this controversial project.

In the near future, I intend to hold a hearing on another Federal project that the IG's office has identified as posing serious Department of Transportation mismanagement problems—the Quincy Shipyard project. I have grown increasingly concerned that the Federal government will be unable to recover any of the roughly $50 million it has paid out to fulfill its Title XI loan guarantee program obligation. Therefore, I intend to explore the Quincy Shipyard project during upcoming hearings to reauthorize the Maritime Administration.

Again, I look forward to hearing from today's witnesses and am eager to hear their perspective and views on what actions Congress and the Department of Transportation should take to improve fiscal accountability on the Central Artery Tunnel Project and all federally funded transportation projects.

Finally, I would also like to acknowledge the dedicated work of the Department of Transportation Deputy IG, Ray DeCarli, who I understand is retiring at the end of the month after 34 years of Federal service. Ray can be proud of the tremendous contributions his efforts have made in rooting out waste and fraud in transportation programs. His untiring efforts have saved millions of dollars for American taxpayers and we owe him a debt of gratitude. Senator Kerry.

[The prepared statement of The Chairman follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

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STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Thank you, Mr. Chairman. Thank you for holding this hearing today, and I appreciate the way in which you have approached this issue. I thank you for the conversations we have had regarding the project itself, and I think everybody in Massachusetts is grateful for your assurances that the dialog we will have here will be substantive and that your intent is certainly to keep this from becoming some kind of political process. I think we all appreciate that.

But second, I want to thank you for your assurances that you and others are not seeking to freeze or cut-off funds, given the nature of this project and its importance to the country, really, but also to Massachusetts.

I have enjoyed working with you, Mr. Chairman, as you know, on a lot of different issues, and you and I have joined together on some budget-buster efforts, and so I share with you the concern about expenditures. I raised some of those questions back in 1996, but regrettably the nature of the political contest then sort of precluded those questions from being answered in an way that did not also carry with it a sort of political baggage, and it was a little bit lost in the electoral process.

But I think that subsequently the IG, who you have already praised, and others, have already taken note of some of the early questions that I and others had, and have pursued those now to a point where we have a better understanding of the funding issues with respect to the Big Dig.

As we think about those issues, let me just make clear what I understand the issue to be, and I think Secretary Slater will help to clarify it. It is my understanding, Mr. Chairman, that there is, in fact, a limit on the liability of Federal taxpayers with respect to the Big Dig, specifically. The specific allocation and funding of the Big Dig was under a specific authorization and a specific appropriation, and those funds are in effect capped. There is a limit as to how much money the Federal Government will specifically designate to the Big Dig.

Now, that said, there are legitimate questions—I have raised them, as have Senator Kennedy, Congressman McGovern, Congressman Moakley, and other members of the delegation—about what happens to the TEA–21 money, which is also Federal dollars. No one is masking the notion that a certain component of TEA–21 dollars, that are Federal dollars which the State has a right to choose how to spend, can be spent also on some of those expenses.

However, all of us feel very strongly—and this will clearly be a subject that I intend to pursue today with the Secretary and others—that that TEA–21 money cannot become a victim of this overrun, and that particularly the towns and cities of Massachusetts, the mayors and local authorities who increasingly have been distressed by the allocation process, cannot be short-changed in their expectations.

Secretary Slater, to his credit, and the meeting we had with the delegation and with the Governor made it very clear that a component of Federal acceptance of a new financing plan must include an adequate guarantee with respect to the State allocation and share for the roads, bridges, and projects of our State, and I think we will look into that further today.

I know the State of Massachusetts has made clear its willingness, its preparedness, and its obligation to pick up the difference so that the Federal taxpayer in effect is not being asked for a bailout, and the Federal taxpayer is not exposed beyond the normal processes that the U.S. Congress is engaged in.

Finally, Mr. Chairman, let me just say something. You and I have chatted about your affection for Boston and your great feeling about—and it is reciprocated, and I know we want to keep it that way.

[Laughter.]

Senator KERRY. But Mr. Chairman, the fact is, this project is more than just 160 highway miles of lanes. It is more than the 7-plus miles of depressing of the artery today. It really is the reconfiguration of one of America's great cities. It is going to restore a city in a way that future generations, I am confident, are not going to talk about how much it cost.

They are going to talk about its impact on this city, and they are going to talk about it as a gateway city for the United States of America from the Atlantic. And others who travel to our Nation and come to the part of New England where the country was founded, and I will tell you that from an environmental point of view, in terms of clean air, in terms of open space, in terms of the cultural benefits that will come because of the linking of the city to its harbor and to a community that has been cut-off in the North End, this is a remarkable project, and it is going to have a profound, lasting impact.

I believe you have seen something we always talk about in Boston, which is the emerald necklace. There is not a person who does not visit Boston that does not extol the virtues of the Charles

River, the half-shell, the Esplanade, the extraordinary belt of green that goes all the way out to Newton and Watertown and Cambridge. It is one of the great assets, and we always talk about what we did 100 years ago, what Frederick Law Olmstead did.

One of the reasons I worked on this project since I was Lieutenant Governor and since I came here to the Senate is that I think this is our legacy for the end of this millennium to the next centuries, and this will be the continuation of that belt through Boston in a way that affords us extraordinary opportunities for the entire development of the south side, what is called the seaport, extending all the way to South Boston and the Castle Island, and ultimately it will be what defines our city, in my judgment.

So this is much more than just a highway project. It is leveraged by the highway project, but it is parks, recreation areas, open space, clean air, and indeed the cultural and aesthetic assets of an entire city, and I think people need to view it as such.

That does not mean that the overruns are excusable. They are not, and Secretary Slater through his actions and the Governor through his actions have already made that clear. People are paying a price for that, and unfortunately our taxpayers will pay a price for that, but I still think we have to be measured and thoughtful about our approach to it, and I thank you, Mr. Chairman, for your willingness to be exactly that, and to engage in a good dialogue here today.

[The prepared statement of Senator Kerry follows:]

PREPARED STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Mr. Chairman, I want to thank you for holding this hearing today, and for the way in which you have approached this issue. It is no secret in the United States Senate that you have an outstanding record when it comes to holding government accountable for waste. Whether it's by targeting pork in the federal budget or working—in an effort I've been proud to be a part of—to close wasteful corporate loopholes, you've always kept an eye out for the very best interests of the taxpayers and the citizens of this country. I know your efforts to understand and investigate the Big Dig are motivated by those same intentions—by a desire to have more public accountability, and more sunshine on our political process, not less—and I will tell you that on this issue of such central importance to so many in Massachusetts, your commitment to a fair and substantive dialogue is deeply appreciated.

We've heard over the years that the Big Dig is the single largest public works project in the history of the United States—and it is. We've heard that the Big Dig is truly a marvel of modern engineering, and that's true as well. But these descriptions don't do a thing to give you a real sense of the way in which the Big Dig will transform life for the City of Boston—or the way in which it has literally been at the center or close to the center of every debate, every budget, every political calculation in Massachusetts politics now for close to 20 years.

This is a project which I remember hearing about and working on all the way back in 1982 when I was Lieutenant Governor. It's the first project I went to work on when I came to the Senate in 1985 after Paul Tsongas retired. This is the transportation effort that Tip O'Neill, Joe Moakley, Ted Kennedy and I worked for year in and year out every time federal money needed to be authorized to move us closer to the day when Boston would have a fully modernized, state of the art highway system beneath our streets.

The Big Dig has been a part of everyday life in Boston for years—and now that it's almost finished, just think about what that means: The Big Dig will be 7.5 miles long, and will include approximately 160 lane miles. There will be 27 acres on corridor, which should, and I'll talk more about this later, mean no less than 20 acres of new green space added above ground in a city known for its historic preservation, known for the Boston Commons and the Emerald Necklace.

And so here we are on the cusp—hard to believe given the events of the last months, but almost there—the design phase is 98 percent complete, construction is 60 percent complete and we believe the Big Dig will be completed in 2004.

That—make no mistake—is a huge accomplishment for the State of Massachusetts, for all the members of our congressional delegation and the Democratic and Republican Administrations which have worked so hard on this project over the years. It is a victory that can't be measured in terms of miles or statistics because it is literally the story of the reconfiguration of one of our nation's oldest city—a city rebuilt—off ramps added, roads rebuilt, a new access route out to the airport—roads rerouted right through downtown—it is literally a story of Boston's rebirth.

Now let's be clear, though, no one here—and no one in Massachusetts—supports massive cost overruns—we don't support people being less than candid in how they deal with the government, or with us, or with each other—but we believe in the importance of the Big Dig, and we believe that through the continued stewardship of Secretary Slater, and with the leadership today of Andrew Natsios, who has brought a reputation for integrity to the central artery efforts, the project is on track and the goal is on target.

And so, before we turn everything over to our witnesses, to Secretary Slater and Kenneth Mead, to Andrew Natsios, let me just say that I am pleased that we're able to come together in a thoughtful and substantive way for this hearing, to talk about where this project has fallen short of our expectations and where it has exceeded them, but most importantly, to focus, in a meaningful way, on the work we must all continue to do to ensure that we move the Big Dig over the finish line in a reasonable and responsible appropriate financial condition, how we can protect taxpayers and ensure accountability, and how, most importantly, we can deliver for Massachusetts the marvel in engineering and transportation that will transform Boston for all who live there and for the millions who visit our city each year.

The CHAIRMAN. Well, I thank you, Senator Kerry, and I appreciate the long relationship and communications we have had on this and many other issues. I am an unashamed admirer of the city of Boston and the surrounding area. It is an incredible cultural and, frankly, historic part of America that I have grown to admire and love very much. I appreciate your willingness to address this issue forthrightly, including to make sure that there is a cap.

There seems to be some question here as to whether there really is or is not, and perhaps we can elicit from our witnesses a better depiction of that situation. So I thank you, and I thank our witnesses, and we would like to begin with you, Secretary Slater. Welcome back before the Committee.

[The prepared statement of Senator Hollings follows:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

Today we are here to review the Boston Central Artery and Tunnel Project. This important project has been the source of both a large amount of federal investment as well as a considerable amount of federal scrutiny. The project has been under consideration for almost fifteen years, and to date we have invested over $5.8 billion in federal funds. The project has also been the subject of numerous audits by the Department of Transportation's Inspector General and the General Accounting Office.

I was pleased to see that Secretary Slater established a task force to conduct a complete review of the Federal Highway Administration's (FHWA) oversight process of the Central Artery and Tunnel Project. According to the findings of the Task Force, the Federal Government's role in the CA/T Project oversight was lacking. The FHWA acts as stewards of federal tax dollars spent on any project, and in the case of the Central Artery and Tunnel Project they did not adequately review costs, expenditures and estimates. While most in the government would strive to achieve federal/state partnerships, we should not blindly accept the positions of partners.

I am encouraged by the Federal Highway Administration's decision to accept and implement all of the Department of Transportation Inspector General's (IG) recommendations to help ensure against similar lapses in oversight. I believe that this is a good first step in addressing outstanding concerns about the project. The IG has been reviewing this project for many years and I believe that there are many solid recommendations contained in recent reports. For example, the most recent IG audit pointed out that the Project's 1998 Finance Plan did not disclose significant cost information about the Project, such as construction cost increases or that contract awards were exceeding budget. These warnings should have caused the FHWA to scrutinize the information being provided by the project more closely and place less reliance on state reported data. If the FHWA had independently reviewed the data provided by the OIG rather than relying on assertions from the State that future cost increases were unlikely, it would not have approved the finance plan presented by the Project in January 2000.

One thing is clear—the cost to complete the Central Artery and Tunnel Project has increased tremendously from the initial estimate of $2.56 billion in 1985. Prior to February of this year, the total project cost was estimated to be $10.8 billion. On March 31, 2000, the Federal Task Force on the Boston Central Artery and Tunnel Project projected that a realistic cost estimate for the project is now $13.4 to $13.6 billion. While I am encouraged that there have been changes made at both the state and federal level to improve oversight of this project, I believe that the repeated and deliberate failure by local project managers to disclose the full financial picture puts into question the integrity of the Federal/State partnership. This project is vitally important to the future of transportation in the metropolitan Boston area and should not be jeopardized by obstruction and non-disclosure.

I am pleased to welcome Secretary Slater and Inspector General Mead back to the Committee and I look forward to hearing testimony from all of the witnesses this morning.

[The prepared statement of Senator Inouye follows:]

PREPARED STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII

Today we are here to review one of the largest and most technologically challenging transportation projects ever constructed—the Boston Central Artery and Tunnel Project. This important project has required a lot of planning and engineering as well as a large investment of federal infrastructure dollars. Recently it has been brought to our attention that this project should have been the recipient of a greater level of state and federal oversight as well.

While the scope of this project is enormous, so too is the responsibility that comes along with it. The management system of this project failed to detect cost overruns and unconditionally accepted inaccurate information provided by the State. While it is fair to expect that the State would provide reliable data, the Federal Highway Administration continued to rely on State data rather than undertaking an independent review, even when faced with contradictory information from the Department of Transportation's own Inspector General.

I was pleased to see the recent report of the Federal Task Force on the Boston Central Artery/Tunnel Project. Clearly the implementation of the 34 recommendations contained in the Task Force's report will begin to restore the integrity and public confidence in the project. The relationship between the State and Federal governments needs to be based on trust rather than suspicion. I believe that the recent changes in the management structure and reporting begin to repair the breach, but all of the parties involved in this project will need to be constantly vigilant—it will take time to restore the faith that was lost. Additionally, at the Federal level, we need to put into place a process or system that will prevent this type of failure from occurring again.

I am pleased to welcome all of the witnesses to the Commerce Committee. I look forward to hearing testimony from all of you this morning.

STATEMENT OF HON. RODNEY E. SLATER, SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION

Secretary SLATER. Thank you, Mr. Chairman. Let me also say welcome back to you as well. It is a pleasure to be before you once again and to talk about matters of importance to the American people. Let me also say, Senator Kerry, it is a pleasure to be before you, and I am also pleased to be joined at the witness table by our distinguished IG, Ken Mead. Much has been made of the fine work that he has done along with his staff. You mentioned Ray DeCarli. I saw Ray a little earlier. He is here today. He has done a wonderful job, Mr. Chairman, and I appreciate your having made note of that.

In that regard, again I just want to say that I am pleased to be here at the witness table with our Inspector General, Ken Mead, and we look forward to the testimony about this important project. If I might, though, Mr. Chairman, let me also just make passing note of some of the other issues that you raised, just acknowledging that I, too, understand the importance of those concerns.

We have talked on many occasions about the importance of truck safety, the growing importance of the trucking community and the fact that we need to be mindful of the sharing the road responsibilities that passenger vehicles along with truck and bus drivers share.

As you noted, we have established as a result of our effort working with you, the Congress, and the Administration, the new Federal Motor Carrier Safety Administration. We have moved forth expeditiously getting the work of that organization underway. We recently dealt with a matter pertaining to hours of service, and we are moving forward on our goal of a 50-percent reduction in fatalities and crashes involving motor carrier vehicles over the next decade, so we appreciate your leadership on this issue and look forward to our continued work together in this regard.

We also look forward to the hearings dealing with the reauthorization of the Maritime Administration and issues that might come up in that regard. This is a very important piece of legislation, and we look forward to future hearings dealing with the Quincy Shipyard issue as well as others pertaining to the reauthorization of the Maritime Administration.

With that, Mr. Chairman, let me move, then, quickly to the issue at hand. Let me join Senator Kerry in saying to you thanks for the opportunity to come into this forum and discuss a very important project, but I dare say not only to Boston and to the New England region but to our Nation as a whole.

This project is one of the largest, most complex, and most technologically challenging infrastructure projects ever undertaken. When it is completed, and it will be completed, it will be a vital and important addition to our transportation network, and it will also speak to the dreams and hopes and aspirations of our system for the 21st Century and the new millennium.

But just as this project is about to set standards and has set standards as it relates to engineering excellence, so, too, should it set standards as it relates to the integrity, and we mean this in a positive way, the integrity of highway project management, and in that regard we have just got a lot of work to do.

The Central Artery project has, to be frank, suffered under a failed management system. No one is blameless in this regard. The State failed to fully disclose material matters about cost overruns, and we at U.S. Department of Transportation failed to exercise independent and critical oversight. In the October 7, 1999 draft report that has been referred to by the IG, the IG warned that the project was experiencing significant construction cost increases, and that the project's 1998 finance plan did not disclose these construction cost increases or contract awards that were exceeding budget.

Despite these warnings, the Federal Highway Administration Division Office continued to rely on State cost data, rather than undertaking an independent review. This failure of management significantly—and I underscore that word, significantly—tarnished the Federal-State partnership that dates back to 1916, and it led to the formation of a Federal task force on the Boston Central Artery/Tunnel project.

The Federal task force was charged with analyzing the oversight process of this project, reviewing the structure of the FHWA division's office, and determining the effectiveness of the reporting documents, along with being charged with recommending changes to FHWA as it relates to policies or procedures pertaining to this matter.

The task force has completed its work, and it did so in early April of this year, and it has presented its findings and recommendations to the Federal Highway Administrator, Ken Wykle, who is here with me today, and to me. Here I would like to especially note the quality of leadership of our Deputy Administrator of the Federal Highway Administration, Walter Sutton, who was selected by Administrator Wykle to lead this effort. I commend Mr. Sutton and all the members of our team, who did very important work not only for this project but for our future understanding of projects of this nature as we go forward.

On April 11, I presented the task force findings to the Massachusetts congressional delegation. Senator Kerry was there, all the members of the delegation were there, Senator Kennedy and others, and also we had Governor Paul Cellucci in attendance as well.

Here, let me acknowledge the fact that we were frank in our discussions, and we were clear in our give and take. The report, which includes 34 recommendations, was publicly released thereafter. At the April 11 meeting, there was unanimous agreement, Mr. Chairman, among the Federal and State parties in attendance that we should move forward expeditiously to repair the breach of trust between Federal and State officials. Everyone also agreed that it was of the utmost importance to restore integrity and public confidence as it relates to this project.

Now, I am sure that this hearing will also shed light on how we can continue to enhance our efforts in this regard, and so again I join Senator Kerry in saying to you, Mr. Chairman, thank you for affording us this opportunity. As stewards of Federal funds, the U.S. Department of Transportation has the responsibility to make certain that taxpayer dollars are being invested in the best and most efficient manner. We have developed a comprehensive strategy based on the recommendations of the task force to do just that as it relates to this project, to ensure that our oversight errors will not be repeated as it relates to this project. But, as importantly, to learn from our experience here to ensure that we do not make these kinds of oversight errors as it relates to other major projects of national and regional significance.

Moreover, we will require the State to fully fund the recently announced cost increases, as well as any future overruns should they occur and, as Senator Kerry noted, and we will get into this a bit more, the State must also, in meeting this requirement, meet its obligation to ensure that an agreed-upon State-wide balanced program and plan is also protected.

So we thank you again, Senator Kerry and members of the delegation, in pressing forth on this point.

Mr. Chairman, before getting into four or five of the specific recommendations, let me also say there is one other thing that we have done at the Department. In learning from our experience as it relates to the Central Artery project we are seeking to apply those lessons to the entire transportation enterprise. In this regard, I have directed all of the modal administrations within the Department to work with the Office of the Secretary in putting together a DOT-wide process to enhance our oversight and monitoring of major national and regional projects.

In dealing with this matter, we will build on the work that is already underway within the Federal Highway Administration. Actually, this work was initiated even before receiving the final report of the task force. Here, within the Federal Highway Administration, we are focusing on improving oversight of all major highway and bridge projects by creating a major projects team.

Well, this major projects team and our DOT-wide major projects initiative will assist all of our offices and all of our partners in dealing with risk assessment, oversight decisions, and areas of finance and the environment and program development. I want to begin by saying that we have learned from this experience, and we intend to ensure that all within the Department responsible for major projects in any mode will benefit from the lessons learned through this experience.

Now, more specifically as it relates to the recommendations of the task force, one of the important task force recommendations was to change the State leadership of the project in parallel with a leadership change within the FHWA as it relates to our division office. I commend Governor Cellucci for his immediate and decisive action in this regard.

After a briefing as it relates to the task force report, the Governor announced that Mr. Andrew Natsios would be the new chair of the Massachusetts Turnpike Authority, and I am pleased that Mr. Natsios is here today. I am also very, very pleased that within 3 days of his selection he was meeting with a senior leadership team from the Department that included our Deputy Secretary Mort Downey, FHA Administrator Ken Wykle, and our Deputy Administrator within the FHWA, Walter Sutton, who again led the task force effort that brought forth the recommendations.

Also, I am pleased to note, Mr. Chairman, that Mr. Natsios intends to meet with Mr. Mead very, very soon, and I also look forward to meeting with him soon as well. In a nutshell, because of this decisive action, we have begun the process of repairing the breach between, or breach in the Federal-State relationship, and in rebuilding the integrity of the management of this important project.

Second, the FHWA has already acted on the task force recommendation to withdraw the delegation of authority to accept annual financial plan updates for the Central Artery project from our FHWA division office in Boston. Now, that responsibility will be carried out and returned to the Federal Highway Administration headquarters offices.

The headquarters is now also completing a comprehensive review of the project finance plan update submitted on March 15, and will be responding to the State very soon in this regard.

Let me make clear and state once again that in dealing with this particular issue, we will require the State to fully fund the recently announced cost increases, as well as any future overruns, should they occur. The plan must document that sufficient funding is available to complete the project, or the plan will not be accepted.

As we continue to cooperate fully with the State to get the project completed, we will do so in a different way. We will trust, but we will also verify.

Third, I know that an area of concern for the citizens of Massachusetts and also for the entire delegation, congressional delegation as well as the Governor, as well as those of us who believe in fairness, deals with whether the cost overrun as it relates to the project in Boston, whether that will threaten transportation funding for other areas of the State.

We all share that concern, and to address this concern I am very pleased to note that the task force recommendation has been accepted that the Massachusetts Highway Department reach agreement with local officials on terms of a balanced State-wide program and make this agreement a formal condition of its State transportation improvement program approval process.

The FHWA will not approve and fund the State's transportation improvement program, nor continue to participate in the Central Artery project, unless there is an enforceable commitment to a balanced, State-wide program.

Fourth, the FHWA is drafting a Central Artery/Tunnel project agreement and both of you have made reference to what is in writing and what is not in writing. This is again something we are moving forward on, and it will be an agreement that will be executed by the FHWA, the Massachusetts Highway Department, and the Massachusetts Turnpike Authority.

This agreement will formalize the signers' commitment to implement the task force recommendations. And, by the way, I have not said this, but many of those recommendations include recommendations that were offered by the IG where appropriate, so I want to acknowledge that, Mr. Mead and Mr. Chairman and Senator Kerry. The document includes the requirement for an independent certification of all future finance plan information, and it also, and most importantly, requires that the Massachusetts Highway Department reach agreement with the local officials as it relates to a balanced State-wide highway and bridge program.

Another issue of particular interest to this Committee is the question raised by the Department's IG about what is called the owner-controlled insurance program, specifically the appropriateness of keeping large insurance trust reserves after the year 2004, and the use of these reserves as credits in finance plan updates to reduce the current project cost total.

We believe that owner-controlled insurance is an effective way of providing insurance coverage on a large project, and that benefits include not only cost savings but also improved safety. We agree, however, that unanswered questions remain concerning the level of insurance and handling of trust funds. FHWA is now in the process of finalizing a contract with an independent insurance consultant to review the Central Artery insurance program as a whole, and to assist the Department of Transportation in the development of a national policy on owner-controlled insurance programs, so here again, lessons have been learned from this experience.

Also in response to our Inspector General and the task force recommendations, the State has agreed to use money within the insurance trust to pay the insurance premiums for the next 2 years, and will not claim insurance program credits as offsets to the project's total current cost, and again, this is an insightful and commendable move on the part of the State.

In closing, the Central Artery project, as I stated before, is one of the largest, most complex and technically challenging infrastructure projects ever undertaken, and when completed it will be a significant addition to our transportation enterprise. However, as I have stated before, just as this project sets new standards for engineering excellence, so, too, should it set new, positive standards for highway project management. You have my commitment, Mr. Chairman and Senator Kerry, and to all the members of your Committee who join you in this responsibility, you have my commitment that this important project will be completed in a manner that restores integrity and public confidence in our stewardship of the Federal aid highway program, and that the oversight lessons learned on this project will be used DOT-wide to monitor other major projects of national and regional significance.

Again, Mr. Chairman, Senator Kerry, thank you for the opportunity to come before you to discuss important transportation concerns, and especially this particular project.

[The prepared statement of Secretary Slater follows:]

PREPARED STATEMENT OF HON. RODNEY E. SLATER, SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION

Introduction

Mr. Chairman, thank you for the opportunity to testify today on issues concerning the Boston Central Artery/Tunnel Project (CA/T).

The Project is one of the largest, most complex, and most technologically challenging infrastructure projects ever attempted. When it is completed, it will be a vital and important addition to our transportation network.

However, just as this Project sets standards for engineering excellence, so too should it set standards for highway project management.

The Central Artery Project has suffered under a failed management system. No one is blameless for this failure. The State failed to fully disclose material facts about cost overruns. The Federal government failed to exercise independent and critical oversight.

In the October 7, 1999 draft of the Department of Transportation's Office of Inspector General (OIG) report, the OIG warned that the Project was experiencing significant construction cost increases and that the Project's 1998 Finance Plan did not disclose these construction cost increases or contract awards that were exceeding budget. Despite these warnings, the Federal Highway Administration (FHWA) Division Office continued to rely on State cost data rather than undertaking an independent review.

This failure of management led to the formation of the Federal Task Force on the Boston Central Artery/Tunnel Project. The Task Force was charged with analyzing the oversight process for the CA/T Project, reviewing the structure of the FHWA's Division Office, determining the effectiveness of reporting documents, and recommending changes to FHWA policy or procedures. The Task Force completed its work in early April and presented its findings and recommendations to FHWA Administrator Kenneth Wykle and me. Both he and I have reviewed this report, and we accept the findings and recommendations made.

On April 11, I presented the Task Force's findings to the Massachusetts Congressional delegation and to Governor Paul Cellucci. The report, which includes 34 recommendations, was then publicly released.

At the April 11 meeting there was unanimous agreement to move forward to repair the breach of trust between the State and the Federal government. Everyone agreed that it was of the utmost importance to restore integrity and public confidence in this project.

As the steward of Federal funds, the Department of Transportation has a responsibility to make certain that taxpayer dollars are being invested in the best and most efficient manner. We have developed a comprehensive strategy, incorporating the Task Force recommendations, to ensure that our oversight errors will not be repeated on this project, or any other projects. Moreover, we will require the State to fully fund the recently announced cost increases, as well as any future overruns, should they occur.

Response to Task Force Recommendations

The Task Force consisted primarily of Federal employees familiar with the highway assistance program but not directly involved in oversight of CA/T to date. In its report, the Task Force faulted Massachusetts for breaching its trust with the FHWA and others by "intentionally withholding knowledge of the Project's potential cost overrun." The report also faulted FHWA for failing to maintain a sufficiently independent relationship with CA/T Project leadership to adequately fulfill its oversight role. The Task Force report offers solid recommendations that will help improve fiscal accountability, advance the CA/T Project toward successful completion, and lead to a sound financial investment. FHWA Administrator Wykle and I are committed to full implementation of the recommendations.

Changes in Management Structure and Reporting

One important Task Force recommendation is to change the leadership of the CA/T Project in parallel with the leadership change that FHWA made in the FHWA Massachusetts Division. The FHWA reassigned its Division Administrator and brought in a new Acting Division Administrator, Paul Lariviere.

I was particularly pleased that Governor Cellucci acted immediately after the briefing on the Task Force report to announce that Andrew Natsios, would be the new Chairman of the Massachusetts Turnpike Authority, the agency managing the project. In addition, I was extremely pleased that Mr. Natsios, just three days later, met with DOT Deputy Secretary Mortimer Downey, FHWA Administrator Wykle, and FHWA Deputy Administrator Walter Sutton, to continue the process of restoring integrity to the Federal/State relationship on this Project.

The FHWA has also already acted on the Task Force recommendation to withdraw the delegation of authority to accept annual Finance Plan Updates for the CA/T Project from the FHWA Massachusetts Division Administrator and return the approval authority to FHWA Headquarters. FHWA Headquarters is now completing a comprehensive review of the CA/T Project Finance Plan Update, submitted on March 15, 2000.

Statewide Transportation Program

I share the concerns that many Massachusetts citizens have raised about whether the cost overruns in Boston will threaten the share of federal transportation funding for other areas of the State. Therefore, I was particularly happy to accept the Task Force recommendation that the Massachusetts Highway Department (MHD) reach agreement with local officials on the terms of a balanced statewide program and make this agreement a formal condition of its State Transportation Improvement Program (STIP) approval. The FHWA will not approve and fund the State's transportation improvement program, nor continue to participate in the Central Artery Project, unless there is an enforceable commitment to a balanced statewide program.

Major Projects Team

Even before the Task Force report was released, FHWA Headquarters initiated actions to improve oversight, not only on the CA/T Project, but on all major highway and bridge projects. FHWA has created a Major Projects Team to improve the Headquarters administration and oversight of large construction projects, in order to ensure efficient use of Federal resources and to minimize project delays. A major project is defined as a project in which a Finance Plan is required by the provisions of the Transportation Equity Act for the 21st Century (TEA–21) and/or those projects designated by FHWA that are extremely complex or controversial. A frame-work has been established for project administration and oversight, and the responsibilities of the Major Projects Team have been defined. While the FHWA Division Offices will remain responsible for traditional Federal-aid oversight responsibilities, the Major Projects Team will assist the Division Office with risk assessment and oversight decisions in the areas of finance, environment, and program development. The Team's duties include preparing guidance for administration and oversight of major projects, for innovative contracting proposals, and for use of an Owner Controlled Insurance Program (OCIP). The Team will also oversee the implementation of relevant recommendations from General Accounting Office (GAO) and OIG audits of major projects. In addition, the Team will review project estimates and will provide an independent review of the initial Finance Plan for a major project and its annual updates.

This enhanced oversight of major projects has applicability to all the Department's modal administrations. In fact, for some time we have been tracking at a senior management level the largest transportation infrastructure projects—generally those over $1 billion in value—and reporting key information on a bimonthly basis.

Insurance Issues

The OCIP for this project is a consolidated insurance program undertaken by the Project owner, the Commonwealth of Massachusetts, to provide blanket insurance coverage to contractors, subcontractors, and design firms working on the CA/T Project.

Studies have shown that a well managed OCIP, sometimes called wrap-up insurance, can be cost-effective and, when coupled with a good overall coordinated project safety program, may reduce injuries and claims. The CA/T safety record has been excellent, with recordable accidents and loss time rates well below the national averages. A June 1999 GAO audit report on "Advantages and Disadvantages of Wrap-Up Insurance for Large Construction Projects," indicates that a wrap-up insurance program can save project owners up to 50 percent on the cost of traditional insurance, or from 1–3 percent of total project construction costs, depending on its size.

As you know, our Inspector General raised concerns about the appropriateness of keeping large trust reserves after 2004 when it was expected that construction activity would be complete and loss exposure minimized, and about the use of credits in Finance Plan updates to reduce the total Project cost. If funds were allowed to remain invested in the insurance trusts until the program sunset in 2017, the anticipated balances to be returned to State and Federal funding sources could be substantial. The prior administration of the Turnpike Authority considered the balance to have resulted from expenditures for the CA/T Project and believed that the balance should, therefore, be allowed as a credit reducing the Project's final total cost. In response to our Inspector General and to Task Force recommendations, the State has agreed to use money within the insurance trust to pay the insurance premiums for the next two years and will not claim insurance program credits, that will not be available until the distant future, as offsets to the Project's total current costs.

The Task Force also recommended that FHWA retain the services of an independent insurance consultant to review the CA/T insurance program as a whole and the risks associated with the Project, to identify an acceptable level of funding to manage those risks, and to assist the Department of Transportation in the development of national policy on OCIPs. FHWA has identified a consultant to assist with the review and is in the process of finalizing the contract. The consultant will submit a report by July 31, 2000.

Project Agreement

The Task Force's final recommendation was that FHWA and the MHD enter into an agreement to formalize the recommendations in the report that are relevant to the working relationship between the parties. FHWA is in the process of finalizing the Central Artery/Tunnel Project Agreement to be executed by June 1, 2000, among FHWA, the MHD, and the MTA. The purpose of this agreement is to clarify funding commitments on the CA/T Project, to strengthen and clarify the FHWA oversight role, and to establish new reporting and verification procedures necessary to ensure accurate and full financial disclosures in the future. The document also requires that the MHD reach agreement with local officials on the terms of a balanced statewide program.

This agreement formalizes the mutual commitment to complete the CA/T Project, in consideration of which the signers agree to implement the Task Force recommendations for improving cost and funding oversight and information submissions, as incorporated in the agreement.

Improvements in Project Cost Reports

The Task Force found neither the Project Management Monthly (PMM) nor the Finance Plan provides a clear, accurate, and timely picture of the total potential CA/T Project cost exposure or cash flow needs. All of the Task Force's specific recommendations for improved reporting of the funding revenues and outlays will be incorporated into future Finance Plan Updates. For example, in all future Finance Plan Updates, the CA/T Project management must provide certification by an appropriate independent consultant as to the accuracy of the information contained in the Finance Plan, This requirement for an independent certification is also included as one condition of the Project Agreement.

Project Background

The Boston central Artery/Tunnel Project entails building or reconstructing about 7.5 miles (160 lane miles) of Interstate highway in the City of Boston, routing I-93 traffic through tunnels under Boston, replacing the I–93 bridge over the Charles River, and extending I–90 under Boston Harbor to Logan Airport. The Project will link air, sea, rail, bus, and subway facilities. It is expected to produce local and regional economic growth as well as environmental benefits, to reduce traffic congestion, and to improve traffic safety.

The two main elements of the Project, replacing the elevated Central Artery freeway with a tunnel and building the Third Harbor Tunnel (now Ted Williams Tunnel), developed separately at the Commonwealth of Massachusetts's initiative. Congress established eligibility for Federal-aid funding for the combined CA/T Project under the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA).

Despite prior reservations about replacing the elevated Central Artery, from the moment Congress authorized this project, FHWA has cooperated fully with the State to get it built and to fulfill our end of the partnership arrangement. We will continue to do so, but on a basis of "trust but verify."

Federal-Aid Highway Program

As a former Federal Highway Administrator, I am proud of the outstanding work the FHWA has done throughout its history to create the highway network that sustains our economic development, enhances our international competitiveness, and supports the freedom of movement that is an essential element of the American Way of life. The cornerstone of this accomplishment has always been the partnerships we have built over the years with State transportation departments. The Federal/State cooperative relationship was defined in the Federal Aid Road Act of 1916 and made permanent in the Federal Highway Act of 1921. The role of the States in this relationship is to select, plan, design, and construct transportation improvements. Their responsibilities include working with local governments to determine the best mix of projects, across the spectrum of modes and options, to meet their transportation needs, and to determine how funds will be distributed among projects within State boundaries. By law, the authorization of the appropriation of Federal-aid highway funds "shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed." [1]

The role of the Federal Government is to ensure projects undertaken with Federal funds are developed in compliance with Federal laws and requirements. This relationship has evolved over the years and today varies depending on the project. In accordance with changes in Federal law, we have modified our oversight approach to give State and local officials greater responsibility on projects off the National Highway System (NHS). However, the FHWA's oversight role on larger projects was enhanced under TEA–21. Section 1305(b) requires that projects with an estimated total cost of $1 billion or more submit an annual Finance Plan, based on detailed estimates of the cost to complete the project and on reasonable assumptions of future cost increases. The CA/T Project has had a Finance Plan required since the mid 1990's, long before the statutory requirement.

Over the years, FHWA developed a strong Federal/State partnership for administering the Federal-Aid Highway Program, based on mutual trust, fairness, respect, cooperation and communication. In reviewing Finance Plans, FHWA continued to rely on the partnership concept, with the State remaining responsible for preparing the cost portion of the documents. As the Task Force Report concludes, in the case of the CA/T Project, our historic partnership failed. We are committed to restoring trust to this relationship.

[1] 23 U.S.C. § 145(a) (Supp. 1999).

Conclusion

In conclusion, let me say that the Department of Transportation is dedicated to making sure that this important project is completed in a manner that restores integrity and public confidence in our stewardship of the Federal-aid Highway Program. We take our oversight responsibilities very seriously and have taken steps to ensure that past mistakes on this project will not be repeated.

The CHAIRMAN. Thank you, Secretary Slater. Mr. Mead, welcome back.

STATEMENT OF HON. KENNETH M. MEAD, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION

Mr. MEAD. Thank you, Mr. Chairman, Senator Kerry. I first want to say that it is a real privilege to be here, and especially a distinction to be at the table with Secretary Slater, because, as has been consistent with the entire relationship we have, I think that if you do a close reading of the Federal Highway Task Force report you will find that it is among the most candid and explicit self-critiques. It certainly is among the most explicit self-critiques I have seen in my time reviewing the Department, so it is truly a distinction.

Also, I certainly appreciate the words about my Deputy, Ray DeCarli, who is retiring after 34 years. He is a public servant of great integrity and extraordinary skill, and I have asked him to extend, but at this point, after 34 years, I think he is practically working for free.

[Laughter.]

Mr. MEAD. Let me get to the point here. I think the Central Artery project, as everybody has pointed out, is very important to Massachusetts, New England, and the United States. In fact, I am from New England, and anybody who has had to go through Boston over the years, before the artery, can see why they need to do something, and this is a major national project but it is also the most expensive highway project in the United States.

Now, as shown in this chart, back in 1985 the artery was estimated to cost $2.6 billion. That cost may now be as much as $13.6 billion. The Federal share is understood to be about $8.5 billion.

In our draft report last October we reported on artery cost overruns and said if cost overruns continued another $140 million would be added to the previously reported $10.8 billion cost. We also disagreed with an $826 million insurance credit that the project claimed it would receive in 2017. Why did we do this? We disallowed the credit because it was based on the improper retention of Federal funds for investment purposes. We concluded the cost of the project was about $11.8 billion, with the potential to go to around $13 billion back in October.

In late October, the Highway Administration and the Central Artery officials vehemently rejected our warnings and findings and claimed that the cost increases were unlikely. “Totally unsupported” were among the words the Artery used to characterize our work.

The CHAIRMAN. And who were those individuals, Mr. Mead?

Mr. MEAD. The letter was signed by the project director, a gentleman named Mr. Moynihan.

The CHAIRMAN. Who is still working there, is that right?

Mr. MEAD. Yes. I do not know, though, who the individuals were who contributed to the specific content of that letter. I should hasten to add that, subsequent to the disclosures in February, Mr. Moynihan personally came to Washington. He met with me and I think in a very statesmanlike way extended an apology for this letter, and I would want to put that on the record.

The CHAIRMAN. Did he issue a public apology?

Mr. MEAD. I guess I have just made it public.

[Laughter.]

The CHAIRMAN. No, I mean, he sends a letter that is distributed to all the media rejecting your findings, and then he comes to you and meets with you privately to apologize. There is a little bit of an imbalance there, but please proceed.

Mr. MEAD. I think they said publicly they thought the letter was overly vitriolic.

Senator KERRY. What was the gap between receipt of the letter and the visit?

Mr. MEAD. Months. I believe we received the letter in December, or late October, in late October, and the visit was in—I believe in March.

Senator KERRY. So only after the issue had become public?

Mr. MEAD. Yes, sir.

Senator KERRY. Thanks.

The CHAIRMAN. Go ahead.

Mr. MEAD. Their response, though, was so adamant. I mean, both the Highway Administration and the Artery coming back saying we were all wet, totally unsupportable, disagreement with recommendations. It just seemed so fundamental that we took the unusual step of not releasing the report and sending our staff back to revalidate the data.

The CHAIRMAN. Could I give you a quote? “Your draft report espouses a backward-looking management technique that is unworkable and shows a fundamental lack of understanding of how a multi-billion megaproject needs to be managed.”

Mr. MEAD. Yes. Those were also among the words used.

The CHAIRMAN. I am quoting from the letter to you.

Mr. MEAD. Well, we went back to revalidate the numbers and we found the cost trends were not only continuing but were getting worse. For example, contract awards were exceeding budget by 38 percent rather than the 24 percent we found in our earlier audit work.

We were just finishing up this work when on February 1, the Federal Highway Administration approved the Central Artery’s finance plan. Later that very day, the Central Artery project manager surprised FHWA with the revelation that cost would go up by $1.4 billion. This was the very same day, as I said, that the Highway Administration approved, it turns out without analysis, the Artery’s finance plan, which made no disclosure of these costs.

Incredibly, this finance plan was approved, and it did not even say how much the project would cost. Now, most finance plans, you would think, would have some reference to what the cost of the project would be.

The CHAIRMAN. Who signed off on that?

Mr. MEAD. I do not recall the official. It may have been the project manager. I do not recall specifically, sir. You mean in Washington?

The CHAIRMAN. Yes.

Mr. MEAD. It would be the project manager for the Artery, who has since been reassigned.

Well, we now know that senior Artery——

The CHAIRMAN. Can I just clarify, the Federal project manager or the State project manager?

Mr. MEAD. The Federal project manager.

Secretary SLATER. And I should add here, if I may, that that is why the recommendation of the task force was so important to remove that responsibility and authority from the division office to the headquarters office so that we would have much more oversight on that particular process.

The CHAIRMAN. Thank you.

Mr. MEAD. Well, we now know that the senior Artery project managers were well aware costs were increasing very significantly when they replied to our draft report and deliberately withheld that information. It is still open to me, Mr. Chairman, as to exactly when they knew of the magnitude of this increase. I am pretty reasonably certain they knew of it, the magnitude, back when the response to our report was filed, but this is a serious breach of their due-diligence duties to the citizens of Massachusetts and taxpayers in general, and the Federal Government.

Now, how could this happen? I cannot speak to the inner workings of the Central Artery management. I can to the Federal Highways. Federal Highways has over the years viewed States as its partners, and that is fine so long as the partnership works. But they rely on trust and perform very little independent analysis of the data they are given. In the case of the Artery, the financial analyst assigned to the Massachusetts Division Office did not even review the project's finance plan.

The alarming fact here, as the Secretary's task force pointed out, is that the Highway Administration's oversight on the Central Artery, which is what we are focusing on today, that oversight went beyond the Highway Administration's normal oversight efforts on large projects, so this is obviously an issue that transcends just the Central Artery.

The Secretary used the words, "trust, but verify" and I think that captures in a nutshell the approach that should be taken. Unless that lesson's learned, the problems that have occurred on the Central Artery will likely be repeated not just on the Artery but on other large infrastructure projects.

We have also recommended that the Highway Administration issue guidance on financial plans prepared by the States, and verify their accuracy. The current guidance, Mr. Chairman and Senator Kerry, is woefully inadequate. The Highway Administration initially disagreed with this recommendation. The Secretary directed that it be implemented. The key now is going to be follow-through.

Now, let me speak to the matter of a balanced State highway program and the use of Federal funding for what is called "advanced construction." This is an important issue, and it was alluded to by both of you in your opening remarks, and of course the Secretary. The State has promised—this is not in law, but the State has promised that it will spend no more than half of its Federal apportionment on the Central Artery after 2002. I think right now we are in the neighborhood of 65 to 70 percent of the Federal apportionment, but after 2002 they are saying no more than half.

The State has also committed, in addition to not spending more than half of its Federal apportionment, to spend at least $400 million to maintain a balanced State program. Now, I think the State needs to define exactly what a balanced program means. For example, does it include snow removal, and State Highway Administration costs, or does all the money go to hard construction and hard maintenance?

What is the particular mix that the State anticipates between Federal and State funds? And, are we talking about commitments, budget authority, actual cash outlays, or exactly what? I understand the principals are meeting on this, but it is very important, because 2 years from now people are going to say, well, we agreed to a balanced State program, and it is important that we have a benchmark that we are all on the same wavelength.

Now, I want to mention this advance construction, which is very important to this issue. Under advance construction, highways authorize the State to proceed with work in advance of the State receiving its highway apportionment. The State pays for the work with its own or borrowed money—usually borrowed money—and then pays it back out of future Federal highway apportionments. If you see this chart, this shows what is happening here.

It is like a credit card, where you make a charge and you pay it off with later salary payments you get. As shown in this chart, in reimbursing itself for nearly $1.8 billion of already-approved advance construction, Massachusetts has effectively encumbered nearly 50 percent of its Federal apportionment of Central Artery cost through the year 2011. That is, in fact, 7 years after the scheduled completion of the project. I do not think that fact is commonly known.

Now, what do we think should be done about this? We think Congress ought to consider restricting the use of advance construction which encumbers future Federal highway apportionments to a more finite period, like 3 to 4 years, and that is not just for the Artery. I think it is a national issue, and Congress ought to also require DOT to ascertain that the State will have adequate funding for its entire highway system before it approves advance construction for a particular project like the Artery.

Now, Mr. Chairman, a final topic I would like to address is the project's insurance program. We reported that the project overpaid its insurance premiums by about $130 million from 1992 to 1997. The overpayment occurred in part because the first 3 years' premiums were based on work plans that called for a large number of workers.

Those plans did not materialize, but the overpayments were not returned to the project or the Federal Government. Instead, they were improperly deposited into the project's insurance trust accounts, and these were actually diversified investment accounts—invested in Disney World bonds and a whole variety of things.

They used primarily Federal funds to generate profits that would total $826 million by 2017, when they would be returned to the State. The State was carrying the expected windfall as an offset to project costs. Effectively, what happened here was, the State wanted it both ways. They wanted the Federal money, they said, to pay insurance costs, but then said the money would not be needed for insurance and claimed it as a credit against the total cost of the project, thereby deflating by nearly $1 billion the cost of the project.

We recommended that FHWA require the project to recover the $129 million in overpayments plus interest and dividends earned, which were in the neighborhood of another $30 million, and use the money for current project costs.

The Federal Highway Administration finally agreed to do this. That, too, required intervention of the Office of the Secretary. On April 4, the project's insurance broker reported that the project had, in fact, used $68 million of the $130 million on current project costs and was now auditing that to make sure.

Now, there is one issue that remains outstanding, a very important issue. The Highway Administration has not yet issued a policy to limit Federal contributions to insurance reserves to the amount reasonably necessary to pay the deductible on incurred claims. In the case of the Artery, this issue involves somewhere in the neighborhood of $150 million to $200 million. That is over and above the $130 million that I was referencing before.

Why? We need a policy on this. The policy is needed to ensure that projects do not attempt to draw down Federal funds for investment purposes under the guise that they are needed to pay insurance claims. It is that simple.

So that concludes my oral statement, Mr. Chairman. Thank you very much.

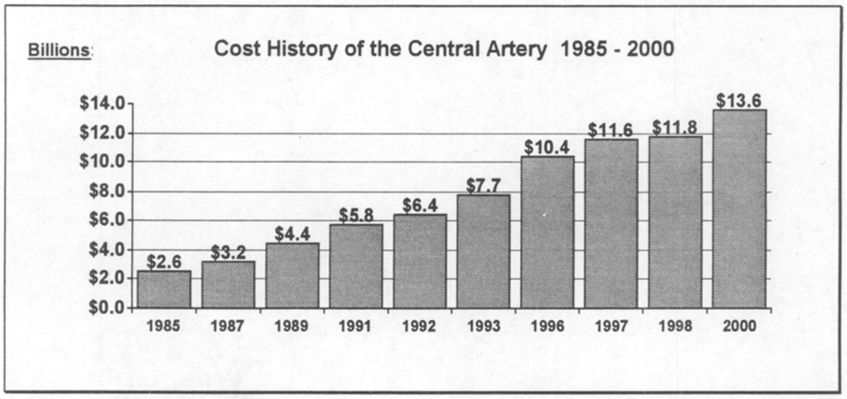
[The prepared statement of Mr. Mead follows:]

PREPARED STATEMENT OF HON. KENNETH M. MEAD, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to be here today to discuss the Central Artery/Ted Williams Tunnel Project (Project). This is the most expensive highway construction project in the United States, and one that is important to Massachusetts and all of New England.

When initially approved in 1985, the Project was estimated to cost $2.6 billion. The latest cost overruns raise the cost to as much as $13.6 billion. The Federal share of that cost is expected to be more than $8.5 billion.



In response to the latest cost increases, the Secretary directed the formation of a Task Force that returned a forthright and pointed report on the failure of oversight on the Central Artery. The Secretary briefed this report to Members of Congress and state officials in early April. The Task Force called for strong action to improve the Federal Highway Administration's (FHWA's) oversight of large infrastructure projects.

We have issued 13 reports on the Project. Our audits have recommended improvements in the Project's cost management, its insurance program, the use of value engineering, and right of way acquisitions, among other things. Attached to our statement is a description of the findings of each of our audits.

There have been several prosecutions involving the Project. However, no significant criminal activity has been found to date. The United States Attorney, Federal Bureau of Investigation, and Office of Inspector General (OIG) are continuing to evaluate various issues concerning the construction management and financial oversight of the Central Artery.

Our testimony today will address:

- the continuing construction cost overruns we found on the Project and how the lack of guidance from FHWA allowed Project managers to avoid disclosing those overruns in the Project's annual finance plans;
- the breach by Central Artery Project managers of their duty to provide financial data to FHWA and OIG;
- the need for FHWA to perform critical, independent oversight to protect the Federal investment in highway infrastructure projects;
- how the use of advance construction could increase Federal exposure on the Project and adversely impact the Massachusetts statewide program; and
- the Central Artery managers' use of its owner-controlled insurance program to draw down unneeded Federal funds for investment purposes and status of efforts to recover past insurance overpayments.

Central Artery Project Costs Have Mushroomed

In our latest review of costs and funding on the Central Artery, we found that cost overruns had added $142 million to the previously reported $10.8 billion cost of the Project. Moreover, we predicted that continuing construction cost trends had the potential to add another $942 million to the cost of the Project. In addition, on May 24, 1999, we disallowed an $826 million insurance "credit" that the Project claimed it could receive in 2017 because we determined it was based on the improper retention of excess Federal funds for investment purposes. Therefore, we concluded the cost of the Project was $11.8 billion with the potential to rise to $12.7 billion.

In late October 1999, FHWA officials and Central Artery Project managers firmly rejected the warnings in our draft report and claimed that future cost increases were unlikely. We sought to reconfirm our analysis, and found that the cost trends we had reported were not only continuing, but worsening, despite FHWA's and the Project's claims to the contrary. For example, our initial review found that contract award amounts were exceeding budget by almost 24 percent. In further investigations, we found that the latest awards had exceeded budget by 38 percent.

As we had warned, on February 1, 2000, Central Artery Project managers revealed that costs would go up by $1.4 billion, including over $900 million in additional construction costs. Besides the construction cost increases, the $1.4 billion included almost $500 million of cost increases in design, right of way, project management, and work done for the project by utilities ("force accounts"). As we now know, Project managers were well aware costs were increasing significantly when they replied to our draft report in October 1999. They deliberately withheld that information. In cost reviews conducted to verify the increases announced by the Project, FHWA estimated the increases would actually total $1.7 billion to $1.9 billion, raising the expected ultimate cost of the Project to as much as $13.6 billion.

Central Artery Failure to Disclose Costs Was Unconscionable

Not only did Central Artery managers fail to disclose cost trends in the 1998 and 1999 Finance Plans, they changed the reporting methodology to avoid disclosing the Project's cost problems. For example, the managers switched from comparing contract award amounts against budgets to comparing the award amounts against an "engineer's estimate" of market prices. As a result, the Project's 1998 Finance Plan did not disclose that contracts were exceeding budget by an average of almost 24 percent. The failure of Central Artery managers to disclose known costs in the Project's finance plans, to us during our review, or in response to our draft report, was a serious breach of their due diligence requirements.

Project managers were able to manipulate the cost data reported in the finance plans because FHWA's guidance on finance plans is woefully inadequate to ensure complete and accurate financial reporting. Guidance on reporting of financial data is essential to avoid repetitions of such problems. We recommended that FHWA issue comprehensive guidance specifying minimum reporting requirements. In its response to our draft report, FHWA disagreed with the need for guidance, and stated, "We do not believe it is desirable to be overly prescriptive as to what specific metrics are used."

However, on February 17, Secretary Slater overruled FHWA and directed that all our recommendations be accepted and implemented. At a minimum, FHWA's guidance should require that finance plans:

1. Include the assumptions underlying both cost and revenue estimates;
2. Report how the Project is doing at staying on budget (e.g., by reporting the "actual cost of work performed" and comparing that figure to the amount that was budgeted for the work);
3. Clearly describe cost trends (e.g., provide the rate at which cost increases are being incurred as work is performed; explain how contract award amounts have compared to the budget) and the potential impact of those trends on Project costs;
4. Identify measures being taken to monitor and control costs (e.g., value engineering);
5. Identify sources of funding that can be used if costs rise or other anticipated funding is not received;
6. Identify significant changes to the scope of projects, and the effect of these changes on the cost and capacity of the project (costs reductions in which costs are simply moved to third parties should be clearly explained); and
7. Identify the grantee's plan for financing existing operations during construction of new or extended segments, as well as its plans for financing all operations, both new and existing, once construction is complete.

FHWA's Alarming Lapse of Oversight

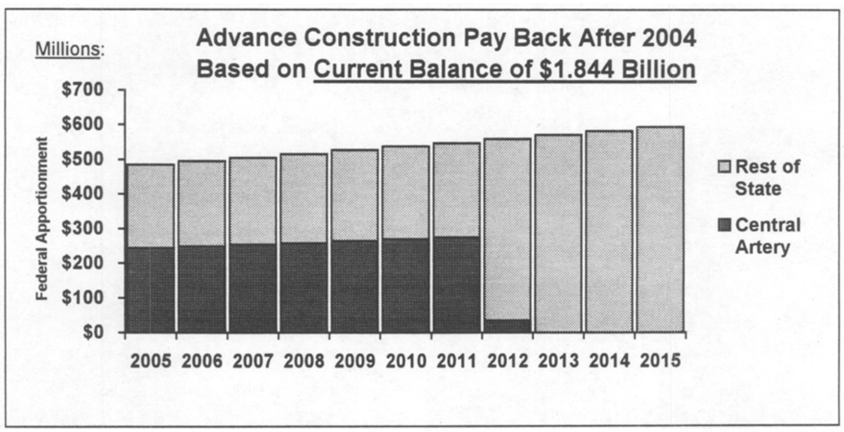
FWHA's approach to oversight is to view the states as its "partners." As a result, it performs very little independent analysis of the data provided by the states. Because this approach failed in the case of the Central Artery, the credibility of both FHWA and the Project has been damaged and senior managers in both organizations have been removed from their positions. The delays in reporting the cost increases also prevented the involvement of Federal officials at an earlier stage when there may have been more options for addressing the cost problems.

The lesson to be learned from the recent events is that FHWA needs to provide critical and objective oversight to protect Federal interests on large infrastructure projects. This situation could have been avoided if Federal officials responsible for the Project had closely examined the finance plans and independently verified data they were provided. FHWA did not even have the Project's revised finance plan reviewed by the financial analyst on the FHWA Massachusetts Division staff. A sobering aspect of the recent events is that the FHWA's oversight on the Central Artery went beyond that agency's normal oversight efforts. We believe FHWA should adopt a "trust but verify" approach, and recommended that FHWA independently verify financial data provided by the state.

In response to our recommendations, the Secretary, to his credit, took strong action to improve FHWA's oversight and protect the Federal investment in this project. Most visibly, he directed the formation of the Task Force that returned a forthright and pointed report on the oversight of the Central Artery that the Secretary briefed to Members of Congress and state officials in early April.

Advance Construction Could Raise Federal Contribution to $9.5 Billion

The state is using a financing tool called "advance construction" in which FHWA authorizes the state to proceed with work for which Federal funds are not currently available, pay for it out of state funds, and then reimburse itself out of future Federal highway apportionments. Currently authorized advance construction will leave a $1.8 billion balance to be reimbursed after the Project ends in 2004. In its 1999 Finance Plan, the state promises that it will spend no more than 50 percent of its Federal apportionment on the Central Artery after fiscal year 2002. Assuming moderate 2 percent increases in annual apportionments, the state could be spending half of its Federal apportionment reimbursing itself for Central Artery costs through the year 2011, or 7 years after the scheduled completion of the Project.



Massachusetts has also indicated it may request approval for $936 million more in advance construction on the Central Artery, and FHWA has indicated it may approve up to $222 million of that amount. That would add another year to the payoff period. If the full $936 million request is approved, it could extend the payoff into the year 2015, and increase the ultimate Federal contribution to the Central Artery to almost $9.5 billion.

Massachusetts has also reiterated its commitment, as a condition for FHWA acceptance of the Central Artery finance plan, to maintain a "balanced Statewide Road and Bridge Program." Under this commitment the state is to spend at least $400 million (including both Federal and state funds) on road and bridge projects throughout the state. In the Department of Transportation Appropriations Bill for 1999, Congress expressed concern that, notwithstanding the state's commitment, programmed funding in the Massachusetts' transportation improvement program would provide only $16 million for interstate maintenance for 6 years.

We have two concerns. First, the continuing use of advance construction increases the Federal exposure on this Project. Second, notwithstanding Massachusetts stated commitment to "balanced" spending, dedicating half of the state's Federal apportionment to the Central Artery for such a long period may impair the state's ability to maintain and develop the highway system within the state.

We suggest that Congress consider limiting the use of advance construction to amounts that can be converted within a specified time (e.g., 3 or 5 years after project completion) using a limited portion of the state's annual apportionment. We also suggest Congress establish that no advance construction may be approved unless FHWA ascertains that the state has demonstrated in its transportation improvement program that adequate funding will remain in each year not only to operate (e.g., mowing and snow removal), but to maintain and develop the highway system throughout the state (e.g., resurfacing, rebuilding, and new construction). The program should include specific funding levels and projects to meet the state's commitment. FHWA should then monitor the performance of the state at accomplishing the planned projects, and report on that progress annually.

Central Artery Overpayment of Insurance Premiums

On May 24, 1999, we reported that the Project overpaid workers compensation and general liability insurance premiums by approximately $129.8 million dollars from 1992 to 1997 (Report Number TR–1999–104). The overpayment occurred in part because premiums for policy years 1992 through 1995 were based on work plans that called for a large number of workers. Those plans did not materialize, but the premiums were not reduced to reflect the actual lower number of workers. The overpayments were deposited into the Project's insurance trust accounts as collateral against future claims. Although expected claims did not materialize (in part because the workers were not hired), trust levels were never adjusted to remove excess funds as required by Federal regulations. Instead, the funds were kept invested in a diverse portfolio of securities (e.g., Walt Disney, Wal-Mart, General Electric, and US Treasury notes).

The state planned to keep the overpayments we identified, along with other excess funds, in the trust until the year 2017. According to the state, in 2017 it expected the trust fund balance to reach $826 million. The state was carrying the expected credit as an offset to current Project costs. Massachusetts also indicated it planned to use the cash to fund other highway projects in the state when it received the money. We determined that the state cannot both claim it needs Federal money to pay insurance costs and that it will receive a return of $826 million from the investment of those funds.

We recommended FHWA require the Project to recover the $129 million in overpayments, plus interest earned, and use the money for current Project costs. We also recommended that the balance of the trust be adjusted to appropriate levels on a regular basis, and that FHWA issue policy to ensure any future overpayments are immediately recovered and applied to current costs or returned to the U.S. Treasury. On September 13, 1999, FHWA agreed with our recommendations.

On April 4, 2000, the Central Artery's insurance broker provided information that indicated the Project has used $67.8 million of the past overpayments to make scheduled payments. FHWA and OIG are currently reviewing the documentation provided to support this use of the $67.8 million. We will continue to monitor the state's use of the past overpayments.

FHWA has not yet issued a policy to limit Federal contributions to insurance reserves to the amount needed to pay incurred claims. FHWA is in the process of contracting for a consultant to advise it on the Central Artery insurance program and other insurance matters. FHWA's current target date for issuing the policy is July 31, 2000. The policy is still needed to ensure this and other highway construction projects do not attempt to use Owner Controlled Insurance Programs as a means of drawing down Federal funds for investment purposes.

Background

The Massachusetts Central Artery/Ted Williams Tunnel Project is the most expensive highway construction project in the nation. Planning for the Project began in 1981, the Project was initially approved in 1985, and construction was authorized to begin in 1991. The Project is scheduled to be completed in 2004. The Project will replace Boston's deteriorating, elevated Central Artery (part of Interstate 93) with a modern underground expressway, and will extend the Massachusetts Turnpike to Logan Airport through the new Ted Williams Tunnel under Boston Harbor. Federal government reimbursements to the Massachusetts Highway Department for the program range from 80 to 90 percent of the costs of the Project. This is a significant project, not only for its role in New England's transportation infrastructure, but for the economic benefits and cost impacts it presents to residents of Massachusetts.

Central Artery Project Costs Have Mushroomed

On October 7, 1999, we issued a draft report on the cost and funding of the Project to FHWA and to Central Artery Project managers. We found that continuing cost overruns had added $142 million to the previously reported $10.8 billion cost of the Project. We also identified that the Project was experiencing continuing increases in construction costs that it was offsetting with scope reductions and other cost containment measures.

Our audit documented that construction contract awards on the Project were exceeding budget by almost 24 percent, and construction costs were increasing after award by over 21 percent. The financial data made available to us during our review covered the period from July 1, 1997 to April 30, 1999. That data showed construction costs increased by a total of $827 million, including more than 3,000 individual contract changes. The Project had offset $638 million of those increases with money from its construction contingency accounts, as well as reductions in the scope of future construction work and other costs. We warned that, unless Project managers recognized and corrected these construction cost growth trends, there could be an additional $942 million in construction costs before the scheduled completion of the Project.

We were concerned that, since the Project design is substantially complete, and contracts for remaining work are soon to be awarded, it was becoming increasingly difficult to identify additional cost reductions on the Project. Therefore, we warned that it was important for FHWA and Project managers to recognize the magnitude of potential future cost increases that could occur if the cost trends continued, and identify additional funding or scope reductions that could be used to offset future cost growth. We also noted that the Project was continuing to claim an $826 million "credit" to be received from its insurance program in 2017. On May 24, 1999, we reported that credit was not allowable because it was based on the improper retention of excess Federal funds for investment purposes. We concluded that the cost of the Project was no longer $10.8 billion, but stood at $11.8 billion with the potential to increase further.

In late October 1999, FHWA and Project managers firmly rejected the warnings in our draft report and claimed that future cost increases were unlikely. We undertook to reconfirm our analysis, and found that the cost trends we had reported were not only continuing, but worsening, despite FHWA's and the Project's claims to the contrary. For example, during our review we found that contract awards were exceeding budget by almost 24 percent. When we went back to check the latest awards, we found they had exceeded budget by 38 percent.

As we had warned, on February 1, 2000, the Project revealed that costs would go up by $1.4 billion, including over $900 million in additional construction costs. In addition to the construction costs, the $1.4 billion increase included almost $500 million of cost increases in design, right of way, project management, and work done for the Project by utilities ("force accounts"). As we now know, Central Artery Project managers were well aware its costs were increasing significantly when they replied to our draft report in late October 1999. They deliberately withheld that information.

Central Artery Failure to Disclose Costs Was Unconscionable

The failure of the Central Artery to fully disclose cost information to us during our review or in response to our draft report was a serious breach of their due diligence requirements. State officials' claims that they chose not to reveal the cost problems until they could find a solution are unacceptable. Failure to promptly and fully provide cost data when asked by Federal officials may violate terms of their grant agreement that require the state to provide access to information and records. Moreover, the withholding unnecessarily delayed the time when other parties concerned with the Project, including state officials outside the Project as well as Federal officials and Congress, could act to address the rising costs.

There are two primary reasons that Central Artery Project managers were able to hide the increasing costs. First they were able to manipulate the cost data reported in the finance plans because FHWA's August 1998 guidance on finance plans is inadequate to ensure complete and accurate financial reporting. Second, the FHWA Division Office did not critically and independently review information the state provided. FHWA's approach to project oversight is to view the grantees as "partners," and it operates on the presumption that it can trust its partner. Consequently, FHWA performs very little independent analysis to identify emerging problems.

FHWA Guidance Inadequate to Ensure Complete and Accurate Reporting

Finance plans are essential tools that describe how projects will be implemented over time and identify project costs and funding needs. The Transportation Equity Act for the 21st Century requires recipients of Federal-aid funds for projects with an estimated total cost of $1 billion or more to submit annual finance plans to the Secretary. FHWA issued guidance on finance plans in August 1998. Our reviews have found the quality of finance plans developed for highway projects depends on the project sponsor. To illustrate, we found that Utah's Department of Transportation developed a reliable estimate of costs and revenues to construct and fund the Interstate-15 Reconstruction Project in Salt Lake City.

As our report revealed, the 1998 and 1999 Finance Plans for the Central Artery failed to disclose cost trends on the Project. To the contrary, we found the Central Artery actually changed its reporting methodology to avoid disclosing the magnitude of the Project's cost problems. For example, by switching from comparing contract awards to how much was budgeted for the contract to comparing the awards to an "engineers estimate" of market prices, the Project's 1998 Finance Plan avoided disclosing that contracts were exceeding budget by an average of almost 24 percent. The Central Artery went so far as to eliminate the total cost of the Project from the October 1999 Finance Plan update it provided to FHWA in January 2000. Such manipulations were possible because FHWA's guidance established no uniform or minimum reporting criteria.

Of particular concern to us is that, even after we had warned FHWA in October 1999 that costs were increasing and that the finance plans were incomplete, FHWA's managers did act to ensure complete financial reporting. In fact, FHWA did not even have the Project's revised finance plan reviewed by the financial analyst on the FHWA Massachusetts Division staff. FHWA accepted the Project's inadequate finance plan on February 1, 2000, with only a caveat that the Project should identify funding to meet a $500 million shortfall that FHWA knew about. Later that same day, the Central Artery announced the $1.4 billion cost increase. It is incredible that FHWA would pay little attention to the warnings we provided, but accept without any analysis the finance plan submitted by the Central Artery.

We recommended that the FHWA issue more comprehensive guidance that would specify minimum reporting requirements. We recommended that FHWA issue comprehensive guidance specializing minimum reporting requirements. In its response to our draft report, FHWA disagreed with the need for guidance, and stated, "We do not believe it is desirable to be overly prescriptive as to what specific metrics are used."

On February 17, 2000, Secretary of Transportation Rodney Slater issued a press release in which he overruled FHWA and directed that all OIG's recommendations be accepted and implemented. At a minimum, finance plans should:

1. Include the assumptions underlying both cost and revenue estimates;
2. Report how the Project is doing at staying on budget (e.g., by reporting the "actual cost of work performed" and comparing that figure to the amount that was budgeted for the work);
3. Clearly describe cost trends (e.g., provide the rate at which cost increases are being incurred as work is performed; explain how contract award amounts have compared to the budget) and the potential impact of those trends on Project costs;
4. Identify measures being taken to monitor and control costs (e.g., value engineering);
5. Identify sources of funding that can be used if costs rise or other anticipated funding is not received;
6. Identify significant changes to the scope of projects, and the effect of these changes on the cost and capacity of the project (costs reductions in which costs are simply moved to third parties should be clearly explained); and
7. Identify the grantee's plan for financing existing operations during construction of new or extended segments, as well as its plans for financing all operations, both new and existing, once construction is complete.

Inadequate FHWA Oversight on Large Infrastructure Projects

Since 1955, the Nation has made a significant investment in our National Highway System. Although the interstate highway system is virtually complete, FHWA is still responsible for overseeing more than $28 billion in annual funding to maintain and expand our national highways. Capable, independent Federal oversight is essential to protect the investment in the National Highway System. A sobering aspect of the recent events is that the FHWA's oversight on the Central Artery went beyond that agency's normal oversight efforts. This is not the only recent instance where FHWA failed to exert sound oversight. The creation of the new Federal Motor Carrier Safety Administration was a direct result of a continuing lack of effective oversight activity by FHWA.

FHWA views its relationship with the state highway departments as a "partnership." In our opinion, FHWA's partnership approach to oversight relies too much on unsubstantiated information provided by project management officials. Therefore, on a larger scale, we believe FHWA should move to a "trust but verify" management approach that would focus less on project advocacy and more on critical and objective oversight to ensure the maximum benefit for all Federal transportation funding.

The events surrounding the recent cost increases on the Central Artery Project illustrate what can happen when effective independent oversight is lacking. FHWA

Division Office staff chose to rely on information from their state partners and rejected our October 1999 warnings of potential construction cost increases on the Project and our call for better guidance on finance plans. Just 3 months later, on the same day FHWA accepted a revised finance plan from the Project, the Central Artery surprised FHWA by announcing a $1.4 billion cost increase.

As a result both FHWA and Central Artery/Ted Williams Tunnel Project management are now faced with a loss of credibility. Senior managers in both FHWA and the state have been moved or removed from their positions. The delays in reporting the cost increases also prevented the involvement of Federal officials at an earlier stage when there may have been more options for addressing the cost problems. This situation could have been avoided if Federal officials responsible for the Project had closely examined the finance plans and independently verified data they were provided.

FHWA has a duty to ensure the proper stewardship of Federal funding provided to the states. To ensure that the National Highway System is maintained and developed to the maximum extent possible with available funding, FHWA officials must actively seek to keep abreast of the progress of projects and programs in the states, and to independently verify information they are provided. FHWA must not wait for problems to emerge before acting. FHWA must not lose sight of the Federal goals it is responsible to achieve, and must temper its reliance on state partners with judicious independent oversight. Our recommendation to FHWA was that the FHWA Division Office be required to independently verify the data provided by the state.

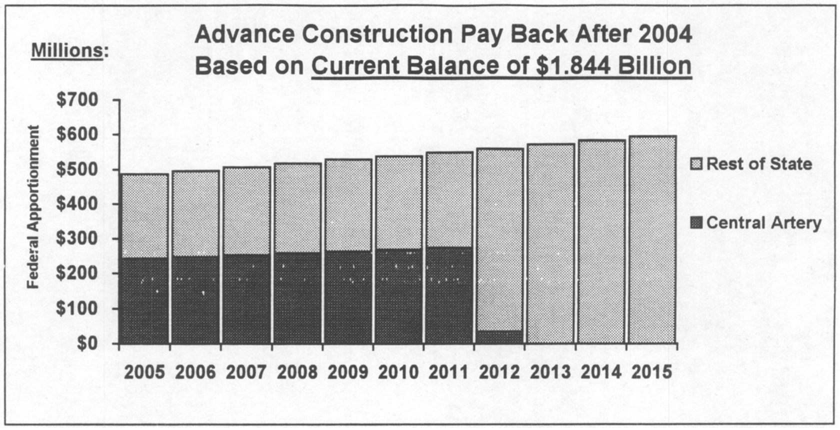
In response to our recommendations, the Secretary, to his credit, took strong action to improve FHWA's oversight and protect the Federal investment in this Project. Most visibly, he directed the formation of the Task Force that returned a forthright and pointed report on the oversight of the Central Artery that the Secretary briefed to Members of Congress and state officials in early April. Senior FHWA managers were reassigned to provide fresh leadership to the Project. The Secretary also directed FHWA to revise its policy on financial reporting. At the Secretary's direction, FHWA is reviewing its project oversight process. Based on the results, FHWA should strengthen its oversight program.

Advance Construction Could Raise Federal Contribution to $9.5 Billion

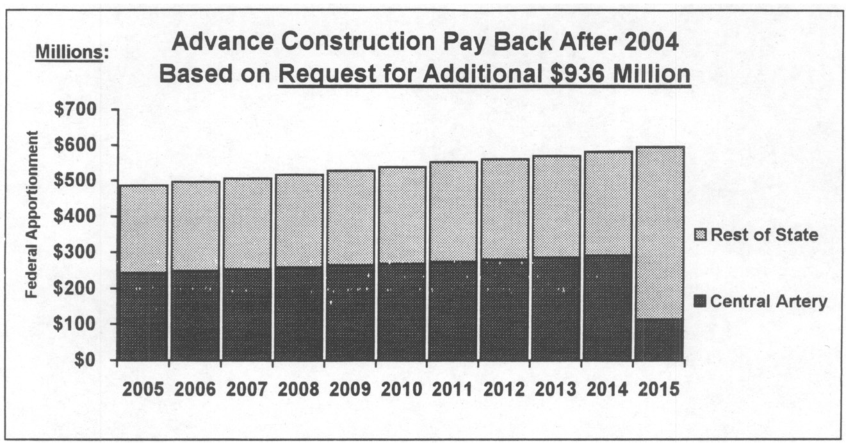
In addition to monitoring the current use of funds, FHWA must also monitor the impact of large projects on states' cash flow and long-term financial commitments. One financing tool that can have a long-term impact is the use of advance construction. Under advance construction, FHWA authorizes a state to proceed with work for which Federal funds are not currently available, pay for it out of state funds, and then "convert" the cost to Federal by reimbursing itself out of future Federal highway apportionments. FHWA's approval does not increase the current funding available to the Project, nor guarantee that future Federal apportionments will be forthcoming. However, there are no time limits on how long the state has to convert these costs to Federal funds.

We have noted that the amount of advance construction FHWA has already authorized will prove to be a long-term drain on the Federal funding provided to the state from the Highway Trust Fund. Additional approvals of advance construction hold the potential to further increase the Federal cost exposure on the Central Artery.

We examined how long it may take the state to reimburse itself for the advance construction that FHWA has already approved. The Central Artery's 1999 Finance Plan notes that, as of January 2000, the Massachusetts' outstanding balance of approved advance construction was $2.9 billion, of which $2.8 billion was related to the Central Artery. Estimates in the 1999 Finance Plan indicate that about $1.8 billion of the Project's advance construction balance will remain outstanding at the conclusion of the Project in 2004. The 1999 Finance Plan also promises that, after 2002, Massachusetts will spend no more than 50 percent of its Federal apportionment on the Central Artery. Assuming the state's apportionment rises by a moderate 2 percent annually after 2003 and the state's annual obligation limitations remain at 87 percent of the apportioned amount, the state could be spending half of its Federal apportionment on the Central Artery through the year 2011, or 7 years after the Project is scheduled to be completed.



Moreover, according to the Project's 1999 Finance Plan, Massachusetts plans to request approval for $936 million more in advance construction on the Central Artery. FHWA has indicated that the Department may approve up to $222 million of the requested amount. If an additional $222 million is approved, it will add another year to the payoff period. If the full $936 million request is approved, the Federal contribution to the Central Artery will eventually total almost $9.5 billion when all those costs are reimbursed out of future Federal apportionments, and it will extend the payoff period for advance construction into the year 2015, which is 11 years after the Project's scheduled completion.



Massachusetts has also reiterated its commitment, as a condition for FHWA acceptance of the Central Artery finance plan, to maintain a "balanced Statewide Road and Bridge Program." Under this commitment, the state is to spend at least $400 million (including both Federal and state funds) on road and bridge projects throughout the state. In the Department of Transportation Appropriations Bill for 1999, Congress expressed concern that, notwithstanding the state's commitment, programmed funding in the Massachusetts' transportation improvement program would provide only $16 million for interstate maintenance for 6 years.

Advance construction can serve a valid purpose in allowing states to manage their cash flow to accomplish costly projects in a timely manner. However, excessive or irresponsible use of advance construction can place a long-term burden on the funding provided to maintain the nation's highway system. We are concerned that the continuing use of advance construction increases the Federal exposure on this project. In addition, we are concerned that committing half of the state's Federal apportionment to the Central Artery for such a long period may impair Massachusetts' ability to maintain and develop the entirety of the National Highway System within the state.

It is FHWA's duty to ensure that the National Highway System is maintained and developed. Meeting that responsibility is critical to the continued economic growth of the nation, as well as to achieving the safety and mobility goals of the Department. FHWA has delegated to each state the responsibility for implementing a highway program, and requires the states to develop transportation improvement programs to define how they will accomplish that responsibility. If Federal funds remaining after advance construction conversions in future years are inadequate to maintain and develop the National Highway System roads in the state, future Massachusetts taxpayers and the Congress will be faced with difficult choices for funding the state's highway program.

To avoid the potential for further Federal exposure on this Project, as well as to prevent other states from spending future apportionments to the extent seen on the Central Artery, we suggest Congress consider limiting the use of advance construction. For example, Congress could limit advance construction to no more than the state can convert in a specified time (e.g., 3 to 5 years after project completion) using a limited portion of the state's Federal apportionment. We also suggest Congress establish that no advance construction may be approved unless FHWA ascertains that the state has demonstrated in its transportation improvement program that adequate funding will remain in each year not only to operate (e.g., mowing and snow removal), but to maintain and develop the highway system throughout the state (e.g., resurfacing, rebuilding, and new construction). The program should include specific funding levels and projects to meet the state's commitment. FHWA should then monitor the performance of the state at accomplishing the planned projects and report on that progress annually.

Central Artery is Applying Past Overpayments to Current Premiums

On May 24, 1999, we reported that the Project overpaid workers compensation and general liability insurance premiums by approximately $129.8 million dollars from 1992 to 1997 (Report Number TR–1999–104). The overpayment occurred in part because premiums for policy years 1992 through 1995 were based on work plans that called for a large number of workers in order to complete the Project by 1998. Those plans did not materialize. Consequently, because premiums are based on the number and type of workers employed, the premium estimates were too high. However, the premiums were not recalculated to reflect the actual lower number of workers.

The overpayments were deposited into the Project's insurance trust accounts as collateral against future claims. The expected claims did not materialize, in part because the workers who would have filed the claims were never hired. However, trust levels were never adjusted to remove excess funds as required by Federal regulations. Instead, the funds were kept invested in a diverse portfolio of securities (e.g., Walt Disney, Wal-Mart, General Electric, and US Treasury notes).

The state planned to keep the overpayments we identified, along with other excess funds, in the trust until the year 2017. According to the state, in 2017 it expected the trust fund balance to reach $826 million. The state was carrying the expected credit as an offset to current Project costs. Massachusetts also indicated it planned to use the cash to fund other highway projects in the state when it received the money. We determined that the state cannot both claim it needs Federal money to pay insurance costs and that it will receive a return of $826 million from the investment of those funds.

We recommended FHWA require the Project to recover the $129 million in overpayments, plus interest earned, and use the money for current Project costs. We also recommended that the balance of the trust be adjusted to appropriate levels on a regular basis, and that FHWA issue policy to ensure any future overpayments are immediately recovered and applied to current costs or returned to the U.S. Treasury.

Although they initially agreed with their state partners and rejected our recommendations to recover the overpayments, on September 13, 1999, FHWA agreed with our recommendation to require the Central Artery to recover and use past overpayments on the Project. FHWA proposed allowing the Project to use the balance of the overpayments and accrued interest to pay the premiums for policy years 1999/2000 and 2000/2001. OIG and FHWA also agreed to allow credit for any "past use" of overpayments to pay premiums between the end of our audit and the date of the agreement. Finally, FHWA agreed to issue guidance to ensure insurance reserves for owner-controlled insurance programs do not exceed allowable amounts, and that any premium adjustments are immediately used for other approved costs or returned to the Federal government.

Information provided by the Central Artery's insurance broker on April 4, 2000, indicates the Central Artery has used excess reserves to make scheduled payments of:

- $12.3 million on August 1, 1999;
- $13.2 million on December 1,1999; and
- $13.2 million on February 1, 2000.

The state also is claiming "past use" credit for

- an $8.5 million reduction in the Project's 1997/1998 premium;
- a payment of $7.2 million made with funds from the trust on August 1, 1998; and
- a payment of $13.5 million on December 1, 1998.

The state's claimed use of past overpayments is $67.8 million to date. FHWA and OIG are currently reviewing the documentation provided to support this use of the $67.8 million.

FHWA has not yet issued a policy to limit Federal contributions to insurance reserves to the amount needed to pay incurred claims. FHWA is in the process of contracting for a consultant to advise it on the Central Artery insurance program and other insurance matters. FHWA's current target date for issuing the policy is July 31, 2000. The policy is still needed to ensure this and other highway construction projects do not attempt to use Owner Controlled Insurance Programs as a means of drawing down Federal funds for investment purposes.

Mr. Chairman, this concludes our statement, I would be pleased to answer any questions.

Attachment

DEPARTMENT OF TRANSPORTATION
OFFICE OF INSPECTOR GENERAL

Audit Coverage of Central Artery/Ted Williams Tunnel

Report on Current Costs and Funding of the Central Artery/Ted Williams Project (Report Number TR–2000–050, February 10, 2000)

The review objectives were to determine the current cost and funding of the project and evaluate the Massachusetts Turnpike Authority's 1998 finance plan. We determined that the cost of the project as of April 30, 1999, was $11.8 billion rather than the $10.8 billion shown in the project's 1998 finance plan. Furthermore, if construction costs are not controlled or offsetting cost reductions are not identified, the potential existed for costs to increase by another $942 million.

We recommended the Federal Highway Administrator require project managers to: 1) identify specific additional funding or cost reductions to meet the funding shortfall, and 2) locate additional funding or cost reductions (i.e., scope reductions or potential cost savings) to offset potential future cost increases. We also recommended that FHWA: 3) revise its guidance for reporting financial data to include specific reporting criteria, and 4) require that projects disclose significant changes to the project scope in their annual financial plans. Finally, in light of the failure of FHWA to identify the impending cost increase on the Central Artery, we recommended that FHWA require the Massachusetts Division: 5) perform reasonable independent validation of all project status and cost data before agreeing with or making decisions based on information provided by the Massachusetts Turnpike Authority. FHWA concurred with all of our recommendations.

Overpayments of Premiums for Central Artery Project's Owner-Controlled Insurance Program

(Report Number TR–1999–104, May 24, 1999)

The audit objective was to determine whether the workers' compensation and general liability portions of the program were effective in reducing the overall cost of the project's insurance. We identified overpayments of Federal funds (including accrued interest) totaling $150 million. We recommended the FHWA: 1) recover the $150 million Federal share of the premium overpayment and interest earned related to payments made through 1997, as well as, any further overpayments and interest that have since accrued; 2) determine actual insurance requirements annually and ensure overpayments involving Federal funds are recovered; and 3) review its policy for insurance reimbursement and establish guidelines to ensure future overpayments of insurance premiums are recovered.

FHWA has agreed to the following: 1) The premium adjustments and interest related to these adjustments will be used to make scheduled Owner Controlled Insurance Program (OCIP) worker's compensation estimated premium payments due for the next policy year, starting November 1, 1999, and for the next policy year beginning November 1, 2000. 2) All remaining premium adjustments in excess of the amount needed to make the payments specified in above item #1, plus any amount of the adjustments already used to make premium payments for policy years 1997–98 and 1998–99, will be immediately returned to the project and used to pay project costs, or credited to the State's Federal-aid account. 3) FHWA will issue a policy on insurance programs that ensures the Federal share of premium adjustments on highway projects is immediately applied to other project costs or credited to the State's Federal-aid account, and that reserve accounts do not exceed allowable amounts.

Report on the Central Artery/Ted Williams Tunnel Project

(Report Number: TR–1998–109, April 3, 1998)

Our objective was to audit the cost and financing for the Central Artery/Ted Williams Tunnel Project. Based on our analysis of historical project costs, we determined that the project cost could increase to $11.2 billion, if stringent cost containment methods are not enforced. This increase is based on potentially higher-than-budgeted costs for change orders, contract awards, and consultants.

We made 4 recommendations for the Federal Highway Administrator. First, instruct the State to aggressively pursue cost-containment goals. Second, closely monitor the State's progress toward achieving its cost-containment goals. If these goals are not met, and project costs rise above the current estimate, FHWA should promptly require the State to identify additional sources of revenue and notify the appropriate Congressional committees of the situation. Third, ensure the State carries out the balanced transportation infrastructure program statewide, as specified in its finance plan for the project. Finally, continue to submit periodic updates of the State's finance plan to the Office of Inspector General for review.

We also made two recommendations to the Secretary of Transportation. First, determine if project cost estimates should include the costs and credits from owner-controlled insurance for projects in which it is used. If those costs are to be included, the Secretary should instruct the Operating Administrations to issue appropriate guidance. Second, determine if project cost estimates should include the interest expense of grant anticipation notes. If those costs are to be included, the Secretary should instruct the Operating Administrations to issue appropriate guidance and develop a methodology for assessing their effects on the feasibility of proposed and future projects. FHWA concurred with the recommendations.

Management Advisory Memorandum on Relocation of Utilities, Central Artery/Third Harbor Tunnel

(Report Number R2–FH–7–025, August 12, 1997)

The audit objective was to evaluate FHWA oversight of costs associated with the relocation of utilities on the project. Our Management Advisory Memorandum notes our concern that FHWA had continued to rely on the State's oversight, despite the State's emphasis on its own interest, as noted in our prior audits on the project and again in the relocation of a electrical power company substation. In addition, we reaffirmed our longstanding position that Federal funds should not be used to pay for inefficiencies and diseconomies resulting from local project decisions not supported by demonstrated need. In our opinion, Federal participation was not justified. We recommended FHWA reconsider its participation in the costs for the electric company's substation, and increase its oversight of relocation of other utilities on the project. The recommendations have been closed out.

Quality of Construction, Central Artery/Third Harbor Tunnel
(Report Number R2–FH–7–007, December 19, 1996)

The audit objective was to evaluate the FHWA oversight of the project's testing procedures to ensure construction was completed in accordance with applicable specifications. We found that FHWA provided limited oversight of the project's testing procedures. Weaknesses were found in the project's quality of workmanship, disposition of failed materials, implementation of the Massachusetts Highway Department's Materials Manual, and completion of material documents and reports.

We recommended the FHWA Administrator: 1) instruct the FHWA Massachusetts Division to strengthen oversight of project testing procedures to ensure construction materials used in the project are in accordance with applicable specifications; 2) not participate in project costs caused by inferior workmanship, and seek reimbursement from the State for any Federal funds already provided for this purpose; 3) emphasize the need for strict compliance with project testing procedures and pertinent regulations, including receipt of credits for failed materials, and do not participate in project costs resulting from overriding contract provisions; 4) require the State to direct Bechtel Civil Inc./Parsons, Brinckerhoff, Quade, & Douglas Inc. (Consultant) to provide the Consultant's Technical Services Department the necessary independence and support to perform effective testing of project construction materials; 5) require the State to ensure that the Consultant responds to Disposition of Materials in a timely and effective manner; 6) ensure that the Massachusetts Division reviews and formally approves all changes to the Materials Manual prior to implementation; and 7) require that, prior to certification, the State ensure that material closeout reports include necessary documentation for all materials that have been tested and incorporated into the project, and review such documentation for compliance with contract specifications. FHWA concurred with the recommendations.

Personal Property Management, Central Artery/Third Harbor Tunnel
(Report Number: R2–FH–6–015, May 1996)

The audit objective was to evaluate FHWA's monitoring of the State's control of personal property purchased by the consultant for the project. We found that FHWA did not provide effective monitoring to ensure the State maintained proper control over personal property. We found $677,165 of project property was not recorded accurately, $39,151 of stolen items was not properly reported, and accountability was not established for more than $500,000 of property.

We recommended that the FHWA Administrator: 1) instruct the Massachusetts Division to provide effective monitoring to ensure the State maintains adequate control over personal property purchased for the project; 2) require the State to designate a properly trained asset manager or coordinator for the project to ensure the consultant uses, manages, and disposes of property in accordance with State laws and procedures; 3) ensure project procedures are strengthened to resolve discrepancies in inventory records, provide complete and accurate physical inventories, and tag property upon receipt; 4) require the State to furnish us a copy of the consultant's reconciliation for project property that could not be located where recorded and property that did not appear on inventory records for the locations where the property was in use; 5) require the State to direct the consultant to establish and maintain a theft log for the project, immediately report stolen property, notify State Police of thefts, and provide adequate safeguards against unauthorized removal of property from project premises; 6) ensure the State directs the consultant to perform physical inventories of project property purchased by subconsultants/subcontractors and establish and maintain accurate inventory reports for such property; 7) seek reimbursement for sales tax and other related costs unnecessarily paid by the consultant and require the consultant to avoid such costs in the future by making purchases through the State Purchasing Agent, whenever possible, or use the tax exempt status provided by the State; and 8) not participate in the additional $2.6 million sales tax, if assessed.

FHWA concurred with the recommendations.

Management Advisory Memorandum on Emergency Rescue Equipment and Services for Central Artery/Third Harbor Tunnel

(Report Number: R2–FH–6–001, October 1995)

The Advisory conveyed our concerns that the State of Massachusetts acquired costly emergency rescue equipment and services for the CA/THT Project without coordinating requirements with other organizations to avoid potential duplication. We found that, due to lack of effective coordination and thorough analysis of requirements, there was unnecessary duplication of costs and Federal participation was not justified for the State's acquisition of emergency rescue vehicles, equipment, training for 250 firefighters, and other related services for the CA/THT Project.

We recommended that the FHWA Administrator: 1) seek reimbursement for the cost of non-CA/THT Project use of emergency rescue equipment and services; (2) not participate in future purchases of emergency rescue equipment and services which exceed reasonable and necessary costs; and (3) not participate in recurring costs for salaries, training, and other operational expenditures which exceed reasonable and necessary amounts.

Construction Contract Changes and Extra Work Orders, Central Artery/Third Harbor Tunnel

(Report Number R2–FH–5–019, July 27, 1995)

The audit objective was to evaluate the adequacy and effectiveness of FHWA oversight of construction contract change orders and extra work orders on the project to ensure the reasonableness of pricing and proper justification for changes. We found that FHWA lacked assurance that $2.2 million of change orders were properly justified prior to approval, and FHWA did not process approvals for up to 7 months. We recommended the FHWA Administrator: 1) require the State to establish and document what constitutes a non-major change order, and, until such definition is established, approve all change orders prior to the start of work; 2) require the State to submit major change order requests before effective dates and assign priority to review of major changes; 3) document advance approval for emergency or unusual conditions and provide formal approval as soon thereafter as practicable. FHWA concurred with the recommendations.

Management Advisory Memorandum on use of Police Details on Central Artery/Third Harbor Tunnel

(Report Number R2–FH–5–012, May 19, 1995)

The advisory informed the Federal Highway Administrator of OIG's concern that Massachusetts was using police details exclusively to direct motorists at construction sites. These details, which use off-duty police for a minimum payment of 4 hours per assignment, cost the project more than would civilian flagmen. Moreover, no other state required 100 percent police details for traffic direction. We recommended that FHWA not participate in the cost of the police details.

Relocation Assistance Activities, Central Artery/Third Harbor Tunnel

(Report Number R2–FH–4–022, July 6, 1994)

The audit objectives were to evaluate FHWA's oversight of relocation eligibility determinations, appropriateness of acquisitions and use of relocation estimates, propriety of mover selections, inspection process to ensure standards were met, and actual relocations to determine whether they were carried out in accordance with Federal regulations. We found weaknesses in FHWA's monitoring of acquisitions, using appropriate relocation estimates, and accomplishing actual relocations in accordance with Federal regulations. Resource availability and inadequate guidance limited FHWA's oversight. FHWA was not aware of a relocation costing $15,000, and the project incurred $54,100 in excess relocation claims and $10,500 in unsupported and ineligible relocation costs. During the audit, FHWA officials agreed to take appropriate action to ensure relocations are carried out in accordance with Federal regulations.

Right-Of-Way Acquisition, Central Artery/Third Harbor Tunnel

(Report Number R2–FH–4–011, March 10, 1994)

The audit objective was to evaluate FHWA administration and oversight of right-of-way (ROW) acquisition activities. We found that due to insufficient FHWA oversight, the Massachusetts Highway Department (State) unnecessarily acquired a $13 million building and $11.8 million of easements and leasehold

> rights. We recommended the FHWA Administrator ensure that Federal funding for ROW is limited to acquisition of property necessary to the final ROW. Furthermore, when the State makes ROW acquisition related decisions based on local political and economic reasons, when feasible and less costly alternatives exist, the Division should limit the Federal share to those costs involved in the lower alternatives. FHWA agreed with the recommendation.

Value Engineering, Central Artery/Third Harbor Tunnel

(Report Number R2–FH–3–027, January 13, 1993)

> The audit objective was to evaluate the effectiveness of FHWA administration and oversight of the value engineering (VE) program. We found that although $400 million in savings resulted from value engineering, an additional $100 million could have been achieved if FHWA and the State had thoroughly and objectively considered technically feasible, but controversial, value engineering recommendations.
>
> We recommended the FHWA Region 1 Administrator: 1) encourage the Division to provide sufficient resources to ensure VE reports are reviewed and finalized promptly; 2) advise the Division to assist the State in resolving management consultant problems timely, so that proper emphasis can be given to finalizing VE reports; 3) encourage the Division to share the project's VE Program Manual with other regions; 4) reemphasize current VE policies and ensure the Division thoroughly and objectively reviews all technically feasible VE recommendations; and 5) direct the Division to seek a higher share from the State for those recommended savings lost because of an arbitrary rejection by the State. FHWA agreed with the recommendations.

Consultant Services, Central Artery/Third Harbor Tunnel

(Report Number R2–FH–1–196, September 17, 1991)

> The audit objectives were to evaluate the adequacy of internal controls, including direct charges to Federal-aid projects, and use of the Massachusetts Department of Public Works (MDPW) pre-award audit function to ensure proposed consultant overhead rates were supported and consultant accounting systems properly accumulate costs by project. We also identified weaknesses in the State's external audit function that impaired its ability to objectively report findings and ensure that project costs were reasonable and proper. We recommended that the FHWA Regional Administrator: 1) withhold all Federal participation in State audit costs for the project until the independence issue is resolved; and 2) require the external auditor to report directly to the MDPW Commissioner and ensure undue pressure is not placed on the external auditor by MDPW management. FHWA agreed with the recommendations.

The CHAIRMAN. Thank you very much, Mr. Mead.

Mr. Secretary, is there a cap on the Federal share of the project costs?

Secretary SLATER. Mr. Chairman, there is a cap. It is true, though, as you have noted, and as Senator Kerry noted, that it is not in the statute or necessarily in writing. However, the agreement that we are fashioning right now, crafting now, will include that kind of specific language. There is the cap, and it is based primarily on what the judgment was, the snapshot was of the project costs, I guess back in 1995, when there was a lot of discussion in the Congress about the national commitment to this project.

Because of the leadership of the Massachusetts delegation we were able to come to the understanding that there would be a Federal cap and that the amount would be roughly $8.5 billion. Up to this point, I think about a little in excess of $5 billion has already been expended on the project.

The CHAIRMAN. Well, I guess I should ask Mr. Mead, do we need legislation? Do we need language? Do we need a written agreement? In other words, is the present situation sufficient? Can the Committee and the Congress be confident that there is indeed an enforceable cap on expenditures?

Mr. MEAD. The present situation is not sufficient. Either the principals have to sign a written agreement, or I would recommend you either require written agreement in so many days, or then you go on to incorporate into legislation, and I would couple that, whatever the cap is—I have heard the $8.5 billion figure mentioned.

I would couple that, though, with an understanding of what we mean by a balanced State program—because in the State of Massachusetts there is a contention that too much money is going to this Artery, and what about the rest of the State? The point I was trying to make through this chart is that the future Federal highway apportionments have been encumbered to the tune of about 50 percent for a number of years, all the way to 2011, I believe. That is why the State needs to have this balanced program, and I would include that in any written agreement or legislation, sir.

Secretary SLATER. Mr. Chairman, if I may, just to continue the line of reasoning, I totally agree with Mr. Mead that a part of any agreement should include the parameters for defining a State-wide program, a balanced, State-wide program. During his remarks, he made reference to the fact that we are actually working with the parties now to come to the common understanding of what a balanced program would be and how we define that, and he is absolutely correct that there is some disagreement, some may argue considerable disagreement about that. But, I do think that we can get to some common understanding, some common ground, on this question, and I do believe that it can be captured in an agreement that all of the parties will sign, and that was a recommendation of the task force, and I think we can accommodate the important interests that are being expressed as it relates to this question.

The CHAIRMAN. Thank you.

Mr. Secretary, when you were Administrator of the FHWA, you and your Deputy, Jane Garvey, instituted a plan to control cost growth on the Central Artery/Tunnel project. As a part of the plan, you announced you would devote appropriate resources to monitoring oversight of the project. The DOT's Project Office within the Massachusetts Division Office offered full staffing, and we were told unprecedented initiatives in a project of this size for the FHWA. Why did the Department fail to identify the recent breakdowns, given the fact that FHWA was fully staffed and fully aware of the cost overrun problems with the megaproject?

Secretary SLATER. Well, Mr. Chairman, there you do underscore a number of important facts. First of all, it is true that I have been involved in this project now for the 7 years I have been a part of this administration, first as Federal Highway Administrator, and then more recently as Secretary. Also, I did have the good fortune of being assisted in that regard by Administrator Garvey, who is currently our FAA Administrator, who was then our Deputy Administrator in Federal Highways.

Mr. Chairman, at that time we did put together I think clearly the pieces, but I have to admit that at that time I believe we thought that just more people would solve the problem. The crux of the issue here deals with how those people deal with one another. And, that is why during my remarks, I made reference to the fact early on that what we have tarnished here, and tarnished in a significant way, is the Federal-State partnership that has existed since 1916, and it is just a matter of all of the parties trusting one another.

Now, clearly, we trusted. I do not think we did enough to verify and, unfortunately, I think because of this experience we have learned that you have to do that. And, if I may, let me make reference to one particular point that was probably the most alarming to me, and I know it captured the attention of the Governor when we were meeting with the congressional delegation, and that is when we revealed to him that based on the report, and here I want to quote, the task force faulted Massachusetts for breaching its trust with FHWA and with others by, "intentionally withholding knowledge of the project's potential cost overrun."

So at the end of the day, the point I wish to make here is that however many people you have involved, at the end of the day you have to have the trust that causes people to just put it on the table. If there is a cost increase, you just admit that, deal with it, and move forward, and if it takes coming to the Congress or going to the American people, I think people can understand that, with inflation and with things that happen that are unexpected.

But, when you intentionally withhold information, and then you belatedly sort of throw it in the mix because for whatever reason you think you are about to be discovered, or whatever, you throw it in the mix, that is something that is unconscionable, and I have used that language in expressing my response to what has occurred.

But at the end of the day, as I said in my remarks earlier, no one is blameless here. I am willing to shoulder the responsibility that I have as it relates to this issue. I am pleased with the way the task force carried out its responsibility. Administrator Wykle selected the right person to lead that effort. That task force did their job. We now engage the State. The Governor has responded, has put in place a leadership team that I think will do a wonderful job, that team has already engaged members of my staff in an effort to repair the breach and, as I noted, will be meeting with Mr. Mead before the end of the week.

So I think we have learned a lot from the experience. It was a costly lesson. That is why I think it is important that the lesson be used to not only enhance our oversight and our relationship as it relates to this project. We have to use the lessons learned here as it relates to the entire transportation enterprise, whether that is in transit, or maritime, or highways, aviation, whatever, and we intend to do so.

The CHAIRMAN. Finally, Mr. Secretary, there have been a number of critical reports over the years, the DOT IG, 13 reports, GAO, 5 reports, and Massachusetts State Artery, 11 reports. These reports express great concern. The FHWA basically in a blanket fashion rejected these recommendations and these concerns. Obviously, it was wrong in doing so. I guess my question is, is there some change you have made so that when these reports are made by the IG and others, that the people responsible just do not reject them out of hand, as has apparently been the case here.

Secretary SLATER. Well, Mr. Chairman, there again I think you make a very important point, and it has forced us to take a more introspective view of our operation, but not only in FHWA, and I underscore this. I think it requires us to look at our dealings with our partners and stakeholders across the transportation enterprise, and that is why I led with my comments about how we are setting up a process for doing so.

In that regard, our Assistant Secretary for Budget, Jack Basso, has been monitoring a lot of our major projects, and he will be tasked with leading the DOT-wide effort to build on what is going on within FHWA as it relates to the major project team, so I think at the end of the day we are going to have what we need there, but let me just end my comments here by saying that I have got a lot of confidence in Administrator Wykle and his administration of FHWA.

When I had the opportunity as Secretary to make a recommendation to the President I recommended General Wykle because of his more than 30 years of experience in the Armed Services handling major and significant projects. He has been personally involved in a number of our recent engagements, Somalia, Haiti and the like and, as a part of the TRANSCOM operation where, as you know, Mr. Chairman, moving troops and equipment sometimes can be a matter of life and death. He served with distinction.

He has done a good job, I think, over the time that he has been within the agency, reshaping it, and I believe that clearly with this experience as well, that he and the agency and the entire Department, that we are all poised to raise the level of our performance as we say, ever skyward, ever higher in this, the first year of a new century and a new millennium.

So we would just ask, Mr. Chairman, if you and Senator Kerry and the members of the Committee would just continue to keep the pressure on, work with us, help us sometimes in acknowledging the quality work of the IG and others who serve oversight responsibilities, that at the end of the day we are going to see the kind of performance that we all seek.

The CHAIRMAN. Well, thank you, Mr. Secretary. It is just stating the obvious, but the reason we have Inspectors General is because we expect them to be listened to, and in this case they were routinely ignored over the years, and that is unfortunate. I hope that you can make policy changes that will prevent that repetition.

I am fully aware that a lot of the effectiveness is directly affected by the relationship between the Secretary and the IG, and I note that you and Mr. Mead have an excellent relationship. I hope that we will not have a repetition of ignoring the good work—the obviously good and accurate work that was done by the IG's office, as well as the General Accounting Office.

Senator Kerry.

Senator KERRY. Mr. Chairman, thank you very much. Let me just try to see if I can get a few other points pinned down and followup on the Chairman a little bit. First of all, Mr. Secretary and Mr. Mead, thank you very much for your exceedingly candid and very direct and, I think, helpful comments with respect to this process.

Mr. Secretary, you have done the brave thing and, to some degree in Washington, unusual thing and not tried to point fingers everywhere else, but at home. I think you have shouldered some blame here yourself, and that is important, but I will emphasize, because I think it is important, that you have taken steps out of this not just to deal with Boston, but to deal with national policy, which is a reflection of the breach of trust that you have experienced.

I mean, your experience was that there was this relationship that kind of nicely went along for a long period of time, probably a little too sweet and a little too nice for a long period of time, and in effect you learned the hard way, but you have learned a lesson that you can apply to the rest of the country, which is that it cannot just be a trust any more because of what has happened here.

Mr. Mead, when did your first sort of warnings take place? I am not clear on that. When did you first start to weigh in that there was sort of a conglomerate view that there were some problems?

Mr. MEAD. We saw at the beginning of 1999 that things were going in the wrong direction by magnitudes, and I think in any IG relationship with its Department—it is just a general philosophy—it is important that you begin to explore those issues with the Secretary and others before you go out with a report.

Senator KERRY. But that is when you first focused, is that correct?

Mr. MEAD. Yes, sir. That is when it became apparent that there were real problems here, and quantifying them and doing the necessary audit work was what took place in the succeeding months, and also on the insurance program, which is extraordinarily complex, just understanding that and understanding how it was working. So that is what was unfolding in 1999, and by October we had issued this report.

Senator KERRY. But as the Chairman pointed out, there were a slew of reports prior to that which had not been heeded.

Mr. MEAD. Yes, for several years before that.

Senator KERRY. Is that what sort of brought you into it, in a sense?

Mr. MEAD. Well, actually, in my confirmation hearing before this Committee I was reminded by several of the Members to stay on top of the big infrastructure projects like the Central Artery, and did so. Before that I was at GAO, and we were staying on top of the Central Artery then.

Senator KERRY. So let me now see if we can pin you down a little bit, Mr. Secretary, on an issue that every Member of the delegation is concerned about, and we have talked about privately, and we have talked about at the delegation meeting, and it has been raised here again today, and that is this question of the State-wide program.

I just want to understand, the IG has underscored what a number of us have been concerned about, which is this question of what we are measuring. Is it commitment? Is it budget outlay? Is it cash outlay? Is it authority, advertising? I mean, there are a whole lot of ways to say, well, we have got a big program here, so I want to make sure that we are on the same page as we go out of here.

TEA–21 created a process by which we were supposed to really have a negotiation between State and local officials, and the Federal Government would sign off on it. But the process to date has been effectively that a funding target is put out, and that is it. Are you now in negotiations in a way that will confirm precisely the terms and understandings of all parties with respect to the State-wide program?

Secretary SLATER. Senator, we are in those negotiations, and the objective is to come to that kind of understanding.

Senator KERRY. And will that understanding be part of the formal written agreement which is reached when you finally sign off on a financing plan?

Secretary SLATER. Maybe not the details of the understanding, but clearly the reference to a State-wide plan agreed to by the parties. I mean, the agreement may be more general than the actual understanding, and that could be referred to in the overall document as an addendum.

Senator KERRY. Well, I ask this because the IG has just made a recommendation to us with respect to potential congressional limits being placed that would, in fact, congressionally mandate a relationship there. My preference would be to avoid having the Congress have to do that, and clearly you could have the parties enter into a formal agreement which would preclude the need for Congress to do that, correct?

Mr. MEAD. Yes, sir.

Senator KERRY. You certainly see that as one viable option?

Mr. MEAD. I hope it does not come to legislation. It seems to me that if the parties can get together, with a document of some clarity, that they can agree to in writing, then why should Congress have to pass legislation?

Senator KERRY. Well, I can give you 100 reasons why I would hope we would not. So I think it is in all parties' interests here, particularly Massachusetts, to see if we could not get this into an agreement so that everybody is clear. Because if that does not happen, what all of us are hearing as we go around the State and meet with mayors and regional planning officials, et cetera, are their concerns about the disparity between what they are being told is in the pipeline and what they see and what they are actually getting.

So do you think—I mean, would you embrace that, Mr. Secretary, as a way to try to approach this?

Secretary SLATER. Senator Kerry, that is exactly the way we would like to approach it, and I listened carefully to Mr. Mead, and he did say either-or. His objective is to lead us to the end that is desired. We believe that we can get there through the process that has been put forth in TEA–21. It was actually in ISTEA and then enhanced, with our lessons learned, in TEA–21.

Here, though, let me also just repeat some language from my testimony which shows how we would seek to create the kind of clear understanding and assurance that we seek on this point. While we may not include all of the details in the financial plan or the agreement that we are now working on, it would capture the essence and the spirit of the agreement. When it comes to the State's regularly submitted State transportation improvement plan, that is where we can go into all of the details, and here we have considerable authority when it comes to approving such a plan.

And, I want to repeat what I said in my testimony as it relates to how we would respond to this question. FHWA would not approve and fund the State's transportation improvement plan, nor continue to participate in the Central Artery project, unless there is an enforceable commitment to a balanced, State-wide program. We want to be very clear in communicating to all of the parties what our action will be if, in fact, there is no agreed-upon State-wide balanced program that is included in the State transportation improvement plan that is approved by us on a regular basis. And so there will always be the opportunity for us to become involved in the process.

Now, as I say this, our desire is not to be overly involved here, because that is something to be dealt with at the State and local level. But clearly we have an oversight responsibility, and that has been underscored most dramatically as it relates to this project. And so, with major projects, projects of national and regional significance, I think it appropriate that we have more of an involvement to ensure integrity of the management of those projects.

Senator KERRY. Well, I appreciate that very much, and I think that would be by far the best way to go and a helpful way to proceed here, and so I encourage you to try to pin those details down.

Mr. MEAD. Senator Kerry, may I say something else while you are on this balanced State program that I would urge people to reflect on.

The $400 million figure that you have heard, that was starting to be bandied about before the passage of TEA–21, and I would have to ask myself, from Massachusetts, why was that figure not increased once the TEA–21 levels were increased for your State, and what about the implications of inflation? Certainly the Artery's cost years reflect those. What about the rest of the State?

So the $400 million figure, I personally would not view that as embedded in concrete.

Secretary SLATER. Senator, if I may, let me just say that all of these considerations are being taken into account as we work with the parties to try to come to the common ground, but Mr. Mead is correct in raising the question, and we are doing that in these discussions.

Senator KERRY. Well, I applaud that, and again you have asked sort of the pregnant question, so to speak, and that is it. Why isn't it increased, and I think that is exactly the problem we are facing in distribution, and the Chairman, in his question about the allocation, is expressing the concerns of all of us. We passed TEA–21 for a purpose, and I was in the center of that debate back in 1995 and 1996 when we were trying to get that last tranche of funding, and there were representations made on the floor based on all of the facts and figures we were given again as a matter of trust in that partnership.

I do not want to belabor this, but obviously none of us want further surprises, and the expectation of the public is going to be, well, Okay. We have had this big hiccough in the process, but the folks are going to get a handle on this now. They are going to really level with us, and we are going to know exactly what is coming down the road.

Have we done that, and can we do that at this point in time? Can we say both to the Committee, to the people and the country, and particularly to the taxpayers of Massachusetts, where we see the outer limits of cost on this project, and I want to emphasize, without penalizing the critical upsides of what this project was supposed to deliver?

I mean, there is a reason we voted for this on the floor of the Senate, and part of that reason is the promise of X number of acres of open space and so forth. We do not want to see this project now somehow cutting back on those virtues that are the real assets that brought us to support it in the first place in order to somehow cut corners, and so I think we have got to factor in completing this project as promised, and what is that cost now on the table? That is the question I would ask.

Mr. MEAD. I think the answer to your question is a double yes. I believe that for the duration of this administration, that the ship at the Artery has been set on the right course. I have actually had three conversations with Mr. Natsios before. I have not met him in person until today. But I am really encouraged by his attitude, his commitment to the project.

I do think, sir, that you are going to face increasingly pressures to cut back on the project, because the opportunities for cost-savings are decreasing with each passing day as you approach the completion date, and we noticed some of that in our last review. We also noticed a tendency in the Artery's cost report to try to shift costs to other places in the State, or in the city, so I would watch that.

I am nervous about whether—taking this beyond Artery, that we need to move forward smartly to apply this to the other large infrastructure projects in the country. Also, there are only a few months left in this administration, so we want to continue this beyond that.

Senator KERRY. I just wanted to follow up on that. When you mention that, I suddenly get a little concerned, and I trust you folks are going to be. I met with Mr. Natsios yesterday. I have great admiration and respect for him. He is a very capable person, and he is a person of candor, and he will tell it like it is, so I am confident in his ability to build the relationship of trust with you. The question is sort of where we are heading in terms of the pressure that you have just talked about. We are not going to resolve it here today, but I am glad it is on the table. I think we all need to take note of it.

There have been some questions, and I am not going to dig into this deeply now, but some of us who sort of sit on the outside of this who are accountable to the public for it are a little bit surprised at some of the level of cost-plus contracting in this. I wonder if the relationship of Bechtel and Parsons Brinckerhoff, and they will be represented later, has been a subject of your scrutiny. Is that unusual, or is that normal on a project of this kind, to have that kind of open-endedness?

Mr. MEAD. I think it is somewhat unusual. I recall 4 or 5 years ago there were questions about the number of Bechtel employees on this project—950, I think it was. They are now reporting that there are 620 Bechtel employees on this project, but I understand also that 200 over that were shifted to the rolls of the MTA. I understand Chairman Natsios is going to be asking some questions about what these people are doing.

I am disappointed that I did not hear anything from Bechtel about these cost increases. With 600 people, I would assume that some of them must have had a clue as to where the costs are going. But I understand also their position. They are a contractor, not a contractor to me or the Federal Highways Administration. They are a contractor to the project, and I would like to know whether they protested what was being disclosed by the Artery, and I know the Secretary would, as well.

Secretary SLATER. That is true.

Senator KERRY. Fair enough. Thank you, sir.

Secretary SLATER. Mr. Chairman, were you going to go to Mr. Mead? The question was asked of both of us, and I just wanted to make one or two comments about it, if I may.

The CHAIRMAN. Sure.

Secretary SLATER. First of all, let me join the chorus of voices expressing pleasure with the fact that Mr. Natsios is now on board. I mentioned that he has met with senior leaders of my team already. That was within days of his coming on board. Again, the Governor's action in bringing him on board was immediate and decisive. We commend that.

We do believe that the repair of the breach of trust is now underway, but we have got some ways to go here, and I want to acknowledge that, but clearly we are off to a good start. I am very pleased that he will be coming before the body and, while I will not be able to stay around and hear the exchange, I will definitely look to the record and study it and be guided by it, so I want to make that point.

Let me also say that I agree wholeheartedly with Mr. Mead in his comments that we have to learn from this experience through our oversight activities as it relates to major projects across the transportation enterprise, and we are committed to doing just that, and I want to underscore that yet again.

And then finally, in dealing with the matter of other parties and their roles in this process, I will be looking to the record to see the discussion that will go back and forth with the representatives of Bechtel and others who will come before you as well, because at the end of the day everybody who is a part of the partnership has a responsibility to the credibility of that partnership, its integrity, and the trust that is supposed to be present, that is, the public sector partners but also the private sector partners as well.

And you should know that we continue to look at this matter from all vantage points, and looking at the responsibilities of all the players. So, while the discussion up to this point has focused primarily on our relationship with the State, we are looking at our relationship with companies that enjoy the benefits of transportation contracts not only in Boston but in other communities around this country, and we are very, very interested in how they view that responsibility and their responsibility to the parties that are a part of that partnership.

Finally, Senator, as it relates to your concerns about whether this project as we close it out, and our concern for costs, whether we will resort, then, to looking at transportation as we have in the past, as just a matter of giving us a straight line from one point to another, with no consideration for the communities involved.

We are definitely committed to resisting that kind of impulse, because the nature, the value, the significance of this project speaks to its impact on mobility, but also its impact on safety, its impact on the natural and human environment, its impact on economic development and trade. These are all goals of the Department of Transportation, as we work with others to invest properly transportation resources, and as both of you know, as men who have served in uniform, there is also the national security issue that comes into play as well when investing transportation dollars.

So at the end of the day we do not want to resort to looking at transportation in a traditional concrete, asphalt, and steel sense without any consideration of its impact on the quality of life and livability of communities, and I just want to state that for the record.

The CHAIRMAN. Thank you, Mr. Secretary.

Finally, before you go, given the chart that Mr. Mead showed about the continued cost escalation of this project, I feel that the legislative cap should be written into law. I wondered if you agreed, Mr. Mead.

Mr. MEAD. I think you could do it either through a written agreement that states what it is and exactly what it means, or you could do it through legislation. Regarding the cap, I would draw a distinction between a balanced State program and whether you put that into law versus a cap. I think the two are related. A cap would be easier to put into law, but I don't think you necessarily have to put it into law if you can get the right parties to agree that this would be the maximum.

The CHAIRMAN. What if the cap is broken, as it already has been on several occasions, and it is only an agreement? I mean, I want people held responsible in more ways than just a violation of the agreement. There are incredible things that have taken place here. Because there was no real law-breaking, so far we have wasted money and time and I am just concerned that agreements were broken. How many agreements have there been in the past?

Senator KERRY. Mr. Chairman, can I just say I agree with you that we need to have an understanding with respect to precisely what the Federal dollar is going to be on this. But what you are pointing to when you say the cap has been broken in the past, in point of fact the Congress has voted an additional amount of money each time.

And what happened was, I mean, there is a long, long history here, and I remember going through it with Senator Helms and Senator Symms, the long history of change, of environmental requirements, of design changes, plus inflation, and I am not diminishing the fact that these other questions are out there, but we have voted to authorize and appropriate a specific amount of money. That has not yet been spent. That is not yet exceeded.

In fact, the drawdown on that is going on at this time. The project is about 60 percent, 60-plus percent completed in construction, the design is 98 percent completed, and so in point of fact there is a clear understanding of the road to go.

If you had a contractual agreement now, where the State of Massachusetts signed specifically with Federal Highway as to the liability for any cost and precisely what Federal dollars were spent, you would have the first actual formal legally binding agreement between the parties as to ultimate cost. We are the ones that have changed the expenditure to date.

The CHAIRMAN. Except the reason we changed the expenditure was because of the cost overruns. If we had had a legislated cap we might not have had this incredible increase from $2.5 billion to now $13.5 and even more. So I would like to work with you to come up with something fair, but I think the taxpayers deserve a law that says at some point this has to stop. This has to come to an end. Sixty percent completion, and we have already had a $10 billion overrun.

I cannot do the math, but if that kind of overrun continues we are talking about a $20 billion expenditure, and that is unbelievable. When you look—and I will be glad to review the Congressional Record—every time we appropriated more money authorized and appropriated more money, that was going to be the last time.

I would be glad to review the Congressional Record with you, but every single time we appropriate and authorize more money those requesting the money say, Okay, this is it, don't worry, this ought to do the job, and every time it did not. Whether it was environmental reasons, or inflation, or lack of assessment as to the real estate costs for the right of way, all of those reasons are good and valid reasons, but I think if we had had a law that said, Okay, at this point we stop, then Congress would have had to act to overturn a legislative action and not change an agreement.

Senator KERRY. I understand, Mr. Chairman, and I agree with you, but let me just say to you the reason it is moot is as follows. Senator Kennedy and I both on the floor of the Senate agreed with Senator Helms and others that this was the last time we were coming to the floor to ask for money, and the State of Massachusetts agreed at that point in time that these were the final figures of what they would request from the U.S. Government, and so in effect there is a cap.

No one in the U.S. Congress is going to vote for more money for this except perhaps the Massachusetts delegation, and we are going to get soundly beaten.

The CHAIRMAN. Again, in all due respect, if the tunnel is 90 percent complete and the state does not have the funding, I doubt if anybody is going to support stopping the project at that point.

Senator KERRY. But that is where—and you will hear this from Andrew Natsios. The State of Massachusetts is fully prepared, and they have said so through the Governor, to assume the cost of completion beyond what the Federal commitment is to date.

The only issue today really is, what is the appropriate apportionment in terms of the TEA–21 money so that the Artery is not sucking up the money that the rest of the State wants for its projects, and the Secretary has made a firm statement that that will be included in this fix.

Mr. MEAD. The amount of the Federal share, this $8.5 billion we are hearing about—I do not believe before all of these disclosures that I heard a firm figure of what the Federal contribution would be. It was talked about in very circuitous terms. For example, we will make sure we have a balanced, State-wide program of $400 million a year, or we will not—we will make sure that after 2002 no more than 50 percent goes to the Artery, and if you go through the gymnastics of that math, maybe you can get to $8.5 billion, but I think the $8.5 billion is a figure of very, very recent vintage I had not heard before.

The CHAIRMAN. Again, finally, the resources of the State of Massachusetts are not infinite. I mean, I know it is a very wealthy State, but if these cost overruns continue along the way that they have been tracking with only a 60-percent completion, I do not know how the State of Massachusetts could afford it.

Senator KERRY. The Governor is proposing a $1.4 billion tax cut over the next several years, so clearly he could afford something.

The CHAIRMAN. Well, I just think—I mean, I have made my point. I do not mean to be argumentative on this issue, but I think that Mr. Mead's point here that, we all of a sudden come up and say, Okay it is going to be $8.5 billion, but based on what? I think at this time we have incomplete information.

Secretary SLATER. Mr. Chairman, first of all I want to say that I think you express a sentiment that we all share, and because of that, what I would like to offer—and this is based primarily on the comment that Mr. Mead made that we could handle it either way. You could have the cap expressed in legislation, or you could handle it with a public statement and agreement that all of the parties sign to, or sign on to.

What I would like to do is to say that today we clearly understand your sentiments. If we could work with you, Senator Kerry, and others who you would identify along with Mr. Natsios and others who have a responsibility here, in an effort to just make clear that when we sign such an agreement that we all mean it, and that we commit our organizations to it, if at the end of the day you would be satisfied with that, that is the way we would prefer to do it.

The CHAIRMAN. What is wrong with having it written into law?

Secretary SLATER. Well then, nothing. Nothing, really.

The CHAIRMAN. Then why would you have an objection to doing both? We are talking about the largest public works project in the history of this country. We are talking about at least $10 billion in overruns, in addition to the original cost estimates, whatever the reasons were, and somehow you are reluctant for us to write into law something we can tell the taxpayers of Arizona and the other states which are funding this project, or at least a significant part of it, that the cost has been capped.

Secretary SLATER. Well, all I am saying is that at the end of the day we may do that.

The CHAIRMAN. At the beginning of the day we may do it with an amendment on an appropriations bill.

Secretary SLATER. If I may, though, let me just close with this point. I think the most significant thing about this whole experience is that the parties who were clearly in the same room and working together in years past allowed something very bad to occur. They lost a sense of commitment to one another, where they would bring even unpleasant news to the table. Partnerships do that, and I think that for the benefit of the partnership we have to get a signed agreement with the parties where they commit to an end.

We may have coupled with that legislation that also deals with parts of that agreement, but for the benefit of the relationship that was significantly tarnished, those parties need to themselves take an action that is public and that is recognized for what it should represent, and that is a commitment to be up-front and forthright in dealing with each other, and to bring trust back to a process that requires it, and so that is all I am saying.

The CHAIRMAN. Senator Kerry and I have worked together on many issues I am sure we will be able to work this one out. I do not want to take too much time on it.

Senator KERRY. Mr. Chairman, I want you to feel good at the end of this hearing. There is a cap in effect today. As long as you are in the U.S. Senate, I am sure we are not going to pass—I am confident we are not going to pass additional money and, in effect, we have already appropriated the amount we are going to pay for it.

The CHAIRMAN. But Mr. Mead just testified he is not sure of that fact.

Senator KERRY. Mr. Mead said he did not have a number, but they are willing to put it into a legal agreement.

Secretary SLATER. We are willing to do that, but let us be clear, now. I do not want to be light about this, but the Senator has demonstrated that there are other opportunities beyond the U.S. Senate, and we all are here, as we are here now, and the objective is to try to do what we can now to put in place a process that goes on even after we leave our individual post, and so I think that is our goal.

The CHAIRMAN. Again, I have confidence that because of our long relationship, that we will be able to work something out with the assistance of Mr. Mead and Senator Kennedy and others, so I thank you very much.

Our next panel is Mr. Andrew Natsios, Chairman, Massachusetts Turnpike Authority, Mr. Richard Thomas, Senior Vice President, American International Group, Mr. Matthew Wiley, Project Manager, Bechtel/Parsons Brinckerhoff Joint Venture, and Mr. Richard Dimino, who is the President and CEO of Artery Business Committee.

Chairman Natsios, we would like to begin with you. Welcome before the Committee. We would like to congratulate you for your willingness to take on these very difficult responsibilities as Chairman of the Massachusetts Turnpike Authority. We thank you for sharing your thoughts and vision with us today, and please proceed. The written statements of all the witnesses will be made a part of the record if you so desire.

STATEMENT OF ANDREW S. NATSIOS, CHAIRMAN, MASSACHUSETTS TURNPIKE AUTHORITY, ACCOMPANIED BY MICHAEL LEWIS, ACTING PROJECT DIRECTOR FOR THE CA/T PROJECT

Mr. NATSIOS. I would like my written statement to be a part of the record, but I will shorten parts of it and expand other parts. Good morning, Chairman McCain and Senator Kerry. I would like to thank you for the opportunity this morning to answer questions you may have about the Central Artery/Tunnel Project, more commonly known as the Big Dig.

With me today is Michael Lewis, who is the acting project director. Matt Wiley is the project manager for Bechtel/Parsons, management consultant to the project.

I might add, the second day I took over as chairman I removed the top six people at the Turnpike Authority, the director of administration, facilities manager, the legal counsel, the public spokesperson, and the project director, Pat Moynihan. Pat Moynihan will be with us 6 more months because I needed someone with institutional and project memory to tell me what happened the last 9 years for continuity's sake, but he has no management authority. He is simply an advisor to me.

So there is a new team in place. I brought people from my office in Administration and Finance with me, and I will bring people from the outside and from other regulatory agencies of State government who I have confidence in to provide the leadership for this project in the future.

I want to state as clearly as I can, Mr. Chairman, that we will follow the principle of complete transparency in providing information to you, the public, and the executive branch, even if that information is painful.

Let me introduce myself. I have been serving as Secretary for Administration and Finance for the Commonwealth of Massachusetts. The Governor asked me on April 11, less than a month ago, to accept the position as chairman of the Massachusetts Turnpike Authority and head of the Central Artery project.

My former position does not have an equivalent, per se, in Washington, but it is a combination of the head of OMB, the Secretary of the Treasury, the Office of Personnel Management, and the General Services Administration all rolled into one, so it is a very powerful position, often called the Deputy Governor. Over the last 80 years the position has existed, and it is the command and control center of State government to control spending.

I am a staunch fiscal conservative. My 12 years in the legislature will show that in my voting record. I think I voted for every tax cut and against all but one budget. I take a dim view of cost overruns—of excessive spending.

I voted and debated against this project twice while I served in the legislature. I thought then it would be too expensive. However, it is 60 percent done. There is a big hole in the center of Boston. It must be finished, finished properly so that 50 or 100 years from now people will say it was done well, and it is good for the city, and it has stood the test of time. We must ensure the money we have already spent has not been spent in vain over the past decade.

I was also responsible for all capital projects, for controlling debt finance, and managing the billion-dollar bond cap we have on borrowing money in the Commonwealth. We have the third healthiest economy in the United States. We have a 2.6 percent unemployment rate, the lowest in 30 years. We have a $1.4 billion surplus in the State stabilization fund and in the capital management reserve fund we have $150 million, and we have about $250 million from the proceeds of the tobacco settlement that we have put in trust as well.

I mention this to assure you that we are not looking—let me say this clearly, Mr. Chairman. We are not looking for any additional Federal assistance to finish the Central Artery project. You have received no letters, we have made no calls, asking for more money. It is our problem, we are going to fix it, because it is our fault this took place.

While the Federal Government has management oversight, we are running the project, and we accept the responsibility for what has happened. The Governor and legislature are currently devising a plan to finance the recently revealed Big Dig cost overruns. None of those plans ask for any additional Federal assistance. We proposed a plan when I was Secretary, through the Governor, and the House and the Senate have each approved plans. It is now in conference and they are meeting, as we speak, to work out the differences.

About three-quarters of our plan is either in the House plan or the Senate plan. I say that only to show that there is a large amount of common agreement as to how we are going to fix this problem. The plan we have proposed, which I will discuss later in more detail, will fix the problem with a large contingency fund should there be further cost problems in the future, which I hope to avoid.

In early 1996, when the Governor and legislature decided to transfer supervision of the Artery project construction from the State to the Massachusetts Turnpike Authority, which has independent authority in its legislative charter, its own budget system, its own personnel system, and its own revenue sources, the rules and regulations, which I had control over in A&F, that apply to State agencies do not apply to the authority. That decision was made by the executive branch and by the legislature.

The legislation passed. I am not sure I would have voted for it the way it was, but it was decided; we are 60 percent completed. I think the MTA governing system may have some problems with it, but the decision was made and I respect that.

There is a point to be made here, however. You asked about accountability systems. The decision to transfer the project to the Turnpike Authority was in part made to facilitate construction, because State rules and regulations do cost more money. They increase the level of accountability, but they also reduce efficiency and extend the amount of time it costs to do things.

We sometimes see efficiency and accountability as the same thing. They are not, and if you carry one or the other too far, they affect the other in a negative way. If you are too efficient, you will reduce accountability. If you are too accountable, and you go too far in controlling things, then you can reduce the efficiency of it. I think there is a balance. I am not sure we have it, but that kind of debate I am not sure took place.

I went back over the legislative and media records when this happened, and the focus was on transportation, not on governance systems. As it stands now, the artery project is 60 percent constructed and 98.6 percent designed. Seven of the 117 contracts have yet to be awarded. 50 contracts have been entirely completed, and the rest are in progress.

We will conduct cost analyses, review construction and management contracts, and make sure oversight is thorough. There will be no surprises on my watch, Mr. Chairman.

Even before I was named turnpike chairman, as A&F Secretary I hired the firm of Deloitte and Touche to conduct an independent review of the project. That is ongoing now. I will appoint an outside expert on the insurance facility to review the owner-controlled insurance program and an outside expert to examine the project's construction management contract with Bechtel/Parsons. I might add some of the finest engineering schools in the United States are located in Massachusetts, which is going to help the process of finding some experts.

I have also brought in a transition team composed of senior civil servants from Administration and Finance who came with me, seven of them. They are the comptroller, the head of the State personnel system, the State budgeting system, the State purchasing system. Each has spent the last 3 weeks going through an entire review of the entire management structure and processes of personnel and budgeting systems of both the turnpike and the Central Artery to see what management changes need to be made.

While I await the results of these reviews, I have set underway—my initial assessment is that the Central Artery/Tunnel project appears from a construction and engineering point of view to be well-run and well-engineered. I say that appears, because the reviews are not entirely in yet. These reviews will tell, I think, the true story of the project, and whatever is in them you will see, and the public will see.

I have three immediate objectives that I have set for myself. The first is to restore the project's credibility. This is paramount. We need to win back through deeds, not just words, the trust of the public, the Members of Congress, and the Federal Highway and Transportation officials.

Second, and this is my expertise, is public finance, to bring the project's management and finances back on track.

Third, I just want to say—Senator Kerry mentioned this—the thing that excites me and interests me in this project is the restoration plan for the 30 acres above the Artery that are in downtown Boston that will add to Boston's reputation as one of the great cities of America.

Certainly it is the most historic, and I have a firm attachment to the history of the city and to what it has done with that land, because other parts of Boston that have been built over the years were done very well, and as a result of that have enormously improved the economic power of Boston as the central economic engine of New England. We want to continue that.

Let me also add, Mr. Chairman, there has been a debate with the Inspector General over the question of whether the insurance fund, as it builds up between now and 2017, should be used as a credit against the bottom line cost of the project.

When I was at Administration and Finance, I prohibited the staff from using that credit in the bottom line figure, because—(I have to say, this argument has never been used publicly even by the Inspector General) but if you want to use the figure $900 million which will be in the fund in 2017, you need to discount that in todays dollars, or 2005 dollars, when the project is done.

The value of money deteriorates over time because of inflation: this is called the present value of money. If you want to use 2017 dollars, you must discount the number back to what the money was worth in 2005, which is probably around $300 million. We cannot use a figure that far into the future to discount a project that is going to finish in 2005, unless you increase the value of the project to what inflation will cause it to be if it were built in 2017. That calculation, which is fundamental to public finance, was never done, so it has been a fictional credit in my view. We never accepted it in A&F.

We had wars with the Turnpike Authority over this issue. We included the credit in our bond disclosures, but as a separate item. We refused to add it into the computation, so the people buying our bonds could see that there are two separate figures.

So I have told the staff, do not use the credit again in calculating the value of the project while I am in charge of the project, because it is not a legitimate calculation from a pure public finance point of view. I am a purist in these matters.

Let me talk briefly about the project to build Interstate 93 through the city and extend the Mass Turnpike under South Boston and the Boston Harbor to Logan International Airport. The project's complexity and size are enormous, as, I know you know, is the cost. The project draws a steady stream of awestruck engineers and construction experts from all over the world who marvel at the engineering techniques, many of which are the first to ever be used in the United States.

They have been used in Europe extensively, but the technology has not been transferred, until this project, to the United States. This innovation transfer will affect the construction of other projects in the United States, perhaps not of the same size and cost, but those techniques may save us money and may improve the quality of the engineering of other projects of some size in other parts of the country.

The oldest city in the Northeast, in fact perhaps the oldest city in the country, will have the newest infrastructure when the Artery project is completed at the end of 2004, if the project is completed on time.

The modernization of Logan Airport, which will cost about $5 billion and is about 50 percent done, the construction of a new convention center, which is just to begin and will finish by 2005, and the installation of the new water and sewer system for Greater Boston, which serves 43 percent of the population of the State, which is two-thirds done, will have all been completed.

We did a study at Administration and Finance to determine what the level of the state's investment in infrastructure has been in the last 10 years. We found an astonishing thing.

In our study, we found that the State has, since 1992, spent $18 billion in State funds on infrastructure projects. And an additional $1.8 billion in State funds for the Central Artery.

We have a 5-year capital plan that did not exist when I was in the legislature. We had only annual plans. We now have a 5-year plan. We now know what we are going to spend money on across the State in all our public infrastructure projects. The projects are listed by name and title, how much they are going to cost, and we are going to spend between now and 2005 another $17 billion in State funds, for a total of $35 billion.

And when you include the extra $1.8 billion for the Central Artery that we spent earlier, we will spend $37 billion for public infrastructure: for courthouses, new prisons, 25 percent of the schools have been reconstructed in the decade of the 1990's, 40 percent of the libraries—the biggest investment in libraries since Andrew Carnegie built them earlier in the century in Massachusetts, for sewer and water projects, for the Logan Airport, for the convention center, and for the State-wide road and bridge project.

There has been a huge investment, the largest in the 20th Century. I am a little partisan here. It was done under a Republican administration, and the purpose of it, with legislative support was to invest in the infrastructure. We had the oldest and most deteriorated infrastructure in the country, because we date back to the early 17th Century. Some of the roads in Massachusetts literally are that old.

I think that is a desirable thing. Massachusetts is a model for other older States in the country with the same sort of aging infrastructure. The notion that all of this is coming from the Federal Government is not accurate. The only big project where most of the money, or a large part of it, comes from the Federal Government is the Big Dig.

All the rest of it is almost entirely State funded, which is why we have the fourth or fifth highest per capita debt, public debt of the 50 States. We did not waste the money. We spent it on this massive investment.

I might add also—I have heard this debate about the State-wide road and bridge. We can talk about that, but I have to say, I have to manage the bond cap for the state. We do not borrow more in the general obligation bonds than $1 billion a year. We will spend now, this year, $617 million on State-wide road and bridge projects.

The debate over this has been affected by the insatiable appetite by local government, building trade unions and contractors to build all this infrastructure. Everybody sees it and they say, I want my project moved up. I want it built faster, I want it built nicer, I want it bigger, and as a result the leadership in the House and Senate and managers in the executive branch have been promising projects without looking at the 5-year plan.

The CHAIRMAN. Mr. Natsios, you are telling me things I am not interested in.

Mr. NATSIOS. Let me just finish by saying, I thought Senator Kerry might be interested because he raised the issue.

The CHAIRMAN. He is responsible for all of it. Go ahead.

[Laughter.]

Senator KERRY. Thank you, Mr. Chairman.

[Laughter.]

Mr. NATSIOS. Let me just conclude in a paragraph, Mr. Chairman, that I am happy to answer your questions, and I want to emphatically state that it is our intent to open this up. We have a tunnel under the Boston Harbor that will withstand the weight of the water in Boston Harbor. We now have a project I hope that will withstand public scrutiny.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Natsios follows:]

PREPARED STATEMENT OF ANDREW S. NATSIOS, CHAIRMAN, MASSACHUSETTS TURNPIKE AUTHORITY

Good morning, Chairman McCain and other members of the Committee. Thank you for giving me the opportunity to answer any questions you may have about the Central Artery/Tunnel Project, more commonly known as the Big Dig. With me today is Michael Lewis, acting project director.

Before I begin, I want to state as clearly as I can that we will follow the principle of complete transparency in providing information to you, the public, and the Executive branch.

Let me introduce myself. I had been serving as the Secretary for Administration and Finance for the Commonwealth of Massachusetts when the governor asked me on April 11, less than a month ago, to accept the position of chairman of the Massachusetts Turnpike Authority and head of the Central Artery Project.

As Administration and Finance Secretary, I was the governor's advisor on fiscal and economic matters. I had oversight of the state agencies whose federal counterparts are the General Services Administration, Office of Personnel Management, Office of Management and Budget, and the Treasury Department.

I also supervised capital projects and debt finance, so I speak with assurance about the Commonwealth's fiscal health, which is quite good. Our stabilization fund has a balance of $1.4 billion, and when you calculate the value of all reserve funds available to state government in Massachusetts, the total reaches about $4 billion. A recent study by the Center on Budget and Policy Priorities indicates we have among the highest reserves and are among only eight states in the nation that can weather a recession as severe as the 1990–91 downturn without cutting spending or raising taxes.

I mention this to assure you that we are not looking for additional federal assistance to finish the Central/Artery Project. The Legislature and Governor are currently devising a plan to finance the recently revealed Big Dig cost overrun, and none of those plans asks for any additional federal assistance. This cost overrun is our problem in Massachusetts, and we will pay the bill for it. I'll get into some detail on this shortly.

In early 1997, the Governor and Legislature decided to transfer the supervision of the Artery Project construction from the state to the Turnpike Authority, which is an independent authority with its own legislative charter. The Turnpike Authority has its own budget and personnel systems. The rules and regulations that apply to state agencies do not apply to the Authority, which means the executive branch in Massachusetts has less oversight of the Authority—and this project—than it would have of a state agency.

The decision to transfer the project to the Turnpike Authority was made, in part, to facilitate construction. Had control of the project remained in the hands of state government, the project could have taken longer to build, which usually has cost implications. There is a balance point between efficiency and accountability that is not always easy to locate.

As it stands now, the artery project is 60 percent constructed and 98.6 percent designed. Just seven of 117 contracts are yet to be awarded, and 50 contracts have been completed. We will conduct cost analysis, review construction and management contracts, and make sure oversight is thorough. There will be no surprises on my watch. Even before I was named Turnpike Chairman, as ANF Secretary, I hired the firm of DeLoitte & Touche to conduct an independent review of the project. I will appoint an outside expert on insurance to review the Owner Controlled Insurance Program, and another outside expert to examine the project's construction management contract with Bechtel Parsons.

I have also brought on a transition team composed of experts in various management disciplines from ANF to review the Turnpike Authority, where I have frozen non-Central Artery/Tunnel Project hiring and the award of new contracts.

While I await the result of various reviews I have set underway, my initial assessment is that the Central Artery/Tunnel Project appears to be well run and well engineered from the construction point of view. These reviews will tell the true story of the project, and whatever the story is, we will get it out in public view.

I have three immediate objectives to put the project back on course:

1. To restore the project's credibility. This is paramount. We need to win back through deeds, not just words, the trust of the public, members of Congress, and Federal Highway and transportation officials.
2. To bring the project's management and finances back on track.
3. To formulate a restoration plan for the ground above the artery that will add to Boston's reputation as one of the great cities of American, certainly its most historic.

Let me talk briefly about this project to build a new underground Interstate 93 through the city and to extend the Massachusetts Turnpike under South Boston and Boston Harbor to Logan International Airport. The project's complexity and size are enormous, as are its cost. The project draws a steady stream of awe-struck engineers and construction experts from all over the world that marvel at the engineering techniques being employed. Here is just one instance: Workers are now laying in place huge tunnel sections cast inside a dry dock and then floated into position before being placed precisely by computers and a global positioning system on sunken concrete foundations.

For practically seven days a week, and nearly 24 hours a day, digging the path for the new underground artery goes on underneath the existing elevated Central Artery, yet the city of Boston is alive for commerce, recreation and the daily activities of city life.

The oldest city in the Northeast will have the newest infrastructure when the artery project is completed at the end of 2004. By the following year, the modernization of Logan Airport, the construction of a new convention center, and the installation of a new water and sewer system will be concluded. Between 1992 and 2005, some $35 billion in state funds will be expended on these and other statewide infrastructure projects including the construction of new schools, libraries, and repairs to roads and bridges. Of that $35 billion, some $4 billion in state funds will have gone to the Big Dig, little more than 10 percent.

How do we propose to pay for the project's cost overrun? Gov. Cellucci and Lt. Governor Swift have instructed me to follow four principles in designing the state bailout plan:

- No tax increase
- No damage to the state's credit rating
- Build a contingency reserve fund to handle any future shortfall
- No proposals that mobilize interest group opposition

A final finance plan should be forthcoming in the next two weeks, drawn from common elements in separate plans proposed by the Massachusetts House, Senate and Governor. Two-thirds of the administration plan is contained in both the House and Senate plans, so there is a great deal of common ground and we are confident a viable plan will be in place. This plan will cover the $1.4 billion cost overrun and also create a sizable contingency reserve to be used to offset future possible overruns or other transportation needs in the Commonwealth.

I want to conclude my presentation with a pledge to give you my thorough cooperation. We will follow the principle of complete transparency in providing information to you, the public and the Executive branch. I hire people with the utmost integrity, and then let them do their jobs in an open manner.

I will be happy to take your questions now, and very much appreciate the opportunity to testify before you today. Again, I wish to state as emphatically as I can my intent to open this project up. We have built a tunnel that can withstand the weight of Boston Harbor; now we will run a project that can withstand public scrutiny.

The CHAIRMAN. Thank you, Mr. Natsios. I do appreciate that additional information. I visit your State quite often, and I am incredibly impressed not only with the infrastructure but the beauty and the preservation of culture and history, which has made it a magnet for people from all over the country who became part of our country in a much later period such as the one I represent. I think you should be very proud of what has been done and what continues to be done in the State of Massachusetts. Mr. Thomas.

STATEMENT OF RICHARD L. THOMAS, SENIOR VICE PRESIDENT, AMERICAN INTERNATIONAL GROUP, INC.

Mr. THOMAS. Good morning, Chairman McCain, Senator Kerry. I am here testifying today on behalf of American International Group and, as you may know, AIG is a leading U.S.-based international insurance organization, and the largest underwriter of commercial and industrial coverages in the United States.

I have been an executive with the AIG Companies for 15 years, and am currently its chief underwriting officer, and have been involved periodically in the insurance program for the Central Artery/Tunnel project since its inception. I request that the statement that we prepared for the Committee be placed in the record, and I will keep my remarks today very brief.

Senator KERRY. It will be placed in the record as if read in full.

Mr. THOMAS. Thank you.

As requested, I would like to address my remarks this morning to the specific concerns raised over the purpose and performance of the insurance program developed for the Central Artery/Tunnel project. While there have been many reports circulating about the project's budget and management issues, it is important to underscore that the insurance component of this enormous effort has been making a positive contribution. To date, the project safety record and resultant cost-efficiencies have exceeded our initial expectations and have demonstrated the benefits that can be derived from carefully designed and implemented insurance programs.

The Central Artery/Tunnel project is one of the largest, most complex highway transportation projects ever undertaken. As you know, it involves hundreds of contractors, subcontractors, and thousands of workers in a wide multitude of tasks associated with all of the different aspects of the construction.

Not surprisingly, the development and procurement of an efficient and effective insurance program was a priority for the Massachusetts Highway Department from the outset. To that end, MHD formed a committee in 1991 whose purpose was to create the bid specifications to solicit competing proposals for an insurance program from the insurance industry and to select the insurance company and proposal that best achieved the objectives of MHD at the most favorable price.

That committee specified an owner-controlled insurance program. An OCIP is a program in which all contractors and subcontractors working on the project are covered by a single policy coverage structure procured by the owner, thereby avoiding redundancies and inefficiencies that would result in a multitude of policies purchased individually by contractors and subcontractors from different insurers.

As is typically the case, the OCIP for the project was designed to cover both workers compensation and general liability. The RFP was issued to the insurance industry by the Committee, which included a representative of a knowledgeable insurance broker who had been retained by MHD. Five carriers, five insurance companies, including AIG, submitted proposals, and AIG was selected as the winning bidder in part given its extensive experience in underwriting OCIP programs.

In its proposal, AIG agreed to commit substantial resources to assist MHD in its safety program. AIG has had safety consultants onsite from the inception of the program, working side-by-side with professionals engaged by MHD, the project manager, and the major contractors. Also in response to the RFP, AIG included substantial elements of self-insurance in the structure so that MHD's ultimate insurance costs would be based on the success of the project's safety program.

The terms of the insurance program have been memorialized in a series of agreements that were negotiated with the advice of counsel for all parties and were signed by the Commonwealth of Massachusetts, Bechtel/Parsons, the project manager, and a subsidiary of AIG.

The terms of the agreements were fully disclosed to the Federal Highway Administration and various State agencies involved in the project. These agencies have been kept fully informed of the performance of the program both from an insurance and financial perspective through regular reports and frequent communication. In addition, AIG made the appropriate filings and received approval from the Massachusetts Department of Insurance.

From the perspective of public and worker safety and cost control, AIG's insurance program has been a success. Of greatest importance, due to the combined efforts of AIG, MHD, the project manager, and its many contractors and subcontractors, the safety record associated with this project has been extraordinary. We take, though certainly share great pride in the fact that the number of workers and members of the public who have sustained serious injuries in connection with the project has been exceptionally low.

As a result, the costs associated with the program have also been favorable to MHD. In its original projections, AIG forecast that the cost of workers compensation and general liability insurance over the lifetime of the project could exceed $900 million.

Because of the impact of the safety program, and administrative reforms of the workers compensation system that were implemented by the Commonwealth during the course of the project, the ultimate cost of the program for insurance will most likely be significantly less than originally budgeted. Indeed, if current trends continue, the probability exists that the ultimate cost could be 40 to 50 percent less than our original estimates.

In addition, these reductions in cost are also due in part to the fact that on two occasions in 1996 and in 1998 MHD and AID renegotiated certain terms of its original agreement. AIG agreed to modifications that reduce the project's maximum contractual liability to losses, and increased MHD's share of the investment income, and reduced the amount of certain fixed cost elements of the insurance plan, thereby materially improving the economic terms of the program for MHD.

Again, I would like to emphasize that the insurance program for the project has been a success to date. While it is impossible to predict the final results of the program at this juncture, it is certainly our goal that it will continue to produce benefits both in terms of safety and cost efficiency.

I would like to thank you for the opportunity to appear before you today, and welcome any questions that you might have.

[The prepared statement of Mr. Thomas follows:]

PREPARED STATEMENT OF RICHARD L. THOMAS, SENIOR VICE PRESIDENT, AMERICAN INTERNATIONAL GROUP, INC.

My name is Richard Thomas and I am here testifying on behalf of American International Group, Inc. AIG is the leading U.S. based international insurance organization and the largest underwriter of commercial and industrial coverages in the United States.

As requested, I would like to address my remarks this morning to the purpose and performance of the insurance program developed for the Central Artery/Tunnel Project. While there have been many reports circulating about the Project's budget and management issues, it is important to underscore that the insurance component of this enormous effort has been a positive contribution. To date, the Project's safety record and resultant cost efficiencies have exceeded our initial expectations and demonstrated the benefits that can be derived from a carefully designed and implemented insurance program.

The Central Artery/Tunnel Project is one of the largest, most complex highway transportation projects ever undertaken. It has involved hundreds of contractors and subcontractors and thousands of workers engaged in the wide multitude of tasks associated with a Project of this magnitude. Not surprisingly, the development and procurement of an efficient and effective insurance program was a priority for the Massachusetts Highway Department ("MHD") from the outset.

To that end, the MHD formed a committee in 1991 whose purpose was to create the bid specifications, solicit competing proposals from the insurance industry, and to select the insurance company and proposal that best achieved the objectives of the MHD at the most favorable price. That committee specified an Owner Controlled Insurance Program ("OCIP"). An OCIP is a program in which all the contractors and subcontractors working on the project are covered by a single master policy procured by the owner, thereby avoiding the redundancies and inefficiencies that would result from a multitude of policies purchased individually by contractors and subcontractors from different insurers. As is typically the case, the OCIP for the Project is designed to cover workers' compensation and general liability insurance.

It should be noted that the OCIP was designed at a time that the Massachusetts workers' compensation market was experiencing a period of significant uncertainty and instability stemming from structural deficiencies in the workers' compensation system. These issues have compromised the validity of establishing adequate rates and produced large deficits in the States' residual market pool. Thus, in addition to the enormous challenges of creating a program to address the complex needs of this project, potential insurers also were confronted with the risks associated with a multi-year program design and coverage commitments in a highly uncertain environment.

A Request for Proposal (RFP) was issued to the insurance industry by the Committee, which included a representative of a knowledgeable insurance broker retained by the MHD. Five carriers, including AIG, submitted proposals. AIG was selected as the winning bidder, in part, given its extensive experience in underwriting OCIP programs. In its proposal, AIG agreed to commit substantial resources to assist the MHD in its safety program, and AIG has had safety consultants on site from the inception of the program working side by side with professionals engaged by the MHD, the project manager, and the major contractors. In response to the RFP, AIG's proposal included substantial elements of self-insurance so that the MHD's ultimate insurance costs would be based on the success of the Project's safety program.

AIG's proposal also included other features tailored to meet the specific needs of the MHD. AIG created a claims-adjustment unit in Boston dedicated to adjusting and managing claims solely for this project. AIG created a dedicated affirmative-action office to ensure compliance with EEOC guidelines and the Project's commitment to affirmative action. AIG also agreed that it would not have the right to cancel the program for its initial three (3) year period and would be obligated to provide a one year notice thereafter. Throughout the life of the program, the MHD would have the right to cancel the insurance at any time upon 30 days notice.

Other terms of the agreement also reflected the vigorous negotiations among the parties. A trust was established to secure the funds that were allocated by the insurance plan to pay claims within the Project's self-insured retention. AIG and the MHD initially agreed that for funds held in the trust, up to the MHD's maximum premium obligation, all investment income would be split equally. This was memorialized in a written agreement negotiated with advice of counsel and entered into by the Commonwealth and AIG. In this agreement, AIG guaranteed the principal of all assets in the trust. As a result of the favorable loss experience on the program and the retention in the trust of return premiums due to the audit of actual expended payrolls, the terms of the agreement were modified in 1996, to be effective November, 1995, so that the MHD received a greater share of the investment income.

The terms of the insurance program were memorialized in a series of agreements that were negotiated with advice of counsel for all parties and were signed by the Commonwealth of Massachusetts, Bechtel Parsons (the project manager) and a subsidiary of AIG. The terms of the agreements were fully disclosed to the Federal Highway Administration and the various state agencies involved in this project. Those agencies have been kept fully informed of the performance of the program, both from an insurance and financial perspective, through regular reports and frequent communication. In addition, AIG made the appropriate filings with and received approval from the Massachusetts Department of Insurance.

From the perspective of public and worker safety and cost control, AIG's insurance program has been a success. Of greatest importance, due to the combined efforts of AIG, the MHD, the project manager and its many contractors and subcontractors, the safety record associated with this program has been extraordinary. We take, though certainly share, great pride in the fact that the number of workers and members of the public who have sustained serious injuries in connection with the project has been exceptionally low.

As a result, the costs associated with the program have also been extremely favorable for the MHD. In its original projections, AIG forecast that the cost of workers' compensation and general liability insurance over the lifetime of the project could exceed $900 million. Because of the impact of the safety program and administrative reforms of the workers' compensation system implemented by the Commonwealth, the ultimate cost of the program of insurance will most likely be significantly less than the amount originally budgeted. Indeed, if current trends continue, the possibility exists that the ultimate costs could be 40 percent to 50 percent less than the amount initially forecast.

In addition, these reductions in cost are also due in part to the fact that, on two occasions, in 1996 and 1998, the MHD and AIG renegotiated certain terms of the original agreements. AIG agreed to modifications that reduced the Project's maximum contractual liability, increased MHD's share of the investment income, and reduced the amount of certain fixed cost elements of the insurance plan, thereby materially improving the economic terms of the program for the MHD.

Again, I would like to emphasize that the insurance program for the Project has been a success. While it is impossible to predict the final results of the program at this juncture, it is certainly our goal that it will continue to produce benefits both in terms of safety and cost efficiency.

The CHAIRMAN. Thank you very much, Mr. Thomas. Mr. Wiley.

STATEMENT OF MATTHEW WILEY, PROJECT MANAGER, BECHTEL/PARSONS BRINCKERHOFF JOINT VENTURE

Mr. WILEY. Mr. Chairman, Senator Kerry, I, too, would like my remarks entered into the record.

The CHAIRMAN. Without objection.

Mr. WILEY. My name is Matt Wiley, and I am the program manager for the Boston Central Artery/Tunnel's Joint Venture management team of Bechtel/Parsons Brinckerhoff. I am pleased to be here before you this morning to discuss the Boston Central Artery project, and to outline for the Committee the role of the joint venture.

The joint venture between Bechtel and Parsons Brinckerhoff Quade and Douglas was established in 1995, and has served as management consultant for the Boston Central Artery project under contracts with the Massachusetts Highway Department and subsequently under the management of the Massachusetts Turnpike Authority.

Mr. Chairman, Bechtel and Parsons Brinckerhoff together have nearly 200 years of experience in engineering and construction. These firms are proud of their longstanding reputations as pioneers in this business, and I can state unequivocally that they are proud of the work on this project. I can also state unequivocally that over the past 15 years this joint venture has met or exceeded all of its professional obligations.

This is the largest and most complex highway project ever undertaken in the core of an American city. It has been an enormous technological and logistical undertaking, not only on the building of the infrastructure but in doing so while the people of Boston have gone about their daily business largely unimpeded by the construction activity around them.

I would like to give you but one example. We are connecting the new Ted Williams Tunnel from Logan Airport to the Artery and Massachusetts Turnpike. This requires that we construct a four-lane tunnel underneath a main north-south rail line into Boston.

There are over 700 train movements a day on this segment of track. We cannot disturb the track, which has very little tolerances for movement to avoid any possible threat of derailment, so we have frozen the ground to stabilize it through a very sophisticated set of cooling pipes, and are literally tunneling inch by inch through the unstable ground below the track at the same time we are pushing a huge four-lane concrete jack box tunnel just behind our digging equipment. This is just one of many engineering feats that are being accomplished every day in Boston.

The responsibilities of the joint venture program management team include preliminary design, design and construction management, financial planning and reporting. The vast majority of the design effort currently is associated with managing the section design contracts during construction.

Our construction management activity involves management of the contractors performing the construction work from the detailed planning through the oversight of construction execution. It also includes contract administration, change order negotiation, cost and schedule monitoring, quality inspection and, as Dick said, overall project safety.

Finally, we have the responsibility for project controls which includes estimating individual contract costs, monitoring individual contractor schedules, construction sequence planning and monitoring, and reporting on the overall project cost and schedule. We also prepare periodic total cost and schedule updates as requested by the client.

If I may add as an aside, Mr. Chairman, I would like to highlight one particular component, and that is work place safety, as Dick commented on. Our goal is to see that every worker, every constituent goes home safely at the end of the day. To that end, the project has worked nearly 60 million person hours and have compiled a safety record that is 40 to 50 percent better than the national average for lost time and recordable injuries.

I would like to commend the thousands of men and women who have contributed to this achievement. Their safety record has also generated substantial savings for the project. The project has been recognized throughout for its high quality, innovation, and integrity. I would invite the Committee and its staff to come to see the project to view first-hand the modern engineering masterpiece that is being built for the citizens of Massachusetts and the Northeast region as a whole.

The joint venture is fully committed to the Boston Central Artery project and to continuing to provide the highest quality professional services consistent with the reputation of its parent companies and the Commonwealth of Massachusetts. I thank you for the opportunity to appear before this Committee and look forward to answering any questions.

[The prepared statement of Mr. Wiley follows:]

PREPARED STATEMENT OF MATTHEW WILEY, PROJECT MANAGER, BECHTEL/PARSONS BRINCKERHOFF JOINT VENTURE

Mr. Chairman and Members of the Committee:

My name is Matt Wiley and I am the Program Manager for the Boston Central Artery/Tunnel's Joint Venture management team of Bechtel and Parsons Brinckerhoff.

I am pleased to appear before you this morning to discuss the Boston Central Artery/Tunnel project, and to outline for the Committee the role of the Joint Venture.

The Joint Venture between Bechtel and Parsons Brinckerhoff Quade and Douglas, Inc., was established in 1985, and has served as Management Consultant for the Boston Central Artery/Tunnel project under contracts with the Massachusetts Highway Department and, subsequently, under management by the Massachusetts Turnpike Authority.

Mr. Chairman, Bechtel and Parsons Brinckerhoff together have nearly 220 years of experience in engineering and construction. These firms are proud of their longstanding reputations as pioneers in this business, and I can state unequivocally that they are proud of their work in this project. I can also state unequivocally that over the past 15 years, this Joint Venture has met or exceeded all of its professional obligations.

This is the largest and most complex highway project ever undertaken in the core of an American city. It has been an enormous technological and logistical undertaking, not only in building the physical infrastructure, but in doing so while the people of Boston have gone about their daily business largely unimpeded by the construction activity all around them.

I would like to give you an example. We are connecting the new Ted Williams Tunnel from Logan Airport to the Artery and Massachusetts Turnpike. This requires that we construct a four-lane tunnel under the main north-south railroad line through Boston. There are over 700 train movements a day on this segment of track. We cannot disturb the track, which has very low tolerances for movement, to avoid any possible threat of derailment. So we have frozen the ground to stabilize it through a very sophisticated set of cooling pipes, and are literally tunneling inch-by-inch through the unstable ground below the tracks at the same time that we are pushing a huge four-lane concrete "jack-box" tunnel just behind our digging equipment.

This is just one of many engineering feats that are being accomplished every day in Boston.

The responsibilities of the Joint Venture Program Management team include preliminary design, design and construction management, and financial planning and reporting. The vast majority of the design effort is associated with managing the section design contracts during construction.

Our construction management activity involves the management of the contractors performing the construction work, from the detailed planning through oversight of construction execution. It also includes contract administration; change-order negotiation; cost and schedule monitoring; quality inspection; and overall project safety.

Finally, we have responsibility for project controls, which includes estimating individual contract costs; monitoring individual contractor schedules; construction sequence planning; and monitoring and reporting on overall project cost and schedule. We also prepare periodic total cost and schedule updates as requested by the client.

If I may add an aside, Mr. Chairman, I would like to highlight one particular component, and that is workplace safety. Our goal is to see that every worker goes home safely at the end of every day. To that end, the Project has worked nearly 60 million person hours, and we have compiled a safety record that is 40 percent to 50 percent better than the national average for lost-time and recordable injuries.

I would like to commend the thousands of men and women who have contributed to this achievement. Their safety record has also helped generate substantial savings.

The Project has been recognized throughout for its high quality and innovation. I would invite the Committee and its staff to come to see the Project to view first hand the modern engineering masterpiece that is being built for the citizens of Massachusetts and the Northeast Region as a whole.

This Joint Venture is fully committed to the Boston Central Artery Project, and to continuing to provide the highest quality of professional service consistent with the reputations of its parent companies, and the Commonwealth of Massachusetts.

I thank you again for the opportunity to appear before your Committee this morning, and I look forward to answering your questions.

* * * * *

I understand from the Committee's staff that the Committee is particularly interested in my testimony to learn more about the following subjects:

- B/PB's Management Consultant role;
- Organizational approach to management of the project;
- B/PB's role in award of contracts; and
- B/PB's role in financial reporting.

B/PB's Management Consultant Role

Since 1985, the B/PB Joint Venture has performed management consultant services under the terms of a number of successive contracts, called work programs, first with the Massachusetts Department of Public Works (through work program no. 9, dated June 24, 1991) and then with the Massachusetts Highway Department (through the current work program, no. 14, dated June 26, 1996). In July 1997, the Massachusetts Turnpike Authority took over supervision of the Project.

B/PB is responsible for the overall program management on the Project. This role has evolved over time and currently includes preliminary design, design and construction management and financial controls and planning. The current design effort is primarily involved in managing the section design contracts during construction phase services.

Construction management comprises the bulk of B/PB's current responsibilities. This management of the contractors performing the construction work includes contract administration, change order negotiation, cost and schedule monitoring, quality inspection and overall Project safety.

B/PB's Project controls work includes estimating individual contract costs, overall Project cost and schedule monitoring and reporting, construction sequence planning, and monitoring individual contractor schedules.

B/PB also supports the MTA in the MTA's supervision of environmental, public affairs, legal, procurement, accounting and administration services for the Project.

The Organization of the Project's Management

For the first 13 years of the Project, B/PB and the MHD (and later the MTA, when it took over the management of the Project) functioned as independent organizations, in some cases having duplicative or overlapping roles.

The role of the MHD/MTA has throughout the Project's existence been to establish policy, provide general direction and guidance, oversee the B/PB's performance as the state's management consultant, and make all major decisions concerning the CA/T Project.

The Integrated Project Organization

In 1997 and 1998, the Project's management was changed by the MTA to an Integrated Project Organization (IPO). The basic idea behind this structure was to provide for an orderly transition to having MTA operate the Project upon its phased completion. The IPO was adopted with the full concurrence of the FHWA and the approval of the Massachusetts State Ethics Commission.

The concept was to have an integrated management structure where B/PB and MTA would have "counterparts" in each functional area, along with a direct interface between the B/PB Program Manager and the MTA Project Director. Over time, functions have been and will be transferred so that the MTA will have sole management responsibility for them.

Both Bechtel and Parsons Brinckerhoff have worked on many other major projects using an integrated project organization approach. Both companies have found that an integrated approach, like the one now in place on the CA/T Project, can be a very effective way to manage a major project.

Under the Project's IPO, the MTA has at all times retained final responsibility and authority for the direction and management of the Project, including maintaining independent oversight over B/PB. At the same time, B/PB has remained professionally and contractually accountable to MHD/MTA and the Commonwealth for the quality and the performance of its management consultant services, as set out in the various work programs.

The implementation of the IPO at the Project at no time impaired B/PB's exercise of its independent professional judgment. Nor has it ever compromised B/PB's integrity or ethical standards in performing its professional obligations.

B/PB's Role in Award of Contracts

B/PB's role in the award of contracts has two components. First, B/PB has entered into a number of contracts in its own name with sub-consultants. These sub-consulting contracts include engineering, conceptual design, and some management activities. Although these agreements with the subconsultants are in B/PB's name, they are reviewed and approved by the MHD.

Second, B/PB also plays a role in the award of consulting and construction contracts by the MHD itself. For consulting contracts with the section design consultants, B/PB negotiates with and manages the design firm selected by the MHD. For construction contracts, B/PB prepares the requests for proposals (bids), analyzes the bids submitted, and then makes a recommendation to the MHD as to whether the low bidder is acceptable. Both consulting and construction contracts are entered into in the name of the MHD, but they identify B/PB as the MHD's management consultant and its representative for implementing the contract. I want to emphasize that although B/PB acts as the MHD's management representative for nearly all aspects of the MHD's contracts, the actual award of the work is solely the prerogative of the MHD.

B/PB's Role in Financial Reporting

B/PB at all times provided MHD/MTA with all of the available information about the costs of the Project. Throughout its work on the Project, B/PB has met or exceeded all of its contractual and professional obligations for cost controls, consulting advice and reporting to MHD/MTA.

All reasonably certain financial information and data are included in the Project Monthly Management (PMM) Reports and the Finance Plans, both of which were developed with the full participation and knowledge of our client, as well as the FHWA.

The so-called "up-down" charts—which identified plus-and-minus future cost trends on the Project—were by their very nature speculative and not considered firm financial data. These materials were prepared by B/PB to provide a way for our client to identify the cost pressures and possible alternatives for resolving them.

Concluding Remarks

The Committee staff has expressed an interest in soliciting B/PB's recommendations to avoid a recurrence of what has recently occurred on the Project with the announcement of the cost increases. This is a complicated issue involving inter-governmental relationships that I believe are beyond my expertise. However, B/PB's constituent companies, Bechtel and Parsons Brinckerhoff, would welcome the opportunity to participate in a dialogue with the appropriate governmental bodies in addressing these complex issues. We are certain other members of the engineering and construction industry would also welcome the opportunity to participate in such a dialogue.

Thank you again for your interest in this vital Project. On behalf of the B/PB Joint Venture, I appreciate this opportunity to appear before the Committee.

The CHAIRMAN. Thank you, Mr. Wiley. Mr. Dimino.

STATEMENT OF RICHARD A. DIMINO, PRESIDENT AND CEO, ARTERY BUSINESS COMMITTEE

Mr. DIMINO. Thank you, Mr. Chairman. I want to thank you and Senator Kerry for giving me the opportunity to testify before you and the Committee today.

As mentioned, my name is Richard Dimino. I am President of the Artery Business Committee, an organization established in 1988 to represent the Boston business community in support of the Central Artery Project. The ABC, as it is known, was formed in recognition of the mutual interest among major area businesses to focus corporate support and help manage the ongoing impact of the Central Artery/Tunnel project. Today, ABC's active membership includes more than 60 companies and collectively over 100,000 employees that are working in and around Greater Boston.

I am also testifying on behalf of the Greater Boston Chamber of Commerce, with which we are affiliated.

As many of you know, the elevated highway that runs through the center of downtown Boston was built in the 1950's to accommodate 75,000 vehicles, commonly referred to as the Central Artery. This highway was built using State highway funds only. It does not meet State and Federal interstate highway standards. By the time that President Eisenhower and Congress instituted the interstate highway program that allocated Federal dollars to States for infrastructure investments, the Central Artery was built, and Massachusetts was not able to call on this Federal subsidy to assist in its construction.

More recently, in the mid-to-late 1980's, because Massachusetts was not prepared to make use of the funds allocated under the Surface Transportation Act, the State returned the unused budget authority to the Government in accordance with Federal highway law.

In fact, between 1983 and 1990, while $3.3 billion was apportioned to Massachusetts from the highway trust fund, only $1.9 billion was used. Thus, during those years Massachusetts was a donor to the highway trust fund and to the other infrastructure investments that were being made throughout the country, receiving 80 to 90 percent Federal assistance while our projects were still in the planning stages.

Over the last decade, Massachusetts has been and continues to be in a position to receive and spend money allocated from the highway trust fund based on the TEA–21 allocation formula, it is possible that Massachusetts will be contributing as much as 30 to 40 percent of the project's final cost, while during the interstate completion program other States received as much as a 90 percent Federal contribution.

Today, the Central Artery is in a state of great disrepair, carrying over 190,000 vehicles daily, more than double its capacity. Locally, more than 30 lanes of traffic converge into a six-lane deteriorating structure that is one of the most congested, polluted, accident-prone pieces of urban infrastructure in any part of the country.

The Sumner and Callahan Tunnels crossing Boston Harbor to the airport, the Nation's twelfth largest airport, have proven inadequate and demanded a third harbor tunnel. Construction has been progressing, and several important milestones have been achieved on the Central Artery/Tunnel project since 1991.

Now, as the project proceeds in its peak construction phase, it is critical that the State continue to receive its share of Federal highway dollars. I want to emphasize that even a temporary cut-off of funds will result in unrecoverable schedule delays and further cost increases. In addition, any withdrawal of the Federal participation in the grant participation notes program that the Commonwealth and the Federal Government has entered would also be serious impact to the Commonwealth of Massachusetts as well as our budgeting and future infrastructure investments.

That being said, I have read the Federal Highway Administration's report on the Central Artery project, and believe it to be a comprehensive review of the project's management and cost. Boston's business community was disappointed to learn of the project's reported $1.4 billion overrun, and surprised by the audit's conclusion that the project's officials have deliberately misled the Federal Highway Administration overseers and the public.

We were disappointed because the business community has been otherwise impressed by the project's sound construction management, excellent safety record, and success at keeping the city operational and economically viable during major construction. Our reaction is tempered by the knowledge that this project is truly unprecedented, an engineering challenge like no other, and every cost adjustment is rooted in the difficulty of those challenges.

The ABC supports a number of recommendations put forth in the Federal audit report. Specifically, we support the new reporting and documentation and monitoring protocols, projected cost exposure and contingency budgeting, the significant schedule trend report, the annual bottom-up review of project cost, the requirements that relate to a balanced State-wide program, the project contingencies that were estimated in the audit report, as high as $480 to $500 million, and the notion that a Federal Highway/State Turnpike agreement be established relative to these recommendations.

These recommendations, particularly those associated with financial reporting, monitoring and communications procedures, are essential to the immediate restoration of the project's credibility and public confidence. With new Federal leadership in place, and the established financial reporting and communications, the business community is confident the project can move forward and put the recent controversy behind it.

Over the last 2 months, State leaders have identified resources totalling up to $2.7 billion to cover the project overrun, project contingencies, and support of our State-wide program. At this time, Massachusetts has the wherewithal to move forward with a financing strategy that will meet the Federal Highway Administration's approval and ease the mind of our critics. Our legislature is examining various combinations of resources, including the reinstatement of State licensing, and registering fees, and use of the State's surplus that will address the gap in the project's funding, and establishing a contingency fund to cover any future cost increases.

The commitment of the Massachusetts legislature as indicated in recent correspondence to Secretary Slater is included in my testimony. We are committed to working with the legislators and Massachusetts Turnpike to adopt a State-wide transportation finance plan in accordance with the Federal Highway Administration's recommendations. We support the need for a balanced State-wide road and bridge program, and look forward to restoring confidence in the management of this remarkable project.

In the long term, the project will provide a more efficient and safer highway system. It is essential that immediate and bipartisan efforts are made to resolve the Central Artery/Tunnel project's fiscal challenges, and we look forward to working with congressional Federal leaders and the public. When all is said and done, however, we believe that the Central Artery project will serve in numerous cases as a model for other major cities across the country.

One example already, the CA/T was the first megaproject to submit a finance plan to the Federal Highway Administration. This practice was later made statutory in TEA–21 legislation. This and other project first lessons learned will serve as important resources for other major infrastructure projects rebuilding in the middle of urban environments while trying to keep the city open for business.

Speaking to you today on behalf of the business community, I am confident the project's new State and Federal leadership will restore the project's integrity and reach consensus with the legislature and the Governor on a financially feasible funding strategy that will see the project through completion.

I want to thank you, Mr. Chairman, and Senator Kerry again for giving me this opportunity.

[The prepared statement of Mr. Dimino follows:]

PREPARED STATEMENT OF RICHARD A. DIMINO, PRESIDENT AND CEO, ARTERY BUSINESS COMMITTEE

Mr. Chairman, thank you for the opportunity to testify before you and the Committee members today.

My name is Richard Dimino and I am the President of the Artery Business Committee (ABC), an organization established in 1988 to represent the Boston business community in its support of the Central Artery/Tunnel (CA/T) Project. The ABC, as it is known, was formed in recognition of a mutual interest among major Boston area businesses to focus corporate support and help manage the ongoing impact of the CA/T Project. Today, ABC's active membership includes more than sixty companies in the Greater Boston area that collectively employ over one hundred thousand people. Essentially, ABC exists as a means for the Greater Boston business community to articulate its interests to the CA/T Project's Management Team and ensure that they are represented throughout the duration of the Project. I am also testifying on behalf of the Greater Boston Chamber of Commerce of which we are affiliated.

Our organization provides business advocacy and leadership for the CA/T Project and other major transportation and development issues of regional and statewide significance. We speak with an independent voice about goals and priorities for the Project—both during and after construction. These goals include: preserving the City of Boston's thriving economic base, providing the infrastructure to accommodate growth in the region in the 21st century, facilitating the development/master planning efforts for the Central Artery corridor, and communicating a positive perspective on conducting business in the city through Project completion.

As many of you know, the elevated highway that runs through the center of downtown Boston was built in the 1950s to accommodate 75,000 vehicles. Commonly referred to as the "Central Artery," this highway was built using State highway funds only and does not meet interstate highway standards. By the time President Eisenhower and Congress instituted the Interstate Highway program that allocated federal dollars to states for infrastructure investment projects, the Central Artery was built and Massachusetts was not able to call on this federal subsidy to assist in its construction. More recently, in the mid to late 1980s, because Massachusetts was not prepared to make use of the funds allocated to the Project under the surface transportation act, the state returned this unused budget authority to the government in accordance with federal highway law. In fact, between 1983 and 1990, while \$3.3 billion was apportioned to Massachusetts from the Highway Trust Fund, only \$1.9 billion was used. The difference was returned to the Fund for use by other states. Thus, during those years, Massachusetts was a donor state to the Highway Trust Fund, supporting infrastructure investment in other states across the country receiving 80–90 percent federal assistance while our projects were still in the planning stages. Over the last decade, Massachusetts has been and continues to be in a position to receive and spend money allocated from the Highway Trust Fund. Based on the TEA–21 allocation formula, it is possible that Massachusetts will be contributing as much as 40 percent to the Project's final cost while, during the Interstate completion program, other states received a 90 percent federal contribution.

Today, the Central Artery is in a state of grave disrepair, carrying over 190,000 vehicles daily—more than double its capacity. Locally, more than thirty lanes of traffic converge onto this six-lane deteriorating structure that is one of the most congested, polluted, and accident-prone pieces of urban interstate in the country. The Sumner and Callahan tunnels crossing Boston's harbor to its airport, the nation's twelfth largest, have proven inadequate and have demanded a third harbor tunnel to accommodate need and expand capacity. The need for new infrastructure in Boston is inarguable. The option to repair the current elevated structure rather than rebuild and modernize, while less expensive, would completely immobilize our economy for years and would leave Boston with the same antiquated, invasive structure and chronic gridlock. The CA/T Project has found a way to bring our regional infrastructure into the 21st century while protecting the environment, the economy, and the interests of residents, commuters, and tourists at every stage.

Construction has been progressing and several important milestones have been achieved on the CA/T Project since construction began in 1991. Now, as the Project proceeds through its peak construction phase, it is critical that the state continues to receive its share of federal highway dollars. I want to emphasize that even a temporary cut off of funds will result in unrecoverable schedule delays and further cost increases.

That being said, I have read the Federal Highway Administration's Audit Report on the CA/T Project and believe it to be a comprehensive review of Project management and cost. Boston's business community was disappointed to learn of the Project's reported $1.4 billion overrun and surprised at the audit's conclusion that Project officials had deliberately misled FHWA's overseers and the public. We were disappointed because the business community has been otherwise impressed by the Project's sound construction management, excellent safety record, and its success at keeping the city operational and economically viable during major construction. Our reaction is tempered by the knowledge that this Project is truly unprecedented, an engineering challenge like no other, and every cost adjustment is the rooted in the difficulties these challenges present.

By and large, the ABC supports the recommendations put forth in the Federal Audit report. Specifically, we support:

- new reporting, documentation, and monitoring protocols.
- projection cost exposure and contingency budgeting.
- the significant schedule trend report.
- an annual bottom-up review of project costs.
- requirements that relate to a balanced statewide program.
- Project contingencies as high as $480–500 million.

These recommendations and particularly those associated with financial reporting, monitoring, and communications procedures are essential to the immediate restoration of the Project's credibility and public confidence.

With a new state and federal leadership in place and new procedures established for financial reporting and communication, the business community is confident that the Project can move forward and put the recent controversy behind it. Over the last two months, State leaders have identified resources totaling up to $2.7 billion to cover the Project overrun, project contingencies, and support our statewide program. At this time, Massachusetts has the wherewithal to move forward with a financing strategy that will meet with FHWA's approval and ease the minds of our critics. Our Legislature is examining various combinations of resources, including the reinstatement of our state's license and registry fees and use of the state's surplus that will address the gap in Project funding and establish a contingency fund to cover any future cost increases. The commitment of Massachusetts legislators is indicated in recent correspondence to Secretary Slater and is included with my testimony. We are committed to working with the Legislature and the Massachusetts Turnpike Authority to adopt a statewide transportation finance plan in accordance with FHWA's recommendations that will address the Project's overruns, support our statewide road and bridge program, and restore your confidence in the management of this remarkable project.

We must not forget that the Project is unprecedented in its scope and complexity. The Project requires that reconstruction of Boston's major and most congested highways must take place while keeping the city open and accessible for businesses, residents, and tourists. Shutting the city down during construction is clearly not an option. Maintaining Boston's infrastructure during what will total fourteen years of active construction reflects the engineering complexity of the Project's mitigation program. This program makes up roughly one third of the CA/T's overall cost and is essential to the city's survival during construction that, in years past, would have wreaked havoc on every business, merchant, and resident in it's path. The Artery Business Committee has worked in concert with CA/T Project staff to ensure that construction is not detrimental to the community, the environment, or to maintaining traffic movement.

The Project has been a major catalyst for the Commonwealth's ongoing economic recovery in the region. In the short-term, billions of Project dollars are circulating through the local economy, creating thousands of jobs and generating business for hundreds of local companies. The Project is one of the region's largest employers, with more than 5,200 jobs currently attributable to construction and Project management. In addition, money spent on food, delivery, printing, and other support services is providing employment for another 4,000 individuals. That's more than 9,000 employed as a result of the Central Artery/Tunnel Project.

In the long-term, the Project will provide a more efficient and safer highway system to move people and goods throughout the Northeast. The CA/T Project is creating an intermodal transportation infrastructure, with links to air, sea, rail, bus, and subway that can support sustained economic growth well into the next century, helping to retain existing businesses and attract new companies to eastern Massachusetts.

Some of the Central Artery/Tunnel Project's significant and wide-ranging benefits can be measured by assessing the value of factors such as reduced travel times and greater accessibility, improvements to our utility infrastructure and reduced utility repair, environmental benefits, and improved economy in the region. In addition, the Project is creating more than 150 acres of new parks and open space, including 27 acres where the existing Central Artery stands, 105 acres at Spectacle Island, and 40 acres in the New Charles River Basin. This planned open space through the heart of downtown represents an exceptional urban amenity which will increase the value of abutting real estate dramatically and will create an attractive corridor for downtown. Project improvements to the Boston area infrastructure has and will continue to generate significant real estate development projects throughout the city, including planned development in the South Boston waterfront district and the proposed Convention Center. Development of approximately one thousand acres of waterfront property in this district has been made possible by the Project with the increased access and mobility brought on by the addition of the Seaport Access Road and Ted Williams Tunnel to Logan Airport.

The work is progressing in spite of the numerous construction and design challenges, and engineering "firsts" encountered by Project management that truly distinguish the CA/T from other large infrastructure projects. Despite doomsday predictions prevalent in the 1980s, the Project is proving that it is possible to modernize a city's transportation system without shutting down the city. To the contrary, Boston continues to flourish and traffic continues to flow around CA/T construction activity. The Financial District and its sub-markets are experiencing single digit office vacancy statistics. The overall office vacancy rate of 2.9 percent represents a historical low, tourism has grown, and the hotel occupancy rate in Boston at more than 80 percent is higher than most other metropolitan areas.

It is essential that immediate and bipartisan efforts are made to resolve the CA/T Project's fiscal challenges so that the it can successfully move forward. FHWA's audit report has made note of errors and omissions in the Project's financial reporting practices. Project leaders have appeared here today to assure you that they are committed to taking the actions necessary to repair their monitoring and communications protocol as well as their relationship with Congressional and federal leaders and the public. When all is said and done though, I believe the CA/T Project will serve as a model for other major cities across the country as each plans to rebuild its own highway infrastructure. The CA/T was the first mega-project to submit a finance plan to the Federal Highway Administration in 1995. This practice was later made statutory in TEA–21 legislation. This and other Project "firsts" and lessons learned will serve as important resources for other major infrastructure projects rebuilding in the middle of urban environments while trying to keep the city open for business and maintain economic vitality.

Speaking to you today on behalf of Boston's business leaders, I am confident that the Project's new state and federal leadership will restore the Project's integrity and reach consensus with the Legislature and the Governor on a financially feasible funding strategy that will see this Project through completion. We look forward to continuing our partnership with Congressional, federal, and state leaders to advance completion of this project in a timely and prudent fashion. In the interim, it is our hope that no federal action is taken that would be detrimental to the Project's progress and, therefore, our regional economy.

Thank you for the opportunity to testify today.

GENERAL COURT OF MASSACHUSETTS,
Boston, Massachusetts, March 20, 2000.

Secretary RODNEY E. SLATER,
Secretary of Transportation,
U.S. Department of Transportation,
Washington, DC.

Dear Secretary Slater:

This letter serves to confirm the commitment of the Massachusetts Legislature to work productively with the Federal Highway Administration (FHWA) and with Governor Paul Cellucci and his administration, including the Central Artery/Third Harbor Tunnel Project team, to provide a successful solution to the Project's current funding shortfall.

As you are aware, Governor Cellucci has proposed legislation that offers some direction for covering the $1.4 billion cost overrun. Moreover, the Legislature has convened a Special Joint Legislative Committee to Study, Investigate and Ascertain the Cost of Completion of the Central Artery/Tunnel Project and the Statewide Transportation Program. This Committee has been working to assess the need for additional funding sources to simultaneously meet the current cash needs of the Project and provide for a reasonable and sustainable Statewide Road and Bridge Program.

Our approach will continue to be a judicious one. We plan to identify additional funding sources, including possible contributions from third-party agencies, from cash reserves of the Massachusetts Turnpike Authority, from the state surplus, as well as from other non-federal sources that could offer a defined revenue stream. We have made it a priority to find resources that can both meet the current needs and provide for contingencies.

As part of this process, we are also anxious to see the results of the current federal review of the project. Since it is our understanding that this review will be completed by the end of March, it is our hope to have benefit of the information stemming from this federal review before taking final legislative action.

In closing, we are well aware of the seriousness of the issue, as well as the importance of being fiscally prudent and responsive to the timeframe that has been established by FHWA. We are very sensitive to the need to provide adequate funding in a way that does not jeopardize the future of this important infrastructure project and we remain committed to successfully meeting the need.

Thank you for your consideration of this matter.

Very truly yours,

THOMAS M. FINNERAN, *Speaker,*
Massachusetts House of Representatives.

THOMAS F. BIRMINGHAM, *President,*
Massachusetts State Senate.

JOSEPH C. SULLIVAN, *Chairman,*
Joint Committee on Transportation,
State Representative.

ROBERT A. HAVERN, *Chairman,*
Joint Committee on Transportation,
State Senator.

The CHAIRMAN. Thank you very much.

Mr. Natsios, for several years, project managers had lowered the total cost of the project based on an assumption that you referred to in your opening statement. The project financing plan submitted to the Federal Highway Authority put the insurance fund credit in excess of $800 million. The Inspector General has determined that the project manager assumption was erroneous.

The IG stated that the credit was based on, and I quote, unallowable retention and investment in excess Federal funds. The updated finance plan submitted to DOT on March 15 acknowledges that project managers take seriously the IG's concern. Does the updated finance plan still assume the $826 million credit is an offset to current project costs?

Mr. NATSIOS. Let me ask Mike Lewis. That was submitted prior to my taking over, Mr. Chairman. I can say from now on it will not be included. Let me ask, does the updated finance plan include it?

Mr. LEWIS. It does not. The cash needs of the project were identified as $13.1 billion. It is an additional $1.4 billion over the previously identified cash needs of $11.7 billion, and that has been made very clear by the Federal Highway Administration and by the DOTIG, and certainly by Mr. Natsios. That will not be included in the final finance plan that is submitted by June of this year.

The CHAIRMAN. Obviously, Mr. Natsios, you do not believe it is appropriate for a State to use highway funds for investing in a portfolio of securities.

Mr. NATSIOS. No.

The CHAIRMAN. And I have some confidence you will take steps to initiate the end of the misuse of these funds.

Mr. NATSIOS. We will hire probably a person from a university who is an expert. We are looking at several of them now who are experts at one of the leading institutions in the country on insurance to review this whole facility and see what changes need to be made. I am an expert in finance, not in insurance. I have to just say that. So I have to seek outside counsel on that.

The CHAIRMAN. Do you know how many lobbyists and consultants have been hired during the duration of the project, and at what cost, and has any of the Federal funding been used to pay for them?

Mr. NATSIOS. We are just going through that now, and I have been somewhat astonished by the list. I terminated several last week, and I think I am about to sign eight more letters tomorrow to terminate the rest of them. I do not need any lobbyists, Mr. Chairman. I saw Members of Congress when I was here on foreign policy issues without a lobbyist for 10 years. I can do it now. The lobbyists may not be too happy about it, and that is true at the State level, too, and the public relations consultants. We do not need those, either.

The CHAIRMAN. Would you submit for the record the lobbyists and consultants and the total cost over the course of this project?

Mr. NATSIOS. I will.

The CHAIRMAN. According to press reports, your predecessor secured a $200,000 severance package upon being dismissed as chairman. Do you have any information concerning that report?

Mr. NATSIOS. Well, Mr. Chairman, I was asked to make the transition and frankly I would have taken a much harsher view, but we wanted to get the new leadership in, and put that behind us. It has been a practice at the State's authorities when they are firing someone to give them a year's severance package. In some cases people have gotten 2 years.

He asked for 3 years. We gave him 1 year. That is our money. That is Turnpike money, it is not Federal money. Whether it was too much or not, I reacted in what I thought was the public interest in making the leadership change quick, speedy, and complete.

The CHAIRMAN. Well, it is an interesting way of looking at things. Last week, a very troubling article reported about the project's purchase of a parking lot for disposing of dirt during construction, which was never even used by the project and ultimately returned to the original owner at a cost of some $50 million. Do you know who is responsible for that? First of all, is it accurate? Second of all, who is responsible, and why would any Federal funding be expended on such a thing?

Mr. NATSIOS. Well, that goes back to 1991. That does not mean it is less legitimate, but I was somewhere in Somalia in 1991. I would have to ask Mike Lewis if he can give us a review of the history of that.

The CHAIRMAN. Mr. Lewis, and I guess included in your answer, would any effort be made to get some of that money back? I mean, it seems to me that somebody made a very nice windfall of about $50 million, got the property back, which is remarkable. I know real estate prices are quite high in Massachusetts, but $50 million for a vacant lot it seems to me is a little bit extravagant.

Mr. LEWIS. Mr. Chairman, I could respond to that. I think there were some inaccuracies in the Boston Herald report and I would like to clear them up if I can. It is a complex series of land takings that were done not just by the Central Artery project but there were separate takings made by the Massachusetts Highway Department for the reconstruction of Northern Avenue and the Evelyn Moakley Bridge across the four-point channel.

There were land takings made by the Massachusetts Bay Transportation Authority for the construction there, South Boston Pier's Transit Way project, all from the McCourt companies. There were also land takings by the Central Artery project for the construction of the South Boston Street System that was part of the design, the land area that was acquired.

Of all of those takings, there was over 1 million square feet of land taken from the McCourt Companies, a combination of fee-takings as well as temporary easements. The parcel that was identified for what we called our materials processing operation was about 290,000 square feet of the million square feet, and it was taken in easement. It was an 8-year easement on that property for the purposes, the original intended purposes, of processing the over 10 million cubic yards of excavated material from the project that was identified in the 1990 environmental impact statement.

It was a site that was chosen back in 1990, prior to my coming to the project, because of its proximity to the work. Its proximity to what we call the South Boston Hole Road, which was a roadway that was built to access the work area without going through neighborhood streets, and it was underutilized area of the city. It was not near residents. It was felt for those reasons it was a good selection of land to be taken.

The CHAIRMAN. But it was never used.

Mr. LEWIS. It was not used for its original intended purposes, that is correct. The project had identified the program to process the activated materials, and the original intention was, all the excavated material would be taken to this one site, be segregated, tested for its environmental constituencies, and then sent out for disposal, whether it is backfill, or if it was hazardous material——

The CHAIRMAN. I think you are overanswering my question, Mr. Lewis. Are we going to get the money back or not?

Mr. LEWIS. I do not believe so, and the land, when the bids were opened on the material processing operation the project had estimated the total value of that operation to be about $60 million. The low bid was $210 million. The decision was made to reject those bids. There was a clear difference of how that work was calculated, and the project decision was made to reject those bids and find a different way of handling the material.

The property had already been taken, because we had to acquire the land before advertising the contract. We utilized that land at 290,00 square feet for a number of purposes not related to materials processing, including the replacement parking for other impacted parking that was done on the World Trade Center, and that in order to offset the potential exposure and damages to that parking impact, we actually located them on this property through 1998.

All of that land was also used for many of the Artery contracts for construction laydown, which is a very valuable commodity in the city, so it was not used for its original purpose. That money was settled. All of the various—the land takings, the various State agencies of the McCourt properties were all taken under what is called the Omnibus Settlement Agreement by the Attorney General's Office of Massachusetts, and the Attorney General feels very strongly that the exposure in land damages of upwards of $140 million was very much reduced by the settlement and the additional payment made.

I should also point out that—not that it is a mitigating factor, but over 60 percent of the payments made were actually statutory interest payments for the period of time between the original takings and the time the settlement was entered into.

I apologize. That was a long answer.

The CHAIRMAN. Thank you. I just—it is rather interesting.

Mr. Thomas, how much does AIG receive annually under your contract agreement to manage the Central Artery OCIP?

Mr. THOMAS. The amounts we receive are calculated in terms of premium for the workers compensation and general liability program. It has varied through the years, depending on the project activity, but it's approximately in the area of $60 million a year during the peak of the project work.

The CHAIRMAN. And how much have you paid out in claims?

Mr. THOMAS. Right now we are holding—I don't know the answer to how much we have actually paid out to date, but we are holding in both paid and reserved amounts about 32 percent of what has been paid in.

The CHAIRMAN. How much has AIG earned in interest dividends on the Federal funds in the investment accounts?

Mr. THOMAS. Well, on our total investment earnings since 1992 for all funds in the collateral account are $18.3 million through year end 1999.

The CHAIRMAN. In your experience, what is an appropriate reserve level for an OCIP?

Mr. THOMAS. Well, this is where the problem comes, sir, particularly with a project of this nature. Normally when we look at other insurance opportunities we have a historic picture of loss experience for that enterprise and we use that to predict the future. With a project of this type, obviously there is no prior history and so what we have to do is take the history of the various work classifications that would be involved and try to forecast based on that and based on the anticipated hazards of the project what the ultimate losses could be.

So it is a little bit less of an actuarial exercise and more of an exercise in experience and judgment and then of course as the actual experience develops from the project, we are able to modify those projections based on the emergence of actual loss history.

The CHAIRMAN. Well, when did your company first determine that trust levels in the project's insurance trust accounts were being held at levels higher than were needed as collateral against future claims?

Mr. THOMAS. At the end of 1995–96 we were concerned because of the slow buildup of actual construction work and actual payrolls expended, that we would be moving into the zone where we would actually hold more funds than the project was contractually obligated to pay under the terms of the program.

The CHAIRMAN. Well, how and to whom did your company report that these fund levels exceeded the levels necessary?

Mr. THOMAS. We first expressed our concerns to the broker, Tom Shepherd, and later expressed our concerns to project management.

The CHAIRMAN. And who directed you to continue to hold these funds in the investment accounts and did you express any concerns over this direction?

Mr. THOMAS. Well, as I indicated earlier, because of the slow development of actual contracts let and expended payrolls at the end of each annual period we do audits to determine the actual expended payrolls and convert that into the premium and we were generating return premiums in these early years which we, from the audit results, we informed the project of the return premiums.

We were directed to deposit those or retain those in the collateral account because they anticipated a more aggressive ramp-up of work activity going forward into the future and so we made our concerns known to the project. They directed us to retain those amounts in the collateral account.

You will also note from my testimony earlier that in 1996 we changed the structure of the program from an investment point of view, so today AIG would only derive a share of the investment income from what we call the expected loss account, which was the portion of the funding that we're projecting to actually be required to pay losses and that all funding in excess of that, that we held in the collateral account, 100 percent of that investment income accrued to the benefit of the project.

The CHAIRMAN. Thank you. Mr. Wiley, from the joint ventures perspective, is the final cost of this project actually known?

Mr. WILEY. I would answer that this way, Mr. Chairman. We have been heavily criticized over the past for establishing a number and then sticking to that number and——

The CHAIRMAN. Criticized for establishing a number and sticking to the number?

Mr. WILEY. Making comments publicly that it was 10.6 and not a penny more, and I would rather not get into that same position. I will answer it this way. I think we have done a credible job in estimating the to-go cost of the project and we forwarded that information to a number of different agencies, including the Federal Highway Administration, O'Brien Kreitzberg, who is an outside consultant, and Deloitte Touche. I believe we have a number that is achievable, but I am not going to sit here and draw a line in the sand, like has been done in the past.

The CHAIRMAN. I guess I am not asking for a line in the sand. I just repeat the question. Is the final cost of this project actually known and if so, I don't know why we should keep it a secret from the American taxpayers.

Mr. WILEY. I don't think we are keeping it a secret. As I said, I think the $13.1 billion estimate we came up for the total cash expenditure for the project is a legitimate number that we believe is capable of being made.

Mr. NATSIOS. Mr. Chairman, if I could add since ultimately I will be held accountable for this, I asked Deloitte & Touche to take the number we are using, which is $13.1 billion and determine its accuracy. The number that the IG came up with, the number that the USDOT came up with in their audit report, I think they are three different figures. I told Deloitte Touche to come back to me and tell me what a reasonable estimate is, based on certain assumptions because I do not want to keep reconfiguring these figures. It makes people angry. It reduces our credibility. People think we are lying to them and I want the figure to be realistic. So when they come back with a figure, I will send you a copy and the Committee staff.

The CHAIRMAN. When will that be?

Mr. NATSIOS. That should be in the next couple of months. They are well into the effort now, but it is very time-consuming because we are not looking at just our estimate, we are looking at how the number was derived by the IG and then by the USDOT in their audit.

The CHAIRMAN. Mr. Wiley, were you aware of the $1.4 billion cost overrun and if so, did the joint venture ever raise concern with officials of MTA or FHWA warning of the rising cost of the projects?

Mr. WILEY. I would say that up until the end of 1999 we were aware of a cost exposure of $1.4 billion. We were also aware of a cost offset of $1 billion, so the overall exposure that we saw at the end of 1999 was in the range of $3 to $4 hundred million, which, as testified previously by a number of individuals, was to be a Turnpike or a Commonwealth of Massachusetts expenditure that would be covered.

We presented all the information that we had to our client over time, the Massachusetts Turnpike Authority. We felt they were acting responsible in the way they were addressing not only the cost pressures up, but also the credits down, I think as commented previously.

The IG started to express concerns with the insurance credit in 1999. In 1996, 97, 98, finance plans that included that insurance credit were approved by Federal organizations, by legislative organizations and so forth, so I think there was a time period where you had to look and say is that a legitimate insurance credit that treated the same manner as we have treated it for the last three or 4 years.

The CHAIRMAN. I will ask again. Were you aware of the $1.4 billion cost overrun?

Mr. WILEY. We were aware there was an increase in cost to cash requirements on the project of $1.4 billion.

The CHAIRMAN. And did you raise those concerns with MTA or FHWA?

Mr. WILEY. We raised the increased cost concerns with the MTA, associated with the cost increases as well as the cost decreases.

The CHAIRMAN. So Mr. Moynihan was aware and you raised these concerns with him when he wrote a letter to Mr. Mead that said your draft "looking backward at management thinks is unworkable." It shows a lack of understanding of how a multi-billion dollar megaproject needs to be managed.

This is really one of the more remarkable letters, Mr. Natsios, that I have seen in my brief tenure in the U.S. Senate. We need constructive, sound criticism that will help us manage the work carefully. Unfortunately, the dated and inaccurate review you have produced does not fall into that category. I do not think I have seen a letter quite like that to the Inspector General. This was a letter dated October 29, 1999 to Ken Mead in response to his IG report.

Mr. NATSIOS. I think it was an outrageous and unacceptable letter. We were not shown that letter at A&F, but I have to say we had similar conversations in which we were told the same sort of thing, the same arrogant response that we did not know what we were talking about. I raised it myself to my predecessor at lunch in June of last year and was told I did not know what I was talking about or was told that my staff was incompetent or couldn't calculate.

The CHAIRMAN. Mr. Wiley, the IG's findings state as construction management comprised the bulk of the B/PBs, can you explain how the costs have increased by $827 million from July 1997 to April 1999?

Mr. WILEY. I would have to go back and look at the specifics associated with that, but off the top of my head, the majority of the costs are associated with events that occurred on the project. I think you mentioned earlier in some of your opening remarks or some of your comments, unforeseen site conditions and working through an old city, the interrelationship of a number of different contracts to try and achieve the shortest possible schedule and consequently, the least possible cost is what a lot of the increases are associated with, but we could put together an exact accounting of the dollars, if you so desire.

The CHAIRMAN. Are there any financial penalties assessed against you for construction cost overruns?

Mr. WILEY. In the past, there has not been, that I am aware of, any penalties assessed against us for cost overruns.

Mr. NATSIOS. Mr. Chairman, if I could——

The CHAIRMAN. Please, any of the witnesses who wish to comment at any time.

Mr. NATSIOS. This is an issue we will be looking at when we review the Bechtel Parsons agreement.

The CHAIRMAN. Mr. Dimino, I appreciate your testimony here today. I understand how important this project is to the State of Massachusetts, Boston, and the metropolitan area and I am obviously appreciative of the fact that the business community has been involved and committed to this project.

I am sure that from your observing the hearings today, we have legitimate concerns and I do not think it is very helpful for us to continue to go back and back and review the mistakes that have been made, but in some respects, it is important that we do so, so that we won't repeat those mistakes in the future.

My relationship with Senator Kerry and Senator Kennedy on this issue has been excellent. We are trying to hold a constructive hearing here. The media has done a remarkable job, the Boston Herald and the Boston Globe, in my view, as well as the television and radio stations in making a lot of these facts known to the people of Massachusetts and to this Committee and they deserve great credit. So I know that at the end of the day this will be a remarkable project which people will look at with awe and wonder and appreciation for hundreds of years.

At the same time, I am sure you understand the obligation that many of us have and when people in charge of a project write this response to the Inspector General of the Department of Transportation, that is a remarkable situation. It is a degree of arrogance, in all candor, that I do not think I have experienced before. I mean, there is no factual rebuttal. It is just a blast and that kind of thing obviously denigrates the oversight role of the government, including the Inspector General.

So this is really a bit disconcerting as to how those individuals who ran this project viewed the role of the Federal Government and the administration of American taxpayers' dollars and that is why we are having this hearing today.

I am comforted, Mr. Natsios, that we can move forward with confidence and with optimism. At the same time, I want you to keep us informed and answer some of those questions and I will ask you to submit answers to some additional questions that I will submit to you in writing. I thank you for taking on this project. Did you want to respond to my comments, Mr. Dimino?

Mr. DIMINO. I just wanted to say, Mr. Chairman, that we in the business community appreciated the intervention of the IG and also the Federal Highway Administration and also the comprehensive and thorough audit of the report that was completed by the task force.

We think that there are incredible lessons to be learned here. Unfortunately, some of them relate to some very adverse and negative-related activities that occurred prior to the audit report being completed, but we also believe that we are poised and positioned to go forward and get this project done in a way that will address those recommendations of the Federal Highway Administration report.

We thank and we support and commend Chairman Natsios' candor and also his willingness to communicate with all of us, including Congress, of what is to take place as we go forward, both in terms of the financing, the programming and the management of this project. It is incredibly important. That kind of candor and openness and honesty is essential in terms of restoring the credibility of this effort and the trust of all of us.

And as you mentioned before, Massachusetts is in a position to have a new central highway system. That system is well-needed and well-deserved. Issues that relate to the public trust need to be dealt with directly and I appreciate your leadership and Senator Kerry's leadership in holding this hearing today.

The CHAIRMAN. Thank you. Senator Kerry.

Senator KERRY. Thank you, Mr. Chairman. I know we are getting late here and I won't take too long, but I do want to ask a few questions in a couple of areas.

First of all, let me follow up on a question I did not quite understand on the insurance, Mr. Thomas. You were paid 60 million for what period of time?

Mr. THOMAS. Well, the cost, as I said, the average insurance expenditure has been about $60 million a year for both the Workers' Comp. and general liability insurance for the project.

Senator KERRY. The average expenditure of the project?

Mr. THOMAS. That is the initial payment into the program from which——

The CHAIRMAN. Supposedly to cover contingencies, etcetera?

Mr. THOMAS. Correct.

Senator KERRY. But that is a payment to AIG?

Mr. THOMAS. It's——

Senator KERRY. Or is that held in escrow in a fund?

Mr. THOMAS. The Workers' Compensation component of that, some $40 million of that, 92 percent of that, 92 percent of the $40 or $42 million goes into the trust account and is held as collateral against future payments of losses.

Senator KERRY. In each year that is paid in?

Mr. THOMAS. Yes.

Senator KERRY. So beginning in what year was that paid in?

Mr. THOMAS. We started the Workers' Compensation component of the program in November 1992.

Senator KERRY. And that has been paid in each year since when?

Mr. THOMAS. Since 1992 in varying amounts. I am giving you the rough average.

Senator KERRY. You can't tell us today what the total amount paid out of this fund, AIG doesn't have that readily available.

Mr. THOMAS. No, it is available. I just do not have that number with me today.

Senator KERRY. Can you give us a ballpark? What are we talking about? If you are talking about since 1992, that is 8 years and 60 million, so that is about 480, is that correct, somewhere in there, $500 million? Ballpark, how much has been paid out?

Mr. THOMAS. I just don't know.

Senator KERRY. Are we talking $10 million, $20, $200 million? I mean, is it a big figure or a small figure.

Mr. THOMAS. It is a large number. I believe the paid loss is roughly 18 to 19 percent of the total loss estimate for that time period.

Senator KERRY. That sounds like a very significant overpayment of insurance.

Mr. THOMAS. Well, in——

Senator KERRY. In the tens of millions of dollars.

Mr. THOMAS. As I said earlier, the program was structured where the premiums were initially calculated based on the payroll estimates provided to us by the project.

Senator KERRY. I know, but once you find out that that is not being paid out, then the actuarials change. It seems to me the relationship should have changed.

Mr. THOMAS. And it did, and we told the project that returned premiums were available to be paid to it and we were instructed to retain those returned premiums as collateral in the trust account.

Senator KERRY. And the collateral was for what?

Mr. THOMAS. The collateral was to secure the future loss payments under the insurance program.

Senator KERRY. Even though you knew you were not experiencing those levels of losses, or was that in effect a way by which they could, quote, invest the money or use it in the long terms of creative financing that was taking place as they used the insurance against the total cost? I mean, is that effectively what was happening?

Mr. THOMAS. I think that is the result of what was happening.

Senator KERRY. But did you know that at the time?

Mr. THOMAS. No, what we were being told at the time was that the original work schedule had not materialized at the pace originally projected. In other words, contracts were being let at a slower pace than originally projected and that is why expended payrolls were less than originally projected and we were being advised that the pace would pick up and that adjustments would be made as we moved into the future.

Senator KERRY. Well, just speaking for our taxpayers in the state, of which I am obviously one, I would be really interested in having Mr. Natsios sort of review this and get a sense of the appropriateness of this sort of relationship and where we stand today. I mean, you have got a great company. I know your company well and I am not placing you somehow. I mean, you did what you were told and the manager sort of directed you to do this, but I think somehow there may be some workout here or something that ought to be looked at.

Mr. NATSIOS. Senator, if I could, we stopped payment on the worker's compensation premium.

Mr. LEWIS. Senator, we can give you many more, or more detailed answers in writing.

Senator KERRY. Well, I understand, but you see, our taxpayers want to know that they have got value too.

Mr. LEWIS. I agree. We agree.

Senator KERRY. I think that is part of the examination here. Incidentally, on the issue of the land takings, Mr. Chairman, it is my understanding—I do not understand it all yet, but I have looked preliminarily at it—that the reporting on that was not sort of a complete reporting in the sense that there were a whole bunch of packages involved in the allocation of how they found the pricing of the particular give-back was, in fact, not completely accurate. Is that fair, Mr. Lewis?

Mr. LEWIS. That is fair, Senator.

Senator KERRY. So I think that also has to be examined further. Let me come back quickly and again, I do not want to lengthen this, but I do want to get some things firmly in print, so to speak, on the state-wide program, Mr. Natsios.

You, as a former ANF chief and as now the person responsible for negotiating with the Federal authorities, are going to play a key role in this defining process for the state-wide program, because you have got your handle on what is happening in the state. You are probably the best person who could do it because you know exactly what is paid out in the state and what is being taken care of and what isn't, and now you know what you have got to negotiate with the Federal authorities.

So can we have an assurance from you today that we can get clarity as to what will be contained in the exact definition of that program, and the mayors and regional planning authorities will know to a certainty in the next days where we are going.

Mr. NATSIOS. Let me just tell you what we know with assurance now and what we will certainly know with assurance over the next few weeks. Secretary Sullivan—Kevin Sullivan, Secretary of the Executive Office of Transportation and Construction for the state is now discussing with the regional transportation committees this very issue.

A lot of this is a debate over definitions. We are spending $617 million a year for state-wide road and bridge. We do include in that $100 million we send back to the cities and towns which they contract for repair to local bridges and roads. The State Contractors Association says I know that doesn't count. Well, I think it does count. It is spent on transportation. Those roads I drive every day in my home town of Holliston—the notion we can't include that in the calculation seems a little silly to me. We just spent $352 million in surplus operating money, not borrowed, from the fiscal 1999 budget for the statewide road and bridge program.

Some critics had said well, you didn't borrow the money even though you are spending it on contract, so if you didn't borrow the money that doesn't count. I said, wait a second. We spent the $352 million in the surplus from fiscal 1999 to go out to bid for specific contracts for state-wide road and bridge projects. The fact that it didn't come from borrowed money in the cap is, it seems to me, extraneous to the issue. So there are a lot of definitional issues that I think are a little bit silly, to be very frank with you.

Senator KERRY. Well, in order to be resolvable, if they are silly, it seems to me that reasonable minds can come to that conclusion together. What is happening is clearly a lack of communication between these parties, and so there is misunderstanding. It is neither Senator McCain's responsibility nor mine to specifically define it here today. It is our responsibility to know that the directive of the Federal Government with respect to this is going to be fully carried out, and that is really what I am trying to pin down.

Mr. NATSIOS. Let me add a second issue here beyond the issue of the definition of what should be included in the state-wide road and bridge calculation, because there is sort of a second debate: should we, in that figure, be including advertised construction—or actually expended dollars. Before I came as Secretary, apparently the practice was to advertise the project and then not build it for a year because there was so much pressure from mayors in cities and towns and legislators to build these projects. They would advertise, everybody thought once it was advertised it is going to be built. Sometimes the project wasn't built for a year.

So I said, look, we have got to manage the cap. If we overspend the cap, we damage the state's credit rating. We had the fiftieth worst credit rating in 1990. We cannot go back to that. So I said, what counts in terms of the cap is not what you advertise, but what you spend. We will make a commitment to you that we will spend in construction, state and local, $400 million. But in fact, we have been spending and we plan to spend over $600 million. So the second issue which we are dealing with now is to use as a definition the actual amount spent on advertised contracts, which I think is a much more accurate way of defining what you are actually doing, as opposed to what you promise to do when you advertise some thing.

Senator KERRY. And I know that in the spirit of full candor and openness now, you certainly want to give full credit to the Senate President and the Speaker of the House for their wisdom in making sure that the libraries and the community centers and all of those things were in fact properly overriding the veto of the Governor so that you could come here and brag today about all these wonderful projects.

Mr. NATSIOS. Actually, those projects, the Governor didn't veto, he signed them. There were other projects. Have to say some of them were pork barrel. There were statues of people. They were things that——

Senator KERRY. Libraries?

Mr. NATSIOS. Not libraries.

Senator KERRY. The library was in fact vetoed and overridden. Water treatment facilities were vetoed and overridden. Community centers were vetoed and overridden.

Mr. NATSIOS. Community centers are a question as to whether the state should be paying.

Senator KERRY. But they are an important part of the infrastructure we are now talking about.

Mr. NATSIOS. I wasn't here, Senator. I heard stories of debates over a lot of these things.

Senator KERRY. You cut out at the right moment and you come back at the right moment. We like that.

[Laughter.]

Mr. NATSIOS. You always have to look, though, at the effect on our credit rating because we were near junk bond status in 1990, which meant our interest rate was much higher and I am sure you will agree. There is agreement between the House and the Senate leadership with us on protecting the state's credit rating. Many of the legislative leaders are as conservative on borrowing money as I am and as the Governor is and so that is really not a big issue. That is the good thing about the debate, or the Conference Committee. There is no ideological debate about how to deal with the deficit.

Senator KERRY. I agree with that. I am teasing you a little bit and I want you to go with the tease.

But this I am not teasing you about and I want to ask you about it very specifically, and you and I have chatted about it. One of the reasons I supported this project at the outset was sort of the larger promise, and part of that larger promise is the open space.

Some have been concerned where we might have been heading and now that we are under new leadership and as you begin this process, I would like to make clear that I will not accept and I would not continue to support the project if there were any sort of retraction from where we are supposed to be with respect to the open space commitment. I would like to hear your commitment today with respect to the open space, that there will be no retreat from the understanding of where we are in that.

Mr. NATSIOS. When I first arrived back in Massachusetts in March 1999, I met with the Boston business community over this issue. I was intrigued by this because urban design is very important to me. Personally, it is something that excites me, historical restoration and renovation are very important. We are just about to begin the largest historical renovation of the State House in two hundred years, and I pushed that through as one my most important projects; a great historical piece of architecture in Massachusetts, the State House.

So this meant a lot to me, and I read carefully the documents prepared by the citizens' groups, the community, the state, the Turnpike Authority. And the agreement in those documents was that twenty-five percent of the twenty-seven acres that remains—and there is a debate over whether to count the sidewalks as part of the twenty-seven acres—but generally speaking twenty-seven acres is available. And twenty-five percent of that, we have agreed, will have some development on it, which is to say, commercial or residential dwellings, that would be five to eight stories high. They can not be more than that for engineering reasons; the building would be over the artery and we can not build with very high buildings. The other seventy-five percent will be spent on gardens and plazas and parks and fountains, and there will be an atrium built with private money by the Mass. Horticultural Society, with a year-round garden. Those sorts of things. I think that is our lasting contribution to the history of Boston, architecturally, what is done with that. It is not just that we keep it green, from my perspective, it has to be done the right way so that when people look back, they will say that the surface artery restoration was well designed, a legacy to the city. As you and I, when we walk through the Boston Public Gardens, can see, it is still one of the most stunningly beautiful parts of Boston. And I want the surface artery to be to remembered as something like the Boston Public Gardens, one of the great treasures of our city.

Senator KERRY. Well we share a really common thought there and I could not agree with you more. I think it really is one of the enduring parts of the legacy of this project. And architecturally, I hope people are really going to get together, because architecturally what those buildings look like and how they work—I mean people come to Washington and they look around and they say, wow, this place is really beautiful, and one of the reasons it is really beautiful is that there is a law here. No building can be taller than the Capitol.

I mean you look out across the vista of Washington and you suddenly see that abrupt transition across the river where you see what the rest of Washington could have been like if people had not had that kind of foresight. So that is really what is at stake here. And I will continue, as long as I am here, to insist on our raising the profile of that issue and thinking very carefully about it. And I might add, I hope that will extend as we go into the seaport area and the other part of the development.

Final question area, and Mr. Chairman thanks for your patience. Mr. Wiley, let me begin by saying that you are part of a terrific company. And there are very few companies in the world that could have undertaken this project. Bechtel: I have enormous respect for their management capacity. The engineering feats that are being carried out on a daily basis here, I wish the public had a better understanding of all of them. They are stunning.

And it is no small feat that so much of the business community of Boston has had so little disruption in the course of this. It is remarkable that you can drive the whole connections to buildings, the electrical lines, I mean the amount of things that have been moved without disruption is remarkable. The number of times offramps have been changed, but adequate signage is there and people can move. It is really extraordinary. And I think the management component of it that has sort of affected that on a daily basis deserves to be properly recognized.

What I want to have your help on is this cost figure, and then one other question on this contracting process. But I do not accept this $13.1 billion figure. I want to be on record saying that today. And I do not want to have people talk pie-in-the-sky, sort of process here. I will tell you why I do not accept it. Because right here I have the Federal report that Secretary Slater submitted to us which has been applauded for its candor, which says the following: the $13.4 billion figure. He is talking 13.4, you are talking 13.1. And his 13.4 says it is the total of the $10.8 billion pursuant to the last estimate plus $900 million in allowable credits, plus the $1.7 billion project overrun. Now, he then says, in addition, if inflation rates rise, as is the present trend—does anybody here believe inflation rates are not going to continue to rise? Okay. The estimate should be further adjusted to reflect this trend. That is further adjusted from 13.4. It then says, finally, further adjustments should be anticipated for litigation, vulnerability—I am not sure exactly what that means, maybe you can define that to me—environmental contingencies and other unforeseen events likely in a project of this magnitude. Now is he incorrect in warning us of that? Or are you being sort of safe in your judgment in keeping the figure down?

Mr. WILEY. I do not think it has anything to do with keeping the figure down. I think we made the best estimate as we saw it from a project management standpoint of what the cost to go would be. I think as Chairman Natsios said, there are differences of opinion out there on whether the number is 13.1, 13.4, 13.6. And we are in the process right now of getting with Federal Highway and with others to reconcile the number. They may have better insight than we do to some of the issues that you identified there. We will, as the Chairman said——

Senator KERRY. Can I ask you a question?

Mr. WILEY. Sure.

Senator KERRY. As a project manager—and I say this again, reflective of everything I have said, I do not take a word of it back—but should you not, as a project manager, as the direct sort of supercontractor, have a better sense of that than the Federal people who are going to have to check all those figures anyway?

Mr. WILEY. And as I said, Senator, I think we made the best estimate, and we believe in the number that we put together.

Senator KERRY. But they are already laying out contingencies that come to a higher figure.

Mr. WILEY. I can not comment on all of the different organizations that have made their estimate of what the future cost of the project—I can only comment on the estimate that we put together. We believe it is a credible number for completion of the project.

Senator KERRY. And does your estimate include cost overruns?

Mr. WILEY. Our estimate includes some monies in there for contingencies in the area of project change allowance and in other areas, but it is not——

Senator KERRY. Does your estimate—I am sorry, go ahead.

Mr. WILEY. I was just going to say it does not include a large contingency for the unknowns.

Senator KERRY. And there will be some, correct?

Mr. WILEY. There could well be some based on unknowns.

Mr. NATSIOS. Can I just add something here?

Senator KERRY. Let me complete this before you do. Does your estimate of 13.1 include all offramps, access, park, all those components? Is that contained in it?

Mr. WILEY. It includes the entire scope of the project.

Senator KERRY. And that includes the tear down of the green overhead monster itself?

Mr. WILEY. Correct.

Senator KERRY. Okay. I am sorry, Mr. Natsios.

Mr. NATSIOS. Let me just talk about the financing package even though I am not in the executive branch anymore. When I was Secretary of Administration and Finance we designed the package. We took the $1.4 billion deficit figure and we created a financing package. And at this point in the conference committee basically we were securitizing about 100 million dollars in revenue from licensing and registration fees.

The lifetime licenses were supposed to go into effect March 1, which produced 45 million dollars in additional revenue that was not in the Highway Fund. And then we went to lifetime registration some years ago. We have cancelled—we have not cancelled those, but they are on the table for discussion. Together, those two fees would produce 100 million dollars in revenue if the legislature approves it, and they are discussing it seriously, which we could securitize, which is to say, borrow against, over 30 years. That will produce 1.3 billion dollars worth of funds. Then we have 200 million dollars in cash that the Turnpike can use legally for the project, another 65 million is coming from the Massachusetts Port Authority they have agreed to give us, which comes up to 1.565 billion dollars in cash now.

In addition, and I want to got through the details and I can send the staff a copy of it. We have included the most innovative debt reduction plan in the country. We expect 500 million dollar surplus in the budget this year. There is 150 million dollars in capital reserves, 650 million—we are going to pay down our highest-end debt, highest interest debt. And the savings, in principal and interest, over the next 5 years will go into a reserve fund and that will amount to 800 million dollars that we save over 5 years. That 800 million dollars is our contingency fund, our reserve against other liabilities above the 1.4 billion dollars that we are borrowing now for.

The legislature is debating now how much of the 800 million dollars to put aside additionally for statewide road and bridge projects. That is the debate.

Senator, I have to say that your debate in the other election about paying down debt I used very effectively privately. I said Senator McCain is in favor of it and the President is in favor of it. It is a bipartisan thing. I, frankly, as a conservative, like the idea of paying debt down. It will be the largest in the history of the fifty states if we do it, but it creates this contingency by all the savings each year, that will have an added effect of an insurance policy against further overruns. Not from Federal money, not from anybody else's funds, but from state resources. The Senate approved it, the House has agreed to it, the Governor is enthused about it. I think that contingency is a very important part of this.

Mr. LEWIS. If I could just add to what Mr. Wiley commented on earlier. Absolutely all of the components of the project are included in that 1.4 billion dollars, which totals up to 13.1. Service restoration, all the parks in east Boston, the restoration of Spectacle Island, Charles River Parks, all the finishes that we have committed to absolutely are in there.

In addition, the project did identify in its finance plan a potential increase, a range, beyond the 1.4 and therefore totaling 13.1, of an additional $220 million, if, it is more of a pessimistic exposure, because we identified in our finance plan the risk of an additional $220 million above that. Now the Federal Task Force report ranged it a little bit higher than what we did. We have included both our range in our monthly reporting, financial reporting, as well as the Federal Highway Task Force range of potential cost increases.

And that is now included in our monthly report and that is something that Chairman Natsios has instituted and we have conducted and we will conduct every month; a meeting that I lead. And we had our first one last week where we invite not just the Federal Highway, we invite the DOTIG. We invite the State IG. We invite the State auditor's office. We invite the Attorney General's office. We invite representation from both the House and the Senate and we invite representation from the Governor's office. And that meeting will be held every month, the third Thursday of every month at a defined location, where we will present all of the vital statistics of the project on a monthly basis to that whole audience and then that report is also posted on our website. So this is in the interest of absolute and full disclosure as we go forward with the project.

Senator KERRY. And I assume at any moment that you might perceive a variation from these estimates, and people will know that.

Mr. LEWIS. That is absolutely true.

Senator KERRY. Well I am encouraged by that and I think it is a shame that it took what it took to get there to do that. It should have been ongoing, and that should have been in the process, but I am very encouraged by it, and I think Mr. Natsios, in a short period of time you have moved appropriately to get a handle on this thing. I think it is very encouraging to people to be able to hear that. I assume, Mr. Wiley, that I know you are contracted—not to the Federal Government—you are contracted to the management and it is my understanding that you folks did, in fact, call attention to the management and raised concerns about overruns.

Mr. WILEY. That is correct.

Senator KERRY. Could you just answer Mr. Mead's observation with respect to contracting—the cost plus?

Mr. WILEY. As far as the contract we had with the State, it is not an abnormal method of contracting. I think if you went around the United States or around the world, for that matter, you would see very similar types of contracts to the ones we have here, utilized by other agencies, institutions, for implementation of projects this size.

The CHAIRMAN. Cost plus?

Mr. WILEY. Correct.

The CHAIRMAN. Well then I would allege that all over the world there are projects that are experiencing overruns such as you are, and there should be some financial penalty to be paid, because you signed contracts that are based on assumptions, and when those assumptions are wrong and it costs more taxpayers' dollars, somebody should be held responsible, rather than just proceeding on. We went through this debate on defense back about fifteen years ago, and we stopped doing it, because of the incredible cost overruns we were having with weapons systems and ship construction, etcetera.

So if that is satisfactory to you, business as usual, these kind of continued cost plus contracts, that is fine. But there should be some penalty associated with people not being able to fulfill their contractual obligations. So I do not know if I am familiar with contracts worldwide, but I do not know of many places in the world that would submit or accept this kind of performance.

Mr. WILEY. Can I just comment on that, Senator, and I do not wish to be argumentative. But I think you have to look at the situation. You commented yourself the original estimate in 1985 was 2.6 billion dollars. There were a certain set of ground rules established with that estimate. Over half of the increase between that 2.5 billion dollars, 2.6 billion dollars and the 10.8 billion dollars that was established in 1995 was escalation. And it was a rule, back in that timeframe, that escalation was not included as part of the cost estimate of the project.

Additionally, the other fifty percent of that is mostly associated with scope that has evolved on the project, not due to the management consultants' performance, not due to the management consultants' decisions. Scope has increased on the project. I take it very seriously. We have done a good job of managing that project. We have kept cost as minimal as possible and looked at every opportunity to reduce cost. I think, as Senator Kerry pointed out, we have kept the city of Boston open and running and I take great pride in the job we have done there and as long as the rules stay the same, we can give you an estimate of the cost to complete the project. When rules change, the costs change.

The CHAIRMAN. Rules change when there is no incentive for the scope and other aspects of the costs not to continue to expand and expand and expand. It is a fundamental aspect of the free enterprise system and economics. If there is no penalty associated with increased costs why not lay on increased costs. After all, you are not responsible for it. You should be held responsible. And when the scope is increased, you should have said, wait a minute. This is going to exceed our contract by X amount of dollars. This is phenomenal.

This cost overrun—there is no penalty associated with the cost overruns, it is just an open-ended incredibly increased cost project, the largest in the history of this country and it continues to grow and grow because there has been no disincentive for doing so. I am sure that keeping Boston open is a wonderful thing. I am sure that doing all the things that have been done and the scope being expanded is a wonderful thing. But in 1985, it was supposed to cost 2.5 billion dollars. Now we do not even know if its going to cost thirteen point something. The taxpayers deserve a lot better than that. A lot better than that. And part of it is cost plus contracts, for which there is no incentive for you to keep the costs down.

Senator KERRY. If I can just—I have asked my last question and I just wanted to make a final comment in response to what you said, Mr. Chairman, and I agree with you about the fundamentals of what drives it. But I do want to be fair, as I think we all need to be, and thoughtful, about the project itself.

In fairness, indeed it changed from 2.5—my greatest concern is the change from the 1995 time when we sort of passed off on the final tranche and what has happened since then. But Congress also understood full well precisely what the scope issues were, precisely what the change of the environmental requirements were, design requirements. And they changed from the initial concept until we made our last agreed upon expenditure. We understood, we in a sense embraced, the U.S. Congress embraced and ratified that vision change.

But I think the contracting since then, once we knew that and once some of the design was further along and we knew some of the difficulties of either dredging, or the state—of the moving X,Y, or Z. I do believe your concern is entirely legitimate as to what has happened since that point in time, and I think we are obviously going to have to continue. I know Mr. Natsios is reviewing that now.

The most important thing is that we are really seeing a kind of effort now that I think people have wanted for a long time; a cooperative, open and diligent effort to get to the bottom of everything, and I am really quite confident that we have the ability to do that and all of us are going to try to work hard together to try to make sure we do.

Thanks, Mr. Chairman, very much, for this hearing.

The CHAIRMAN. Thank you, Mr, Natsios, Mr. Mead, and Secretary Slater in trying to bring this very important project to a close and in a way that all of us can be proud of. I thank you Senator Kerry. I thank the witnesses. This hearing is adjourned.

[Whereupon, at 12:45 p.m., the hearing was adjourned.]

APPENDIX

PREPARED STATEMENT OF HON. BOB SMITH, U.S. SENATOR FROM NEW HAMPSHIRE

As Chairman of the Environment and Public Works Committee, I thank Chairman McCain for holding this timely and important hearing. The Senate Environment and Public Works Committee has jurisdiction over expenditures from the Highway Trust Fund, oversight of the Federal Highway Administration, as well as primary responsibility for highway infrastructure legislation like the Transportation Equity Act for the 21st Century (TEA–21).

The report on the Boston Central Artery/Tunnel Project issued by the Federal Task Force raises significant issues in these areas, which I understand will be explored in detail by the Commerce Committee at today's hearing. The Environment and Public Works Committee is of course examining these issues as the Committee of primary jurisdiction, and today's hearing will be a valuable addition to our efforts.

The Boston Central Artery/Tunnel Project is a significant public works project for the city, the Commonwealth of Massachusetts and the entire New England region. This important project will be completed, but at what cost? This project was originally, and by all accounts until a few months ago, a $10.8 billion project. Now we learn that costs will be closer to $13.5 billion. We are left to wonder whether some of these cost increases could have been avoided if the project had not suffered from the state and federal mismanagement documented in the Federal Task Force Report. Despite the requirement in TEA–21 for an annual detailed financial plan on any project in the billions of dollars, neither the state nor the federal highway administration (FHWA) adequately tracked and verified the increasing project cost as contracts continued to be awarded over budget. This is simply not acceptable.

The federal task force review of the project's cost reporting and management is something that should have been done regularly throughout the project as part of FHWA's oversight responsibilities. I expect the FHWA to learn from its mistakes and to exercise improved monitoring procedures for protecting the integrity of the taxpayer's investment in such mega-projects.

Ultimately, the responsibility for the project's increased costs must reside with the individuals and organizations that the Commonwealth of Massachusetts entrusted to manage this project. I am pleased that State officials have recognized this responsibility by agreeing to finance these increased costs, and I call on them to commit adequate funds from sound sources of revenue. I urge the Secretary of Transportation and other members of Congress to join me in ensuring that no federal funds above the existing formula will be spent on these cost overruns.

Thank you.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN
TO KENNETH M. MEAD

Question 1. You have testified that the FHWA has been less than enthusiastic about your findings. In fact, the FHWA's acceptance of your recent recommendations only came after the Secretary overrode the positions taken by FHWA officials.

a) Given the prior reluctance of the FHWA to objectively oversee the Artery project, are you confident that FHWA will be able to change its "laissez faire" oversight attitude?

b) What additional actions do you believe should be taken to address FHWA's alarming lapse of oversight on this project?

c) What actions should be taken to prevent future mismanagement of this or other federally funded transportation projects?

Answer.

1. a) The Secretary has initiated action to change FHWA's oversight performance, but we remain cautious. The Task Force directed by the Secretary identified needed management changes, such as establishing monitoring practices for Megaprojects. However, whether FHWA is successful in improving its oversight attitude depends on balancing its "partnership" approach with the independent and critical approach required for effective oversight. We acknowledge that the most effective way to achieve the overall goal of a safe, efficient, and economical highway system is for FHWA and state officials to work in concert with one another, as well as with private industry. FHWA must also make clear to each employee that exercising effective oversight to protect the federal taxpayers' interests in our nation's highway system is a primary responsibility that should not be subordinated to "partnership." Therefore, we believe that FHWA should adopt a "trust, but verify" approach.

We have also noted that the Secretary recently acted to expand the effort he initiated with the FHWA Task Force on the Central Artery. The Assistant Secretary for Budget and Programs was directed to initiate a new Departmental Task Force to examine and improve the Department's oversight practices on large transportation infrastructure projects. The results of this effort should further help FHWA improve its oversight attitude and practices. We will review the actions that FHWA eventually takes to implement the recommendations made by the FHWA Task Force, as well as any recommendations that the Departmental Task Force may make.

1. b) The 34 recommendations contained in the FHWA Task Force, if implemented, will be a good start toward addressing the existing problems with its oversight of the Central Artery project. In addition, actions being taken by FHWA in response to Office of Inspector General recommendations to develop policies on financial reporting (Report TR–2000–050, February 10, 2000) and Owner-Controlled Insurance Programs (Report TR–1999–104, May 24, 1999) will improve the guidance to field personnel overseeing the Central Artery Project. Finally, placing a cap on the federal contribution to this project will limit the federal exposure to additional cost growth. Moreover, to improve oversight throughout FHWA, it must be made clear to all FHWA employees that the purpose behind FHWA's oversight is to ensure that the federal funding provided to each state is effectively and efficiently used to maintain and improve the National Highway System. In addition, FHWA must also recognize that an effective oversight program cannot be static. Oversight activities must be continually adjusted to address the current activities of the project to ensure they are properly managed.

1. c) The actions recommended by the FHWA Task Force, if implemented, will be a good start toward preventing future mismanagement on the Central Artery project. However, the FHWA needs to ensure that the improved oversight activities instituted on the Central Artery project are then made the standard throughout the agency. In response to the recommendation in our February 10, 2000 report on Central Artery costs, FHWA is developing detailed guidance on financial reporting that is intended to ensure that financial plans submitted by Megaprojects provide a complete and accurate report on the projects' financial status. In response to our May 24, 1999 report on the Central Artery's owner-controlled insurance program, FHWA is in the process of developing guidance to improve its oversight of those programs. Finally, the Secretary recently directed the Assistant Secretary for Budget and Programs to initiate a new Task Force to examine and improve oversight practices throughout the Department. Each of these efforts should help FHWA improve its oversight of the Central Artery and other large infrastructure projects.

Question 2. As you know, I introduced legislation last year to strip motor-carrier safety authority away from FHWA, which is now law. I took this action in large measure based on 10 findings that FHWA paid little attention to motor-carrier safety issues and instead concentrated the bulk of its attention on highway construction. DOT–IG reports have found other instances where issues are unaddressed or poorly addressed at DOT due to a lack of leadership. The failure to name an administrator for the newly created Motor Carrier Safety Administration and the unresolved NAFTA truck safety problems are just two examples which come readily to mind.

a) What should be done to address the leadership problems at the Department?

b) Is it possible that the Department is driven more by desire to avoid negative media attention that by the desire to effectively administer its statutory responsibilities?

Answer.

2. a) Timely action to select qualified leaders is the first step. There must also be a leadership focus on oversight activities. Departmental managers must establish clear direction that promotion of safety and the protection of federal investments in transportation infrastructure—as opposed to the promotion of projects—are primary responsibilities of all DOT personnel.

2. b) The potential for negative media attention cannot be ignored by any federal agency in the conduct of its mission. Nonetheless, every public agency must meet its statutory responsibilities. The Secretary and Deputy Secretary have acted decisively in response to deficiencies we have reported on the Central Artery and other projects. Examples of this include the Task Force created to examine FHWA's oversight on the Central Artery and the Task Force that is planned to examine oversight practices throughout the Department. The actions directed by senior management stand in contrast to the negative responses we received from FHWA staff and state officials in response to our previous reports of inadequate enforcement of safety and poor stewardship of federal funding. The strong recommendations contained in the report issued by the Task Force on the Central Artery stands as evidence of the desire of the Department's senior leadership to effectively administer the Department's statutory duties.

Question 3. You have raised concerns that the use of "advance construction" funding on this project could increase the final federal contribution to the project to nearly *$9.5 billion*.

a) Have you had discussions about these concerns with FHWA or project managers and if so, what has been their reaction?

b) Is this type of financing—when the state expends funds and then reimburses itself when the federal funds are apportioned—common practice?

c) What are your recommendations to ensure the federal exposure is not extended due to this funding maneuver?

d) What is the total federal obligation on the Central Artery/Tunnel project?

e) What suggestions can you offer Congress to help ensure there is a firm cap on federal dollars not only obligated to this project, but to other so-called megaprojects?

Answer.

3. a) OIG and FHWA personnel discussed the use of advance construction as a part of our interaction after the announcement of the $1.4 billion cost increase. However, because the potential magnitude of additional advance construction only became evident after the state requested $936 million in additional authority in its finance plan update, we are transmitting our testimony to the FHWA as a report requesting a formal response. We have also noted that the Secretary suspended authorizing additional advance construction authority pending resolution of the project's funding problems, and the Department has indicated that it does not intend to authorize the full amount of advance construction requested by the state.

3. b) OIG has not conducted an audit to determine the extent to which this practice is being used throughout the nation. However, we are aware that the general authority exists and has been used in other states, albeit not to the extent seen in the Central Artery. Advance construction authority is intended to help a state manage its cash flow to accomplish large projects by offering an alternative to delaying projects out until Federal funding is available. Nonetheless, as the experience on the Central Artery shows, the unbridled use of advance construction can create a long term reduction in the portion of federal funding that will be available to address states' transportation needs in future years.

3. c) To prevent the use of advance construction from extending the federal exposure on the Central Artery project, a firm cap may be placed to limit to a specific amount the total federal contribution to the project. If such a cap is not imposed through an agreement between the Department and the state of Massachusetts, Congress should consider imposing a cap through legislation.

3. d) The total federal obligation to the Central Artery project, at the time of our audit (April 30, 1999), was expected to be $8.507 billion.

3. e) One option for establishing firm caps on federal dollars to highway construction projects is to follow the example used by the Federal Transit Administration in its full funding grant agreements for transit projects. Under these agreements, the total amount of the federal contribution to a proposed project is defined in ad-

vance. If the initial cost estimates are breached, the state must assume responsibility for the additional costs, or request additional federal funding.

We have noted, however, that even where full funding grant agreements are used, the Transportation Equity Act for the 21st Century grants states considerable flexibility to redirect federal transportation funding. An alternative that would allow the states to retain reasonable flexibility in their use of federal funding while limiting potential increases in the agreed-upon federal contribution to any individual project would be to allow redirection of federal funding only within specified limits. For example, states could be restricted from redirecting federal funds to any individual project beyond a set percentage of the original cost estimate or a percentage of the originally agreed-upon federal contribution. This would also have the salutary effect of promoting more accurate cost estimating on large transportation projects.

Question 4. In your view, is there an effort by the Department, particularly FHWA, to impose greater federal oversight over projects—particularly Megaprojects—such as the Woodrow Wilson Bridge Replacement, the Alameda Corridor, and other? What are your recommendations for actions that Congress could take to ensure greater independent federal oversight of these Megaprojects?

Answer. We have noted that, in response to the recommendations in our report on the cost and funding of the Central Artery (TR–2000–050), the FHWA is in the process of developing detailed financial reporting guidelines to ensure complete and accurate reporting by project managers. In addition, the FHWA Task Force on the Central Artery made several recommendations for improving the independent oversight provided by both state FHWA offices and FHWA headquarters. OIG plans to conduct a review of the implementation of the Task Force's recommendations to examine the effectiveness of the actions taken.

To further focus federal oversight on projects that are experiencing cost growth, Congress could consider requiring the Department to report annually on the status of each Megaproject. The report should identify the original cost estimate and the current cost estimate, the reasons for the cost growth, and the actions being taken to control cost growth on the project.

Although Megaprojects are the largest projects in the Department, there are far more projects that are estimated to cost under $1 billion. Collectively, these projects have the potential to experience considerable cost growth. In conjunction with the report on Megaprojects, Congress could require the Department to report annually on the status of all projects originally or currently estimated to cost more than a threshold amount ($50 million or $100 million) but less than $1 billion. This report could also identify the original and current estimated costs, the reasons for cost growth, and the actions being taken to control costs.

Question 5. The Secretary has discussed the efforts of the Task Force and stated the department is implementing 34 recommendations in the report released in April. To what extent, if any, is your office involved in overseeing the implementation of the actions?

Answer. OIG plans to review the implementation of the Task Force's recommendations to examine the effectiveness of the actions taken. We will recommend potential further actions, if needed, to ensure effective independent federal oversight of transportation construction projects. We will provide the results of that review to the Secretary and to the Committee upon completion.

Question 6. The Task Force was comprised mostly of FHWA officials. I recognize that a number of serious and critical comments were concluded by the Task Force along with many recommendations for improving federal and state oversight on this project. Do you believe the Task Force was impartial enough to have been able to thoroughly analyze the many problems associated with the management of this project?

Answer. The Task Force, while composed mostly of FHWA officials, was drawn from outside the Massachusetts Division Office concerned with the Central Artery. OIG personnel assigned to act in an advisory capacity to the Task Force director noted the earnest effort of the participants. The forthright and pointed report issued by the Task Force confirms that its members were diligent in their attempt to recognize and point out perceived deficiencies in FHWA's oversight of the Central Artery. OIG will continue to examine the oversight FHWA provides, and will specifically address this issue as a part of our review of the implementation of the Task Force recommendations.

Question 7. What, if any, options are available for further cost containment on this project?

Answer. Our review of cost trends on the project has identified that a primary source of cost increases is contract change orders. To minimize cost increases from requested changes, they must be addressed through aggressive management questioning of the changes requested by contractors. In addition, where the requested changes are found to be valid, appropriate penalties should levied when the cause of change is attributable to poor design, planning, or other contractor related causes.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO ANDREW S. NATSIOS

Question 1. Please describe for the Committee your association with the project prior to taking the position as Chairman of the Massachusetts Turnpike Authority.

Answer. Prior to Governor Paul Cellucci appointing me chairman of the Massachusetts Turnpike Authority on April 11, 2000, I served as Secretary for Administration and Finance for the Commonwealth of Massachusetts. As secretary, I oversaw 22 agencies and was responsible for the Governor's budget and capital initiatives. I also served as the governor's chief advisor on fiscal and economic matters.

While I did not have direct line authority over the Massachusetts Turnpike Authority—or any other similarly chartered public authority, as I explained in my testimony—as Administration and Finance Secretary, I reviewed and signed all official statements filed in conjunction with the borrowing undertaking by any state-related agency. In that reviewing capacity, I was aware of the Turnpike Authority's representations of the state of the finances of the Central Artery/Tunnel Project, and on several occasions questioned those representations and sought additional information. In November, 1999, I refused to approve and sign an official statement because of questions my staff and I had relative to the disclosure by the Turnpike Authority of the finances of the Central Artery/Tunnel Project. Only after receiving assurances from the Turnpike Authority that the Project was not experiencing a significant cash flow problem did I sign off on the official statement.

Question 2. You have been in your present position only a few weeks and I am aware of many of the steps you have taken to change the management team and philosophy at the Project. You obviously have a daunting task before you in order to restore the Project's credibility in the eyes of the Public, the Administration and Congress.

a) Do you really believe you will be able to restore the Project's credibility and how long do you think it will be before the Congress can trust Project leaders' statements and if so, how?

Answer. While the task of restoring the project's credibility is indeed daunting, it is not impossible. I have pledged to follow the principle of complete transparency in providing information to Congress, the public, and the Executive branch. Let me give you a recent example of how we are using this approach in practice.

Since I became Turnpike Authority chairman, Federal Highway Administration officials and Central Artery staff have been engaged in an intensive review of the project's costs and of the manner in which future costs are estimated. As you know, Federal Highway officials in early April placed the project's cost overrun in a range of $1.7 billion to $1.9 billion. The previous Turnpike Authority administration placed the cost overrun at $1.4 billion. On Wednesday, May 24, I announced to the Artery Business Committee, in an annual "State of the Project" speech, that we will have an updated cost estimate for the Project in time for a new finance plan to be filed with the Federal Highway Administration on June 16, 2000. I also announced that we agree with federal highway officials and anticipate that the overrun is in the range of $1.7 billion to $1.9 billion.

I emphasized that we agree with federal highway officials that the lower cost overrun figure was too optimistic and not realistic, especially in two areas: underestimating the cost of change orders, and overestimating the savings on contracts not yet bid.

This open acknowledgement of cost is, I believe, in stark contrast to the posture of the previous Turnpike administration. In this regard, I believe that absolute candor is the most effective way for me to begin the process of restoring credibility to the Project and its managers. While the public, the Administration, the state Legislature, Congress, and federal transportation officials will be the ultimate arbiters, I believe we are well on our way to restoring the credibility and integrity of the Project.

b) What are some immediate steps you intend to take to impose greater fiscal responsibility over the Project?

Answer. While I was Secretary for Administration and Finance, the Commonwealth commissioned the accounting firm of DeLoitte & Touche to conduct an exhaustive review of the project including cost and schedule. That review will be done by mid-July, and it will be made public no matter the result.

As Chairman, I am also commissioning two separate panels to review, respectively, the Owner Controlled Insurance Program, and the construction management contract with Bechtel Parsons, the management consultants for the Project. I have also appointed a new finance director for the Project and will soon appoint a Chief Financial Officer for the Turnpike Authority who will, under my direction, oversee the budgets of the Turnpike Authority and the Project. We are also conducting a review of the staffing patterns at both the Turnpike Authority and the Project.

In addition to reviewing staffing and finances, including cost projections, at the Project, we are looking at potential cost savings associated with the Bechtel Parsons contract.

Question 3. For the record, how many lobbyists and consultants have been hired during the duration of the Project, at what total cost, and has any of the billions in federal funding been used to pay for them?

Answer. Following is a list of Subcontracts for Legislative and Public Affairs Consulting Services for all Project Work Programs as determined from a review of Subcontract logs maintained by Bechtel/Parsons Brinckerhoff (B/PB). The logs were reviewed for subcontractors and subcontract titles to identify the firms believed to have provided legislative and public affairs services.

Generally public affairs expenditures were deemed Federal Participating and legislative consulting services were deemed Non-Participating by the Federal Highway Administration. For some of the subcontracts the paid values may have been divided between Participating and Non-Participating. For the subcontracts before mid-1994 (Work Program Nos. 5, 8 and 10), I have instructed B/PB to check their Project archives and review the payment documents to confirm whether the FHWA participated in all or part of the billings. This will take additional time and I will forward the information to you as soon as I receive it.

Work Programs, Nos. 1, 2, 3, 4, 6 and 9, had no subcontracts that met the criteria of the type of services under consideration. Work Programs, Nos. 7 and 11, have no subcontracts.

CA/T Project Subcontracts for Legislative and Public Affairs Consulting Services

Company Name	Contract Title	Cont. No.	Part./ Non-Part.	Amount Paid
Work Program No. 5, Contract No. 90203; Period 5/25/90 to 6/30/91				
Otis & Boyd	Marketing Strategies	T–221		$15,241
Work Program No. 8, Contract No. 91600; Period 6/5/91 to 9/30/92				
Harvard College	Provide Book-Length History of CA/T Project	T–209		$142,421.99
M L Strategies	Communications Planning	T–255		$113,981
Opinion Dynamics	Market Research Survey	T–256		$35,000
Work Program No. 10, Contract No. 93182; Period 10/1/92 to 9/30/93				
Gerald W. Lange	Freelance Writer	T–242		$33,750
Harvard College	Book-Length History of CA/T Project	T–246		$43,778.07
M L Strategies	Communications Report	T–240		$35,000
Museum of Science	Big Dig Exhibit	T–212		$493,446
P. J. Skerrett	Professional Writing Services	T–271		$3,550
Work Program No. 12, Contract No. 94165; Period 9/22/93 to 6/30/96				
Fifield and Associates	Communications Planning	T–307A	P	$10,000
Government Affairs Management Association	Legal and Legislative Services	T–254	NP	$124,076.20
Greater Boston Chamber of Commerce	Artery Business Committee (ABC)	T–375	P	$50,000
KRC Research & Consulting	Marketing Research—Commuter Attitudes Toward Transit	T–323	P	$32,218.56
Move Massachusetts 2000	Mitigation—Community Relations	T–206	P & NP[1]	$295,197.58
Museum of Science	Big Dig Exhibit	T–238	P	$20,530.24
P. J. Skerrett	Script Writing	T–226	P	$1,020
Regan Communications	Public Affairs Communication	T–270	P & NP[1]	$248,806.17
The Commonwealth Group	Legal and Legislative Services	T–253	P & NP[1]	$120,391.39
Work Program No. 13, Contract No. 96158; Period 6/26/96 to 10/31/00				
AK Media/MA	Billboard Advertising	T–211	NP	$87,000 (inv=d)
Hill, Holliday, Connors, Cosmopulos	Public Information Outreach Initiative	T–400	NP	$1,078,409.48

CA/T Project Subcontracts for Legislative and Public Affairs Consulting Services—Continued

Company Name	Contract Title	Cont. No.	Part./ Non-Part.	Amount Paid
Work Program No. 14, Contract No. 96159; Period 6/26/96 to 10/31/00				
Hagler Bailly/Apogee Research, Inc.	Development of a Surface Transportation Apportionment Model (STAM)	T–350	P	$249,983.47
Boland & Madigan Inc.	Legislative Consulting Services	T–405	NP	$159,262.97
Carrie Fuchs	Marketing Coordinator	T–453	P	$14,700
Fifield and Associates	Communications Planning	T–307B	P	$14,210.19
Fifield and Associates	Communications Planning	T–341	P	$57,093.75 [2]
Fifield and Associates	Project Management Consulting	T–383	P	$76,123.96 [3]
Government Affairs Management Association	Legal and Legislative Services	T–293	NP	$0
GPC/O'Neill & Associates	Legislative Services	T–483	NP	$53,250(invd)
Hill, Holliday, Connors, Cosmopulos	Public Information Outreach Initiative	T–400	P	$1,099,589.65
Ingalls Advertising	Advertising	T–322	P	$45,000
McDermott/O'Neill &Associates	Legislative Services	T–328	NP	$351,004.60
Move Massachusetts 2000	Mitigation and Community Relations Program	T–204	P	$337,921.81
The Commonwealth Group	Legal and Legislative Services	T–292	NP	$52,500
Winston & Strawn	Legislative Consulting Services	T–377	NP	$133,074.37
McKay Communications	Mitigation of CA/T Construction Impacts on Pat's Pushcart Restaurant	14–710–00170	P	$113,219.42
Sub-total (Non-Participating as presently known):				$2,138,577.62
Total (Participating and Non-Participating):				$5,840,751.87

[1] Paid value was divided between Participating and Non-Participating and archives must be reviewed to determine exact values.
[2] Of this value $28,546.88 was paid by B/PB and not billed to the CA/T Project.
[3] Of this value $30,000.00 was paid by B/PB and not billed to the CA/T Project.

Question 4. In your view, is there currently a cap on the amount of federal funding that will be allocated to this project and if so, what is that level?

Answer. Yes, the Commonwealth has and will continue to operate under the direction from federal highway officials that there is a cap on the amount of federal funding that will be allocated to the Project. As stipulated in the Federal Highway Administration (FHWA) letter dated May 8, 2000 to the Turnpike Authority, FHWA imposed an administrative cap on federal funds for the project. Federal funds are limited to $8.549 billion—$7.049 in federal obligations through the life of the Project plus $1.5 billion in GANs (grant anticipation notes) repayments.

As I stated in my testimony before the Committee on Commerce, Science, and Transportation on May 3, 2000, the Commonwealth is not looking for additional federal assistance to finish the Central Artery/Tunnel Project. As you are aware, the Massachusetts Legislature and the Governor recently approved a finance plan of more than $1.9 billion that exceeds even the high cost range identified by the Federal Highway Administration. The Commonwealth's finance plan also created a $500 million contingency reserve to be used to offset any future possible overruns or other transportation needs in the Commonwealth.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO RODNEY E. SLATER

Question 1. There is no statutory limit on the amount of money the Federal government will contribute to the project, is there currently a written agreement signed by the State and FHWA capping the Federal funding for this project?

A) What is the total Federal funding obligation on the Central Artery/Tunnel project and on what does the Department base this level?

B) The cost of the project has skyrocketed from its early estimates. What actions, if any, did the FHWA take to reign in these costs?

C) Why has the Department agreed to fund more than $8 billion toward this project? And, is it standard operating procedure for the FHWA to keep upping the Federal ante on all of its highway projects based on whatever the State ultimately decides to spend?

Answer.

A) On June 22, 2000, the Federal Highway Administration (FHWA), the Massachusetts Executive Office of Transportation and Construction (EOTC), the Massachusetts Highway Department (MHD), and the Massachusetts Turnpike Authority (MTA) executed a formal Project Agreement which covers the amount of Federal funding on the Central Artery/Tunnel project and the working relationship between the parties. [See Attachment.] The agreement limits the amount of Federal-aid highway funds that may be obligated and spent for the Central Artery project to $8.549 billion. This maximum level applies regardless of State use of advance construction authority (AC). In no case shall AC conversions for the Central Artery project be allowed which bring the obligation authority total above the $8.549 billion cap. As of May 30, 2000, Federal-aid obligations total $5.898 billion.

B) Since the early stages of project implementation, FHWA has been actively involved in Central Artery project activities to contain costs. Activities include: participating in the project's Cost Containment Committee; using value engineering studies; encouraging project staff to recover costs from design errors and omissions by consultants; and performing reviews, during the preliminary design phase, to ensure utilization of optimum design concepts. To date, we estimate that the Cost Containment Committee's effort has resulted in savings of $670 million, the value engineering reviews have reduced costs by over $400 million, the cost recovery program has recouped about $30,000 in services and, while no detailed accounting has been made of all the design/product improvement reviews, these savings would be well over $100 million.

C) The amount of Federal funds made available to the State is determined by apportionment formulas defined in TEA–21. The State then has the legal authority to choose which projects it initiates with this Federal funding within the statewide transportation improvement program. The FHWA checks to ensure that the projects meet eligibility requirements and only reimburses the State for eligible costs. However, as long as eligibility requirements are met, States are free to identify their needs and then meet those needs with the Federal-aid highway funds they receive. In fact, Section 145 of title 23, U.S.C., protects the sovereignty of the States and their rights to "determine which projects shall be federally financed."

Projects that receive Federal-aid funding are reimbursed for the share of project costs that are eligible under the Federal funding category being used. On most projects, the entire scope of work is usually eligible and the Federal-aid share is applied in its entirety. On the Central Artery project, the Federal-aid share of eligible project costs will exceed $8 billion. The FHWA makes independent eligibility determinations regarding the use of Federal-aid funds on individual projects. These determinations include the original scope of work and any changes to the scope of work that are deemed to be necessary as the project progresses toward completion.

Question 2. In 1997, this Committee held a hearing on program efficiencies, or lack thereof, at the Department of Transportation that had been identified by the General Accounting Office and the DOT's Inspector General. In testimony at this hearing, Deputy Secretary Mortimer Downey cited the Department's oversight on the Central Artery project as a model to be followed with other mega projects. Mr. Downey stated that the Department "had taken steps to bring the management of large dollar infrastructure projects under control." Now, two years later, we learn that the Department's oversight was less than stellar. [And despite some statements to the contrary, I don't believe the Department's poor performance can be tied solely to lack of candor, shall we say, on the part of Massachusetts' project officials].

A) What assurances can you give us today that we won't be here next year or the year after addressing more Big Dig horror stories?

B) What changes have you made at the FHWA to assure an arms-length relationship between State project officials/contractors and Federal officials?

Answer.

A) This is a complex project with complex construction, including underground excavation adjacent to large buildings and transit lines. Full sharing of information is essential between Federal and State managers of the project. On June 22, the FHWA, the Massachusetts EOTC, the MHD, and the MTA executed a formal agreement that addresses the Federal Task Force Report recommendations for improving the working relationship of the parties on the project.

Governor Cellucci recently signed legislation designed to fund the Central Artery project costs, including the cost overrun announced in February and contingency funding for any future cost overruns that might occur. On June 16, 2000, the State submitted an updated Finance Plan to the FHWA for acceptance. The State update reflects the newly legislated funding and identifies other funding sources that address the cost of the Central Artery project and account for a balanced statewide transportation program. The FHWA expects to complete its review of the Finance Plan Update by July 31, 2000.

B) The FHWA is forming a Major Projects Team at the Headquarters level to assist the Division Offices with the management of large dollar construction projects, to ensure efficient use of Federal resources, and to minimize project delays. While the FHWA Division Offices will remain responsible for traditional Federal-aid oversight responsibilities for all projects, the Major Projects Team will assist the Division Offices with risk assessment and oversight decisions in the areas of finance, environment, and project development on large dollar construction projects. The Team will also oversee the implementation of relevant recommendations from the General Accounting Office and the Office of Inspector General audits of major projects.

At a recent national meeting, FHWA Headquarters, Resource Center, and Division Office managers discussed stewardship and oversight of the Federal-aid program. Managers were reminded of their responsibilities and the need for objectivity and independence, while sustaining the partnerships with State departments of transportation. Based on discussions at the national meeting, a statement of policy was issued on June 9, 2000. In addition, FHWA is currently reviewing its stewardship and oversight policies, and is forming a working group to develop a program guidance paper on stewardship and oversight.

Question 3. What actions should be taken to prevent future mismanagement of this or other federally funded projects?

Answer. As the stewards of Federal funds, the Department and the modal administrations have an oversight responsibility to make certain that taxpayer dollars are being spent properly, in the best and most efficient manner, in accordance with Federal statutes. The enhanced oversight of major projects is applicable to all the Department's modal administrations. At the senior management level, the Department tracks the largest transportation infrastructure projects—generally those over $1 billion in value. Reports of key information are developed on a bimonthly basis.

Under the leadership of the Assistant Secretary for Budget and Programs, we are also developing a department-wide process with clear standards and directions to review and provide oversight for major projects.

FHWA has taken a number of actions to improve project oversight, including issuance of revised finance plan guidance on May 23, 2000, that further defines the content and format of Financial Plans as required by Section 1305 of TEA–21. This guidance will result in financial documents that contain more complete, accurate, and timely information. The Financial Plan Guidance presents an outline for the Initial Financial Plan and for the Annual Updates. This guidance and its attachments should encourage consistency in the way the initial documents are prepared, in the content of the annual updates, and in the format of the core exhibits.

As noted above, FHWA is also forming a Major Projects Team at the Headquarters level to assist with large-dollar project management. In addition to the duties listed in the answer to Question 2, FHWA's Major Projects Team will oversee the implementation of the 34 recommendations from the Federal Task Force Report on the Central Artery project. Also, the team will review project estimates and will provide an independent review of the initial Finance Plan and its annual updates for major projects.

Question 4. One of the most disturbing comments from the testimony we have received so far came from Mr. Mead in which he stated that the Federal Highway Department's (FHWA) oversight on the Central Artery/Tunnel project went *beyond* the agency's normal oversight effort. This raises very serious concerns, to say the least.

A) What actions are you, as Secretary, taking to improve the critically needed independent Federal scrutiny of the Central Artery/Tunnel project?

B) What actions in general are you taking to impose greater Federal oversight on all Federal-aid highway funding projects?

C) What actions are you taking Department-wide to ensure greater independent Federal oversight on all federally funded transportation projects—from airports to shipyards to highway projects?

Answer.

A) Changes were made in the Central Artery project leadership at the Federal and State levels. Another major action was the execution on June 22, 2000, of a formal agreement between the FHWA, the Massachusetts EOTC, the MHD, and the MTA. The agreement covers Task Force Report recommendations that address the working relationship between the parties.

Also, the FHWA has acted on the Task Force recommendation to withdraw the delegation of authority to accept annual Finance Plan Updates for the Central Artery project from the FHWA Massachusetts Division Administrator and return the approval authority to FHWA Headquarters. The State Finance Plan Update submitted on June 16 is currently under review in FHWA Headquarters.

B) As noted in the responses to Questions 2 and 3 above, FHWA has taken a number of actions to improve project oversight, including issuance of revised Finance Plan Guidance on May 23, 2000; formation of a Major Projects Team at the Headquarters level to assist with large-dollar project management; and a review of stewardship and oversight policies and issuance of a policy statement on June 9, 2000.

At a recent national meeting FHWA Headquarters, Resource Center, and Division Office managers discussed stewardship and oversight of the Federal-aid program. Because of resource limitations, oversight on Federal-aid highway funded projects is primarily focused on the largest of these projects. However, managers were reminded of their responsibilities and the need for objectivity and independence while sustaining the partnerships with the State departments of transportation. We believe that effective partnering with State DOTs will enhance management and accountability on all projects.

C) We will develop a department-wide process to review and provide oversight for major projects that are complex in nature, of national and regional significance, and cost $1 billion or more. The Assistant Secretary for Budget and Programs is leading this effort by convening a working group and consulting independent experts to develop a process with clear standards and directions. Having such a process in place will build from the process used by the Federal Task Force on the Central Artery project and assist in dealing with risk assessment and making oversight decisions in the areas of finance, the environment, and program development for all projects. In addition, this process will include periodic reporting to senior level officials within the modal administrations and the Department regarding the status of all major projects of national and regional significance. The Office of the Inspector General will also be an engaged partner in this process to ensure that the oversight and monitoring of these projects is adequately maintained.

Question 5. Another area of concern raised by the Inspector General in his testimony concerns the use of advance construction funds. The IG believes the continued practice could increase the Federal obligation up to $9.5 billion.

A) What are your views on the IG's concerns? And, what guarantees can you give to ensure the IG's projected Federal funding exposure is not allowed to become a reality?

Answer.

A) The cost overruns on the Central Artery project are not related to the use of AC.

When FHWA approves an advance construction project, it simply means that the project is eligible for Federal-aid. FHWA makes no commitment to fund the project, nor is the State committed to converting the project to a regular Federal-aid project. For an advance construction project to be submitted to FHWA for approval, the project must go through the complete planning process and be included on the state transportation improvement program (STIP). Each STIP must identify the level of anticipated AC conversions to Federal funding (amount expected to be obligated on advance construction projects) in order to maintain a financially constrained program as required by statute. This process allows for substantial public involvement in reviewing a State's proposed use of AC.

The primary benefit of AC is that a project is constructed sooner, using State funds, which generally results in a lower cost to the State and Federal governments by avoiding inflation costs. Earlier construction also results in advancing safety improvements (reducing injuries and deaths) and expedites the economic returns that often result from a transportation project. The OIG has suggested that advance construction be limited to amounts that can be converted within a specified time, such as 3 or 5 years after project completion, using a limited portion of the State's annual apportionment. Limiting the use of advance construction more than what is now required by law (that projects be on a financially constrained STIP) effectively reduces the benefits that State and local governments, and the traveling public, can derive from early project completion.

Restricting the use of advance construction could also significantly impact a number of States which use advance construction in conjunction with bond financed projects. On these projects, the conversion of advance construction coincides with the payment of the bonds, which may be 20 years or more. If advance construction was required to be converted in five years, then States would lose this very effective method of financing transportation projects.

In the case of the Central Artery project, restricting the use of advance construction would have extended the amount of time to complete the project. The result would have been an even greater increase in construction costs, project management costs, and traffic management costs, as well as prolonged disruption to Boston's transportation system.

Our Inspector General has expressed concern that the use of AC funds could increase the Federal obligation up to $9.5 billion. This issue has been resolved by the formal Project Agreement signed on June 22, 2000, by the FHWA, the Massachusetts Executive Office of Transportation and Construction, the Massachusetts Highway Department, and the Massachusetts Turnpike Authority. This agreement limits the amount of Federal funding on the Central Artery project and also defines the working relationship between the parties. The agreement caps the amount of Federal-aid highway funds that may be obligated and spent for the Central Artery project at $8.549 billion. This maximum level applies regardless of State use of advance construction authority (AC). In no case shall AC conversions for the Central Artery project be allowed which bring the obligation authority total above the $8.549 billion cap.

Question 6. There has been considerable interest and controversy over the project's Owner Controlled Insurance Program (OCIP). Last May, the Inspector General identified overpayments of Federal funds (including accrued interest) totalling nearly $150 million and noted the project was intentionally drawing down Federal funds for investment purposes—which is against the law. Yet, FHWA dragged its feet in correcting the identified problem. In fact, I included a provision in the bill I introduced last August on truck safety in an effort to remedy the problem since the FHWA was taking no action. Finally in September, four months after the IG's report, the FHWA finally acted to reign in the insurance funding scheme.

A) Why did the FHWA not act immediately to remedy the problem identified by the Inspector General?

B) Since last September, what action has the Department initiated to ensure the use of OCIP on any federally funded transportation project does not misuse Federal funds?

Answer.

A) FHWA has been monitoring the OCIP on the Central Artery project since its creation in 1992. Due to the unique nature of the work and the condition of the insurance industry at the time of its creation, the OCIP on the Central Artery project was structured in a conservative manner to protect against very large potential risks. When the OCIP was established, certain assumptions were made as to the anticipated size of the work force and the expected accident rates. By 1995, it was evident that the initial assumptions were too conservative. In 1996, an agreement was made to reconfigure the OCIP to adjust for a history of fewer accidents than were expected. Through 1997 and 1998, insurance losses continued to be very low and in December 1998 an agreement was drafted to adjust the OCIP.

We were in the process of evaluating the recommended provisions of the December 1998 agreement when we received the OIG recommendations. We believed it best to consider the totality of the December 1998 recommended revisions and the OIG recommendations prior to taking action on either set of recommendations. At the same time, as we were evaluating the OIG recommendations, we discovered that several of the OIG calculations were based on estimated values. We needed time to determine the actual figures prior to taking action.

Regarding premium overpayments and interest earned related to payments made on the Central Artery project OCIP, the excess balance is being applied to the premium payments for the next two years. In applying the excess balance to the premium payments, the actual calculated amount of premiums paid plus interest earned is being used rather than the OIG estimated amount.

(B) At present, the only other Federally funded highway project with an OCIP is the I–15 project in Salt Lake City. The OCIP on this project has been structured to cover losses on a "pay as you go basis." There is no trust fund for the project and the OCIP on the I–15 project is fully funded by State Funds.

To protect against problems on the Central Artery project and on all future projects, the FHWA, in accordance with Recommendation #25 in the Federal Task Force report, has retained an independent contractor, Aon—an expert in insurance and OCIP-type policies. Aon will conduct a review of the OCIP and the risks associated with the Central Artery project and will also advise the FHWA on a national policy to guide the structure and implementation of future OCIPs. The target date for completion of the OCIP review is July 31, 2000, and a report is expected in August 2000. We plan to issue this new policy sometime in the fall of 2000.

Question 7. You have stated that the Department has accepted all of the 34 Task Force recommendations. What is the status of implementation? When can we expect all of the recommendations to be implemented?

Answer. Implementation of the recommendations is in progress. As can be seen from the following table, many of the recommendations are completed; several are expected to be completed upon acceptance of the Finance Plan Update, which was submitted to FHWA on June 16; and several are continuous in their implementation and are included in the formal Project Agreement, which was executed between the FHWA, the Massachusetts Executive Office of Transportation and Construction, the Massachusetts Highway Department, and the Massachusetts Turnpike Authority on June 22, 2000.

Addressing the 34 Recommendations of the Federal Task Force on the Boston Central Artery/Tunnel Project

Review of Project Oversight and Costs

(Updated July 5, 2000)

#1 Recommendation: The Division Office should make an annual, independent cost-to-complete estimate to be used as a primary source of information for decision making regarding the adequacy and acceptability of all future Finance Plans submitted for the Central Artery/Tunnel (CA/T) Project.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Division Office will do cost to complete estimate for annual Finance Plan Submission—October 2000.

Status

Completion awaiting Federal Highway Administration (FHWA) acceptance of Finance Plan Update.

—Currently, FHWA staff are reviewing the June 16, 2000 re-submission of the Finance Plan Update.

#2 Recommendation: The process used by the Division Office staff in developing the independent cost estimate should be fully documented and refined with assistance from other elements of the FHWA. It should be published as a best practice for use in other mega-projects.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—MA Div. will document cost to complete estimate process used.

Status

Completion awaiting finalization of document by the MA Division Office.

#3 Recommendation: The FHWA must establish monitoring practices and procedures for mega-projects.

Responsible Office: Infrastructure

Initiative(s) and Target Date(s)

—Develop monitoring practices and procedures.

—Develop finance plan guidance.

Status

Completed

—On April 11, 2000, issued the Major Project Team Concept Paper which contains the monitoring practices and procedures.

—On May 23, 2000, issued Finance Plan Guidance.

#4 Recommendation: The Division Office should expand the roles of current staff to include a review of the Finance Plan by the Financial Specialist and the Division Planning & Research Program manager. This will provide a technical analysis of the information presented in the Finance Plan, and provide additional assurances on the adequacy of data contained in the document.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—MA Div. will use Finance and Planning staffs to assist in review of the annual Finance Plan Updates, including the one which was delivered to the FHWA on June 16, 2000.

Status

Continuous—annually

—On June 16, 2000, Finance Plan Update received and MA Division Office Finance Specialist and Planning Specialist assigned to assist with the review.

—July 31, 2000 is target date established for FHWA to complete the internal review of the Finance Plan Update.

#5 Recommendation: The Task Force recommends that the FHWA determine that the Massachusetts Highway Department (MHD) and the Massachusetts Turnpike Authority (MTA) are "high risk" grantees as defined in 49 CFR Section 18.12, with respect to the CA/T Project. As high risk grantees these agencies must provide more detailed financial and project management reports.

Responsible Office: Infrastructure and Administration

Initiative(s) and Target Date(s)
—Letter to MHD and MTA.

Status
Completed
—On June 15, 2000, issued letters to the MHD and the MTA designating them as high risk grantees and outlining the terms of the designation.

#6 Recommendation: The U.S. Secretary of Transportation should request that the Governor of Massachusetts reevaluate the appropriateness of the MTA's continuing role in day-to-day management and control over the CA/T Project.

Responsible Office: Office of the Secretary

Initiative(s) and Target Date(s)
—Secretary makes request.

Status
Completed
—On April 11, 2000, Secretary met and discussed MTA role on CA/T project management with the Governor. Following this meeting, the Governor changed the MTA manager; MTA continues to manage the day-to-day activities of the CA/T Project.

#7 Recommendation: It is recommended that the CA/T Project management take whatever steps are necessary to ensure that all requests from external monitoring agencies for information, records, or access to records are met in a responsive and timely fashion. A failure to provide this access should be considered a violation of 49 CFR Section 18.42(e), which will impact the reimbursement and further availability of Federal funds.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)
—Meet with new Chairman and CA/T Staff to enlist their support for much improved accessibility to records by oversight agencies.
—Continue monthly (no less frequently than bimonthly) audit coordination meetings to follow-up on progress, quality of information provided, and access issues.
—Include this item in the Project Agreement.

Status
Continuous—monthly
—On April 20, 2000, met with Chairman and received assurance that availability of information to oversight agencies and the public was one of his goals.
—Met with senior CA/T staff and received assurance that audit coordination and follow-up actions were being reassigned from the legal department to the Acting Assistant Project Director and a new position is being established as the focal point for these activities.
—Included as Item #3 in the Project Agreement executed on June 22, 2000, by Executive Office of Transportation and Construction (EOTC), MHD, MTA, and FHWA.

#8 Recommendation: Require B/PB to submit a certified letter to the Federal Highway Administrator describing their role in the management of the CA/T Project, including whether either company raised questions regarding escalating cost exposure and/or the decision to withhold material information from the FHWA.

Responsible Office: Infrastructure

Initiative(s) and Target Date(s)
—Letter to MTA with copy to B/PB.
—Certified letter to be received from B/PB.

Status
Completed
—On May 11, 2000, letter sent to MTA with copy to B/PB; requested that B/BP submit the certified letter.
—On June 16, 2000, B/PB certified letter received—to be discussed at the next quarterly meeting (tentatively scheduled for August 2000).

#9 Recommendation: It is recommended that the FHWA Office of Chief Counsel review the circumstances surrounding the failure to disclose information concerning the potential $1.4 billion overrun and recommend whether to take action under 49 CFR Part 29—Governmentwide Debarment and Suspension (Nonprocurement) And Governmentwide Requirements For Drug-free Workplace (Grants).

Responsible Office: Chief Counsel

Initiative(s) and Target Date(s)

—Conduct a review of the circumstances.
—Recommend whether to take action under 49 CFR Part 29 by June 30, 2000.

Status

Completed
—Review completed.
—Recommendation is that no immediate action should be taken to pursue Governmentwide Debarment and/or Suspension, since the purpose of suspension and debarment is to protect the public interest and not to punish. Implementation of the Task Force recommendations and the changes in management should obviate the need to seek Governmentwide Debarment and/or suspension of those who failed to notify FHWA of significant cost increases.

#10 Recommendation: The Division Office should continue its oversight and coordination efforts to ensure that the containment of costs and the mitigation of delays and conflicts remain a primary CA/T Project focus.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Division Office to continue to provide its full oversight of the project and aggressive cost containment initiatives.

Status

Continuous
—The Project's cost containment efforts are ongoing with FHWA participating.
—The Projects Cost Recovery program is ongoing with FHWA participating.
—The FHWA MA Division's Contract Change procedure requires a cost evaluation of all proposed changes and this is ongoing.

#11 Recommendation: The U.S. Secretary of Transportation should consult with the Governor of Massachusetts to seek changes in the State CA/T Project leadership consistent with the recently announced change in Federal CA/T Project leadership.

Responsible Office: Office of the Secretary

Initiative(s) and Target Date(s)

—Secretary consults with Governor and requests change.

Status

Completed
—On April 11, 2000, Secretary met with the Governor, who made the management change.

#12 Recommendation: Documentation of the Massachusetts Division Office's process for independent validation of CA/T Project costs should include a system for aggregation of cost and schedule related data routinely accumulated in the normal course of project oversight by FHWA CA/T staff.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—FHWA Area Engineers will, on a quarterly basis, review and update project cost and schedule information. This information will be used by FHWA managers to verify Project Management Monthly (PMM) information presented by the CA/T Project.

Status

Continuous—quarterly
—PMM cost information reconciled with FHWA estimate.
—Schedules for major milestones for the I–90 and I–93 openings discussed weekly between FHWA and CA/T.

#13 Recommendation: The delegation of authority to accept annual Finance Plans for the CA/T Project should be withdrawn to FHWA Headquarters.

Responsible Office: Infrastructure

Initiative(s) and Target Date(s)

—Memorandum to division office.

Status

Completed

—On April 27, 2000, Headquarters memo sent to MA Division Office withdrawing delegation of authority.

—On May 9, 2000, State notified that authority for acceptance of CA/T Finance Plan Updates resides with FHWA Headquarters Office of Infrastructure.

—On June 16, 2000, Finance Plan Update delivered to FHWA Headquarters for acceptance.

#14 Recommendation: The FHWA Division Office should obtain written assurance from the State that all data with respect to the independent audits of the CA/T Project (e.g., O'Brien Kreitzberg and Deloitte Touche) will be provided to the FHWA. The FHWA should independently and objectively review this and other external reviews of the Project (such as by the OIG, state auditors, etc.), and must not accept assurances provided by Project officials.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Include item in Project Agreement.

Status

Completed

—On April 2000, meeting held with MTA staff to discuss how this would be accomplished and timing of reviews of draft Finance Plan Updates by planning groups and FHWA.

—Included as Item #4 in the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

#15 Recommendation: CA/T Project should perform an annual bottom-up review for the remaining years of the CA/T Project, beginning with the last quarter of 2000. The results of these efforts should be incorporated into the PMM.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—PMM will be revised to include enhanced schedule and cost information.

—CA/T project will conduct bottom to top review of cost to complete as part of the annual Finance Plan Update.

—Beginning October 2000.

—Include item in Project Agreement.

Status

Continuous

—Requirement for annual total project forecast (bottom-up review) included as Item #5 in the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

—A revised format of the PMM is being developed, evaluated, and revised as it is used for the monthly PMM meetings. The FHWA and CA/T continue to evaluate and discuss improvements and other options for the PMM.

#16 Recommendation: The data contained in the PMM should be modified to show potential project cost exposures identified in the separate document referred to as the Up/Down chart. The PMM or similar vehicle should include such items as: (1) anticipated cost exposures in design and/or construction activities; (2) projected labor rate increases; (3) anticipated petroleum price increases or decreases; (4) expected increases in operational costs such as insurance premiums, consultant support services, and materials: and (5) potential and settled claims.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—PMM will be revised to include enhanced schedule and cost information.

—Include in Project Agreement.

Status

Continuous

—Requirement for PMM to show potential cost exposures included as Item #6 in the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

—A revised format of the PMM is being developed, evaluated, and revised as it is used for the monthly PMM meetings. The FHWA and CA/T continue to evaluate and discuss improvements and other options for the PMM.

#17 Recommendation: The Significant Schedule Trends Report shows possible delays to all six remaining key milestones. The PMM should indicate why the projected delays have occurred and what measures are being considered by MTA management to remedy this deficiency.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—PMM will be revised to include enhanced schedule and cost information.
—Include in Project Agreement.

Status

Continuous

—June 22, 2000, requirement to document projected delays, identify causes of delays, and provide measures under consideration to remedy delays is included as Item #7 in the Project Agreement executed by EOTC, MHD, MTA, and FHWA.
—A revised format of the PMM is being developed, evaluated, and revised as it is used for the monthly PMM meetings. The FHWA and CA/T continue to evaluate and discuss improvements and other options for the PMM.

#18 Recommendation: The Finance Plan should be based on more realistic cost and revenue scenarios, and include contingency plans to cover potential revenue shortfalls or cost overruns. Inclusion of contingency plans will minimize the surprises inherent in an overly optimistic forecast scenario and provide for an earlier discussion of how potential circumstances would be addressed.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—develop finance plan guidance.

Status

Completed

—On May 23, 2000, issued Finance Plan Guidance.

#19 Recommendation: The Finance Plan, since it is a picture of the funding revenues and outlays for a project, should include all costs associated with the project, regardless of the source of funding. Since this project does not recognize costs borne by the State, such as personnel expenses for MTA employees, the total CA/T Project cost figures are inherently low. A more realistic picture would include such costs, since they are directly attributable to the CA/T Project, although they would not be included in a budget for the B/PB joint venture.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—For CA/T Project, review Finance Plan update—June 2000.
—Develop finance plan guidance for all mega projects.

Status

Completion awaiting FHWA acceptance of the Finance Plan Update

—On June 16, 2000, FHWA received the Finance Plan update.
—On May 23, 2000, issued Finance Plan Guidance.

#20 Recommendation: By showing post-construction funding as lump-sum amounts, the annual budget and cash flow needs through the conclusion of the project financing are not clear. For example, funds needed for the GANs repayments and the conversion of advance construction should be shown annually.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—Include the requirement in the Finance Plan Update comment letter.
—Include chart in Finance Plan Update.

Status

Completion awaiting FHWA acceptance of the Finance Plan Update

—On May 8, 2000, Finance Plan Update comment letter issued; contains the requirement for inclusion of a schedule in the Finance Plan Update detailing the time frame for use of OA beyond 2003.
—June 16, 2000, Finance Plan Update contains out year obligations for conversion of AC.
—Items #1 and #2 of the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA, limits OA to $8.549 billion, including AC conversions.

#21 Recommendation: Although the financing requirements are intended to accurately depict the future needs of the CA/T Project, it is recommended that future Finance Plans include a short discussion of past costs and the impact these have had on the initial assumptions. This permits the reader to gain a full understanding of the finances for the Project, past, present, and future.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—The Finance Plan Updates will provide total cost information.

Status

Continuous—for CA/T Project, with acceptance of annual Finance Plan Updates

—May 8, 2000, Finance Plan Update comment letter issued and contains the requirement for inclusion of all project costs in the Finance Plan Update.

—June 16, 2000, Finance Plan Update contains total cost-to-go information.

—Items #1 and #2 of the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA limit OA to $8.549 billion, including AC conversions.

#22 Recommendation: The Federal Highway Administrator should require the MHD to reach agreement with local officials on the terms of a balanced statewide program. By making the agreement a formal condition of STIP approval, the FHWA and the FTA would have a means of ensuring the commitment is satisfied.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Require MHD to take the lead in developing a consensus definition of the $400 million Statewide Program.

—Include in Project Agreement.

Status

Underway

—On April 28, May 8, etc.; MHD planning department held meetings with transportation planning agencies and industry representatives to develop this definition.

—A consensus Memorandum of Understanding (MOU) has been agreed to by representatives of the transportation planning agencies and the State.

Execution of this MOU by the Massachusetts Executive Office of Transportation and Construction, the MHD, and Regional Planning Associations as a condition of STIP approval is included as Item #8 in the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

#23 Recommendation: The Finance Plan contains potential project offsets that have been determined to be outside the scope of the CA/T Project. These include the OCIP credits, air space leases, and the sale of the CA/T Project management building. While post-construction credits and revenues may be included in cash flow models, the Task Force recommends that they not be allowed as offsets to reduce the cost of the CA/T Project.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—Meet with new MTA Chairman on use of credits.

—Include issue in Finance Plan Update comment letter.

Status

Continuous—annually with the FHWA acceptance of Finance Plan Updates

—MTA Chairman assured FHWA that credits would not be shown in finance plan documents unless funds were available to be used to support cash flow needs.

—Finance Plan Update comment letter issued May 8, 2000; contains this issue.

—The Finance Plan Update received June 16, 2000, does not include these credits.

#24 Recommendation: The FHWA should require the CA/T Project management to obtain an independent certification as to the accuracy of the information contained in the Finance Plan. This certification would accompany the Plan upon submission to FHWA for review and acceptance.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—Require the independent certification.

Status

Continuous—annually for the FHWA acceptance of Finance Plan Updates

—October 2000 Finance Plan Update will contain the results of the ongoing independent valuation of costs and schedules being performed by the State's consultant; consultant's work is currently scheduled for completion in July 2000.

#25 Recommendation: The FHWA should retain the services of an independent contractor to conduct a review of the OCIP and the risks associated with the CA/T Project, and to assist the FHWA in the development of National policy on OCIPs.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—Retain contractor by May 1, 2000.

—Develop and issue national policy on OCIP's by Fall, 2000.

Status

Underway

—On May 3, 2000, contractor (Aon) selected and brought on board.

—August 2000 is the target for FHWA's contractor, Aon, to complete a review of the insurance records and interviews of principals, and to prepare a report to assist FHWA in defining the insurance needs for the CA/T project and future projects.

#26 Recommendation: The CA/T Project figures for extra construction costs are optimistically low. The bid discount rate of 13 percent and PCA rates of 7 percent to 10 percent should be changed to properly reflect recent trends. If this is done, the likely cost of the remaining construction work will be estimated at $300 million to $480 million higher than reflected in the bottom-up CA/T Project estimate. A more realistic estimate would be $1.7 to $1.88 billion in potential project cost overruns. This increases the potential total project cost to the range of $13.4 to $13.6 billion. (The $13.4 billion figure is the total of the $10.8 billion pursuant to the C/SU Rev. 6 estimate, plus $900 million in allowable credits, plus the $1.7 billion project overrun). In addition, if inflation rates rise, as is the present trend, the estimate should be further adjusted to reflect this trend. Finally, further adjustments should be anticipated for litigation, vulnerability, environmental contingencies, and other unforeseen events likely in a project of this magnitude.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—Include issue in comments letter on the Finance Plan Update.

Status

Continuous—annually for the FHWA acceptance of the Finance Plan Update

—Finance Plan Update comment letter of May 8, 2000, included this issue.

—After FHWA and MTA reconciled the variances in the project cost estimates, the Finance Plan Update received on June 16, 2000, used basically the figures from the high end of the FHWA estimate range.

—Potential forecast and variance requirements are addressed by Item #10 and Item #11 of the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

#27 Recommendation: The Finance Plan should include revenue sources that are likely to be available to the CA/T Project. If a revenue source requires legislation, legislative support needs to be demonstrated. If the revenue is to be provided by another State agency, agreement or concurrence from that agency needs to be obtained.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—Include issue in Comments letter on the Finance Plan Update.

Status

Continuous—annually for the FHWA acceptance of the Finance Plan Update

—Finance Plan Update comment letter of May 8, 2000, included this issue.

—On May 17, 2000, Governor signed the legislation. (Approximately $1.9 billion for CA/T and $500 million for the Statewide Program).

#28 Recommendation: Another option, pending legislative action on the above proposals, is for the State to commit its general fund to the CA/T Project. The general funds would serve as surety until other funding sources are established. State officials advised the Task Force that funds may be available for budget surpluses or other reserve funds.

Responsible Office: Program Administration

Initiative(s) and Target Date(s)

—Include issue in Comments letter on the Finance Plan Update.

Status

Continuous

—Finance Plan Update comment letter of May 8, 2000, included this issue.

—On May 17, 2000, Governor signed the legislation. (Approximately $1.9 billion for CA/T and $500 million for the Statewide Program.)

#29 Recommendation: The PF {Potential Forecast} for all project elements should be a best estimate of the completion cost.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Include the requirement for best estimate in the Project Agreement.

Status

Continuous

—The requirement for a best estimate of completion cost is included in Item #10 of the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

#30 Recommendation: The PF should be maintained on a current basis for all project elements.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Include the requirement to maintain on a current basis in the Project Agreement.

Status

Continuous

—The requirement for maintaining the potential forecast on a current basis is included in Item #10 of the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

#31 Recommendation: The PF total for all project elements should not be constrained by MTA policy directives.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Include the requirement for no constraint by MTA policy in the Project Agreement.

Status

Continuous

—The requirement for unconstrained potential forecast is included in the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

#32 Recommendation: On a quarterly basis, an overall CA/T Project Budget vs Potential Forecast Variance Report should be furnished to the FHWA. This report would contain an explanation of all significant variances, by project element, segregated into the following categories:

- The components of the reported variances that are deemed to be firm to the point of requiring a corresponding revision to the budget of the affected project element. These kinds of changes include, but are not limited to, the value of actual contract awards (or executed change orders), approved scope changes to be incorporated during design, and expected settlement amounts for asserted differing site condition claims.
- The components of the reported variances that are deemed by the CA/T Project management to be subject to further adjustment by future management corrective action, or other alternative remedies.
- The components of the reported variances that are deemed by the CA/T Project management as being speculative in nature. These include reported potential forecast variances that are difficult to quantify and price but which could have a positive or adhere effect on the future cost of the program.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Include the requirement for report in the Project Agreement.

Status

Continuous—on a semi-annual basis

—The requirement for a semi-annual report is included in Item #11 of the Project Agreement executed on June 22, 2000, by EOTC, MHD, MTA, and FHWA.

#33 Recommendation: CA/T Project management and the Division Office should continue with the cost containment initiatives to achieve the greatest savings by:

- A pro-active and aggressive change negotiation and claims defense;
- Rigorous controls to prevent scope change for remaining construction work;
- The encouragement of VECPs to simplify construction logistics and staging on construction contracts;
- Limiting changes in scope and minimizing scope transfers between projects; and
- Adding a construction contract clause for price adjustment for fuel prices to the remaining construction contracts.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Division Office to continue aggressive cost containment initiatives.

Status

Continuous

—The Project's cost containment efforts are ongoing with FHWA participating.

—The Project's Cost Recovery program is ongoing with FHWA participating.

—The FHWA MA Division's Contract Change procedure requires a cost evaluation of all proposed changes and this is ongoing.

#34 Recommendation: The Task Force recommends the FHWA and MHD enter into an agreement to formalize recommendations contained in this report which are relevant to the working relationship between the parties.

Responsible Office: Massachusetts Division

Initiative(s) and Target Date(s)

—Project Agreement between MHD, MTA, FHWA—June 2000.

Status

Completed/Continuous

—Project Agreement executed by EOTC, MHD, MTA, and FHWA on June 22, 2000: formalizes recommendations of Federal Task Force Report relevant to the working relationship between the parties and limits OA for the CA/T Project to $8.549 billion, including AC conversions.

Question 8. A very troubling article was recently reported about the project's purchase of a parking lot for disposing dirt during construction. But the parking lot was never even used by the project and was ultimately returned to the original owner—at a cost of some $50 million. Has the Department considered taking action to ensure any misspent and wasted funding is not borne by the taxpayers but instead is the obligation of the State and the program managers?

Answer. The article referenced in your question incorrectly implied a payment of $50 million for property alleged to not have been used for the Central Artery project. Contrary to the report in the newspaper, the referenced property settlement did not result in a $50 million payment for a single property unused for project purposes. Instead, a global settlement was negotiated by the Massachusetts Attorney General's Office that settled legal claims and eliminated substantial exposure associated with over 1 million square feet of land takings from several parcels and used by a variety of projects including the MHD Northern Avenue Project, the Central Artery project, and the MBTA Silver Line Transitway Project.

The parcel in question consisted of approximately 290 thousand square feet. A long-term temporary easement was acquired over the parcel in December, 1991. To satisfy Federal regulations, the acquisition needed to be completed in advance of advertising the contract, which included use of the parcel as a site for materials processing. Bids on the contract suggested that use of the parcel as originally contemplated would have resulted in significant project costs. To minimize such costs, the project identified other means of addressing materials disposal and used this parcel for several other project purposes, all of which resulted in project savings.

Preventing waste and misspending of Federal funds is always of paramount importance to the Department of Transportation and its modal administrations. As stewards of Federal funds, we take very seriously our responsibility to ensure that taxpayer dollars are being invested in the best and most efficient manner, in accordance with Federal statutes. We will fulfill our oversight responsibility on the Central Artery project and all other projects subject to the jurisdiction of the Department.

Question 9. I would like to briefly turn to a different issue, but one that is also very important to this Committee. I have heard that you are considering moving Administrator Hart from his current position at the Maritime Administration, either permanently or temporary, to a post at the new Federal Motor Carrier Safety Administration. You already know my strong concern over the need for leadership to oversee motor carrier safety, which is essentially why the new agency was created. However, concerns have been expressed that such a move would leave the Maritime Administration without a full time administrator at a critical time.

A) I am very interested in knowing how you intend to proceed to ensure that both the Maritime Administration and the Federal Motor Carrier Safety Administration have the leadership they need to fulfill their many important duties? Can you share your thoughts on this with the Committee?

Answer. I am aware of your firm commitment to having the best possible leadership at the new Federal Motor Carrier Safety Administration (FMCSA), and I am equally committed to making the best possible choice of FMCSA Administrator. I also agree that the critical challenges facing the maritime sector demand continued high-quality leadership for the Maritime Administration (MARAD).

My recent appointment of Maritime Administrator Clyde Hart to be Acting Deputy Administrator of the FMCSA on a temporary basis is intended to provide the agency with high-quality, knowledgeable and seasoned leadership by a Presidential appointee while the selection process for FMCSA Administrator proceeds. I am confident that we will identify a nominee for Administrator with the full set of credentials needed for this critical motor carrier safety post. Administrator Hart's extensive experience in regulation of the motor carrier industry will be particularly valuable in the interim to get this new Administration underway.

Deputy Administrator John Graykowski has already led MARAD once in the past and I am pleased that we had the option to call upon him again. The Deputy Administrator has demonstrated his complete commitment to managing MARAD in carrying out its many important duties.

CENTRAL ARTERY/TED WILLIAMS TUNNEL
PROJECT PARTNERSHIP AGREEMENT

This agreement is entered into by and between the Federal Highway Administration ("FHWA"), the Commonwealth of Massachusetts ("Commonwealth") acting by and through the Executive Office of Transportation and Construction ("EOTC") and the Massachusetts Highway Department ("MHD"), and the Massachusetts Turnpike Authority ("MTA").

WHEREAS, pursuant to Massachusetts General Laws Chapters 16 and 81A, MHD and MTA, effective July 1, 1997, entered into the Central Artery/Ted Williams Tunnel Project Management Agreement, under which, among other things, MTA agreed to assume management of the Central Artery/Ted Williams Tunnel Project ("CA/T Project") on behalf of MHD, and

WHEREAS, MTA is responsible for management and supervision of the CA/T Project and is currently using an Integrated Project Organization ("IPO") through the engineering and management services of the joint venture of Bechtel Corporation and Parsons Brinkerhoff, Quade, and Douglas, Inc. ("B/PB") and,

WHEREAS, MHD, acting through EOTC, is the recipient of Federal Highway Funds for the Commonwealth, and as such, oversees the obligation and distribution of federal funds to the CA/T Project, and performs audit functions consistent with said funding and,

WHEREAS, B/PB reports to and receives direction and supervision from the Commonwealth acting through MTA and in turn B/PB implements that direction throughout designated phases of the CA/T Project and,

WHEREAS, FHWA seeks to clarify its oversight role in implementing the CA/T Project and to establish new reporting and verification procedures necessary to ensure the Commonwealth's accurate and full financial disclosures regarding the CA/T Project and,

WHEREAS, this agreement will be deemed to supplement the existing MHD/FHWA Massachusetts Division Office Project Oversight Agreement as it relates to the CA/T Project,

NOW IT IS THEREFORE AGREED, by and between the parties to this agreement:

Funding

1. Notwithstanding the Commonwealth's use of advance construction ("AC") authority the maximum level of Federal-aid highway obligation authority ("OA") and funding available for the CA/T Project shall not exceed $8.549 billion.

2. In recognition of the CA/T Project's funding levels previously established in accepted finance plans and updates, and the Commonwealth's commitment to provide funds necessary to cover the recently disclosed cost increases, the maximum amount of new net advance construction authorizations on the CA/T Project shall not exceed $222 million. This will provide an AC balance to improve cash flow management and allow the CA/T Project to recover funds resulting from underuns on existing contracts. In no case shall AC conversions for the CA/T Project be allowed which bring the OA total above the $8.549 billion dollar cap.

Responsibilities

3. To the extent allowable by law, all state and private entities associated with the CA/T Project shall provide any and all information and records to external monitoring agencies and shall provide timely access to records and persons employed on the CA/T Project. MHD and MTA shall be held accountable for compliance with this provision and a failure to provide timely and full access may be considered a violation of 49 CFR 18.42(e) with potential imposition of sanctions including but not limited to withdrawal of reimbursement and further availability of federal-aid funding. MHD will support the MTA's efforts to provide timely and full access of records.

4. The MHD, MTA and Massachusetts's Executive Office for Administration and Finance (A&F) shall provide to the FHWA all data with respect to independent audits of the CA/T Project including but not limited to O'Brien Kreitzberg and Deloitte Touche audits, and failure to provide such data will similarly be viewed as a potential violation of the regulations subject to potential imposition of sanctions. The FHWA will independently review these audits as well as those performed by other entities and coordinate needed action with appropriate parties.

5. The CA/T Project shall perform a total project forecast for the remaining years, in conjunction with the annual finance plan, beginning with the October 1, 2000 submission. The results of these reviews will be included in the project monthly management report ("PMM") and the annual finance plan updates.

6. The CA/T Project shall assure that the data contained in the PMM is modified to show potential cost exposures. The PMM shall also include such items as:

a. anticipated cost exposures in design and/or construction activities

b. projected labor rate increase

c. anticipated petroleum price increases or decreases

d. expected increases in operational costs such as insurance premiums, consultant support services, and materials, and

e. estimated and settled Right of Way (ROW) and construction claims.

7. The CA/T Project shall document projected delays to schedule milestones, identify the causes for these delays, and provide measures under consideration to remedy these delays. This information shall be provided on a timely basis and in a manner enabling FHWA to comment on these matters and coordinate in an appropriate way.

8. EOTC and MHD shall reach agreement in principle with the MARPA respecting the terms of a balanced statewide program. The meeting of this balanced statewide program, and concurrence of MARPA, will be a formal condition for granting STIP approval.

9. The Secretary of EOTC and the Commissioner of MHD shall certify that each CA/T Project finance plan and update is consistent with the balanced statewide program and the approved STIP. This certification shall be required as a condition of FHWA's acceptance of the finance plan and updates.

10. The CA/T Project shall ensure that the potential forecast for all CA/T Project elements be a best estimate of the completion cost, be maintained on a current basis for all CA/T Project elements, and be accurate and complete and unconstrained by policy directives regarding costs of the CA/T Project.

11. The CA/T Project shall submit an overall Budget vs. Potential Forecast Variance Report on a semiannual basis to the FHWA beginning October 1, 2000 . This report shall contain an explanation of any and all variances, by CA/T Project element, segregated into the following categories:

a. the components of the reported variances that are deemed to be firm to the point of requiring a corresponding revision to the budget of the affected CA/T

Project element. These include but are not limited to, the value of actual contract awards (or executed change orders), approved scope changes to be incorporated during design, and expected settlement amounts for asserted construction claims.

b. the components of the reported variances that are deemed by the CA/T Project management to be subject to further adjustment by future management corrective action, or other alternative remedies.

c. the components of the reported variances that are deemed as being speculative in nature. These include speculative forecast variances that are difficult to quantify and price but which could have a positive or adverse effect on the future cost of the CA/T Project and/or the statewide program.

The FHWA, the EOTC, MHD and the MTA have caused this Agreement to be executed by their authorized officers as a sealed instrument effective as of June 27, 2000.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO MATTHEW WILEY

Question 1. In describing the Joint Venture, your testimony mentioned your role in "cost and schedule monitor[ing] and monitoring and reporting on all project cost[s]."

a) What authority and/or responsibility does the Joint Venture have concerning the cost of this project?

Answer. B/PB is generally responsible for the program management on the CA/T project, including cost/schedule controls, planning and monitoring of costs. In this role, B/PB has been subject to the overriding control and supervision of the MHD, and now the MTA, to establish policy, provide general direction and guidance, oversee B/PB's performance as the management consultant, and make all major decisions, including decisions affecting the overall cost of the project.

b) Did the Joint Venture receive any direction from State or federal officials to restrain costs on this project?

Answer. Yes. The MHD, and subsequently the MTA, decided what particular scope elements to pursue, what cost-saving avenues to follow, and what budget assumptions should be used in overseeing work on the project. Both MTA and B/PB constantly emphasized the importance of containing costs and conceiving cost containment initiatives while not compromising the project's success, both in terms of the scope of work, quality, and schedule. Since 1986, B/PB has proposed and MHD/MTA accepted and approved over 1 billion dollars in cost containment initiatives.

Question 2. Your testimony highlights the Joint Venture's role in the awarding of contracts. Last October, the DOT–IG found that contract award amounts were exceeding budget by more than 24 percent—one of many findings rejected by FHWA and project managers. Upon further investigation, the IG found the latest contract awards to exceed budget by 38 percent.

a) From your perspective, please explain how and why the contracts are over budget by such large amounts? Does the management team have any concerns over these contract cost overruns?

Answer. The CA/T project has been divided into approximately 117 separate construction packages. For each of these packages, the MHD enters into a fixed price contract with a construction contractor. The differences noted by the DOT–IG between (a) contract *budget* amounts and (b) the *actual* contract award amounts for various construction contracts are derived from the comparison between the actual award amount and the amount that had been included (or budgeted) in the last comprehensive budget estimate, issued in 1995, known as Revision 6 or "Rev. 6," for each of those contracts. It is important to emphasize that the Rev. 6 Budget assumptions, which were very aggressive—including the amounts budgeted for construction contract—were developed in 1994 and early 1995 when the CA/T project design overall was only 50 percent complete and significant scope decisions had yet to be made by MHD/MTA, and the latest contracts which were the focus of the DOT–IG Report were in the very early stage of design. Scope details traditionally evolve during the course of the final design. For example, the Rev. 6 budget assumed the existing Dewey Square Tunnel was to be essentially reused with minimal rebuilding. For operational reasons, a decision was subsequently made by MTA to significantly rebuild the tunnel, which increased the cost by $100 million.

As another example, from 1991 through 1994 the low bid was about 13 percent below the engineer's estimate. This experience was the basis for the Rev. 6 budget assumption. In 1997, there was a tremendous volume of construction awards (greater than $2.5B), and the low bid was on average only 2 percent below the engineer's estimate. These market conditions, both regionally and nationally, which had a particular impact on the construction costs, were beyond the control of B/PB and the project and resulted in an increase of over $300M. B/PB regularly updated and revised its estimates of construction costs for the "to be awarded" construction contracts based upon the latest design and pricing parameters. These revised estimates were not reflected in the project budget as a definite budget variance until bids were received and the contractors received notices to proceed. It should be noted, however, that estimate variations were identified as potential exposures in the Project Management Monthly ("PMM").

B/PB is certainly concerned about the increase in the cost of the project. The project has tried to manage costs aggressively. Even though the scope and costs changed during the design process, the project continually and diligently worked to keep the estimated cost close to the budget through such things as cost reduction initiatives, peer reviews and value engineering. As soon as the contract was awarded, any budget variance between the low bid and the contract budget would be recognized. At the same time, the project would try to find cost offsets so that there would be no impact on the overall budget.

b) To your knowledge, have Joint Venture management or the Massachusetts Turnpike Authority taken action to ensure future project budget estimates are more accurate and that contract awards remain on budget?

Answer. As noted previously, the differences between the actual contract award amounts and the amounts budgeted in Rev. 6 are not due to inaccuracies or other deficiencies in B/PB's cost estimating. Nor are they due to any failure of B/PB to update or revise its estimates.

In March 2000, the MTA committed to annually undertake comprehensive or bottoms-up budgetary assessments, including reviews for contracts to be awarded. This approach should minimize disparities between the budgeted and the actual amounts of the contract awards, as well as provide an accurate assessment of the potential total project cost.

In addition, the PMM report includes all cost exposures, both definitive and speculative. This facilitates early management action on all potential issues and enhances communications with the many project individuals and organizations having an interest in these matters. B/PB will continuously identify potential budget variations and will continue to provide recommendations on minimizing project cost exposures. Furthermore, the project has several layers of reviews and approvals in connection with contract change orders, including reviews by the project legal department, the FHWA and others. We are confident that all of these measures will provide a more accurate ongoing assessment.

Question 3. Your testimony states that construction management comprises the bulk of B/PB's current responsibilities. In February, the DOT IG found that construction costs increased by $827 million because of such factors as:

- construction contracts were awarded for more than budgeted amounts;
- modifications to work requirements during performance of contract work;
- increases in the allowance included in the budget for potential claims and changes to a construction contract after award;
- variations in police detail costs; and
- variations in material costs.

The IG's findings are disturbing to say the least.

a) As the venture that controls the day-to-day operations of the project, why did you fail to reveal the cost hikes?

Answer. In responding to this question, we think it would be helpful to provide some further background concerning B/PB's management consultant role on the CA/T project. B/PB provides (and has provided) management consultant services under a series of contracts with MHD and, since 1997, has provided those services under the management and direction of MTA. B/PB's services are almost all consulting in nature and include design management, construction management and schedule monitoring and reporting. B/PB has responsibility for project controls, which includes monitoring individual contractor costs and schedules, construction sequence planning and monitoring, and reporting on the overall project cost and schedule. B/PB also prepares total cost and schedule budget revisions as requested by MTA.

B/PB's contractual obligations do not include any responsibility—directly or by subcontract (except for minor remediation work as directed by the MTA)—for direct construction of any portion of the CA/T project. Construction of the CA/T project is undertaken through numerous construction contracts that are competitively bid and awarded on a fixed price basis by MHD. Although B/PB provides assistance to MHD/MTA in evaluating contractor bids, the contracts are executed between MHD and the construction contractors. The construction contracts contain certain statutorily-mandated provisions, such as so-called differing site condition clauses, that allow for an equitable adjustment (time and cost) to the fixed price amount if a contractor encounters materially different conditions from those initially anticipated.

In our opinion, B/PB has effectively managed the design and construction process with regard to all cost variables within our contractual scope and ability to control. B/PB takes great pride in the accomplishments on this project by ourselves, MTA, and the FHWA to control total project cost. Often the project costs are driven by issues beyond the control of the project including unknown underground conditions, project scope changes as a result of the numerous external influences affecting a project being built in an urban area, mitigation requirements in order to keep the traffic moving and the abutters sleeping, and the sheer political climate of Boston, all of which affect project cost and are beyond the control of B/PB.

In direct response to this question, B/PB did not fail to reveal increases in costs. Under the successive work programs, B/PB regularly provided the MHD/MTA and FHWA with information about costs of the CA/T project.

b) What funding or cost reductions has the Joint Venture proposed to offset future cost increases?

Answer. B/PB has continually worked on ways to offset the cost increases on the project. Since 1995, there have been over $300M of these initiatives approved by MTA. B/PB continues to work with MTA to develop other avenues for potential cost reductions. In the fall of 1999, these included: targeting for even lower casualty losses, exploring revenue opportunities such as the potential sale of the MTA building, refining the project scope and construction sequences, and capitalizing on schedule improvement initiatives.

c) Do you agree with the findings contained in the IG's February 10, 2000 audit on the current costs and funding of the Central Artery/Ted Williams Tunnel Project? If so, what findings do you specifically endorse and what findings do you specifically dispute?

Answer. We agree with the IG's findings that the costs of the project are increasing. We are continuing our review and examination of the current costs and funding for the project and these matters are very much under active consideration.

B/PB is in the process of refining the 1999 bottoms-up review of the total cost of the project based on input from independent evaluations, and upon conclusion of that process, will be in a better position to predict the final costs through project completion. B/PB will provide the results of this review to MTA, which will use this information in projecting the overall cost as well as ongoing cash flow needs.

We would note that Massachusetts has recently enacted legislation that should provide adequate funding resources, including contingencies, to cover the anticipated cost increases. B/PB will of course continue to work with MTA to find other ways to reduce costs on the project while not compromising its overall quality and success.