

**REPORT ON THE
CENTRAL ARTERY/TUNNEL PROJECT
MAY 2007 FINANCE PLAN UPDATE**

Federal Highway Administration

Report Number: MH-2008-048

Date Issued: March 31, 2008




Memorandum

U.S. Department of
Transportation

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION:** Report on the Audit of Central
Artery/Tunnel Project May 2007 Finance Plan
Update
Federal Highway Administration
Report Number MH-2008-048

Date: March 31, 2008

From: Rebecca Anne Batts 
Assistant Inspector General
for Highway and Transit Audits
To: Acting Federal Highway Administrator

Reply to
Attn. of: JA-40

This report presents the results of our audit of the May 2007 Finance Plan Update (Plan) for the Central Artery/Tunnel Project (Project).¹ The purpose of this Plan is to provide senior program and oversight officials with information to track the Project's estimated cost and the financing and cash flows needed to meet Project obligations. In addition, the intent of the Plan is to describe risks and mitigation actions as well as to disclose factors that could impact Project completion.

In October 2000, Congress limited the total Federal contribution for this Project at \$8.549 billion.² It also directed the U.S. Secretary of Transportation to withhold obligations of Federal funds and approval of the Project's finance plan until the Office of Inspector General (OIG) determined that the annual finance plan updates were consistent with Federal Highway Administration (FHWA) Financial Plans Guidance (FHWA Guidance).³

In 1984, the Massachusetts Highway Department initiated the Project and construction began in 1991. When initially approved in 1985, the Project was estimated to cost \$2.6 billion. Designed to relieve congestion through Boston, the Project replaced an elevated expressway with an expanded expressway, consisting of 7.3 miles of tunnels, surface highways, and bridges. In 1997, the Commonwealth of Massachusetts (Commonwealth) enacted legislation that

¹ Officially titled, "Cost/Schedule Update of the Central Artery/Tunnel Project," and submitted by the Massachusetts Turnpike Authority.

² Department of Transportation and Related Agencies Appropriations Act of 2001, Pub. L. No. 106-346.

³ FHWA Financial Plan Guidance issued in May 2000, most recently revised in January 2007.

transferred management of the Project to the Massachusetts Turnpike Authority (MTA). According to MTA, the Project is 99 percent complete with all major ramps, roadways, and streets open for public use.

The latest Plan was submitted to FHWA for its review and approval in May 2007. The Plan forecast a total Project cost of \$14.798 billion. That amount represented a \$173 million increase over the forecast Project cost of \$14.625 billion that was reported in the 2004 Plan.⁴ Of the \$14.798 billion, \$128 million in Federal funds remained unobligated, as of January 2008.⁵ The FHWA Division Office and the FHWA Major Projects Team concurrently reviewed the 2007 Plan. Our review was designed to evaluate the reasonableness of the cost projections, the viability of the identified funding sources, and the likelihood that the funding commitments would provide sufficient resources to complete the Project as planned.

Our objective in reviewing the 2007 Plan was to determine whether it complied with the FHWA Guidance, which requires that the Plan: (1) provide a Project cost estimate based on all known and reasonably expected costs, (2) identify appropriate and available funding sources and cash flows sufficient to meet the total estimated cost, and (3) disclose other issues affecting the Project. Exhibit A describes our scope and methodology.

RESULTS IN BRIEF

The MTA's Plan generally complied with the FHWA Guidance, except that it should be adjusted to correct understated insurance cost and an overstated Federal funding cap, which resulted in a shortfall in funding. Consequently, MTA will need to identify an additional \$37.7 million in non-Federal funding necessary to complete the Project. In addition, the Plan's omission of some of the necessary disclosures and assessments must be corrected to achieve full compliance with the FHWA Guidance.

Specifically, the Plan:

- understated the insurance cost by \$8.8 million. The MTA based the Plan on the assumption that savings would result from the transfer of the insurance liability in December 2007, an event that did not occur. This increased the total Project cost to \$14.807 billion.

⁴ We suspended our review of the 2004 Finance Plan Update because of the uncertainty associated with the costs arising from the I-90 tunnel ceiling panel incident.

⁵ The remaining \$128 million in unobligated Federal funds reflects the adjusted Federal obligations of \$7.031 billion less \$6.903 billion in obligated funds.

- overstated the remaining Federal funding available to the Project by \$28.9 million, because it did not reflect investment income earned on Federal funds.

Further, the Plan did not:

- identify the funding sources that would be used to resolve outstanding contractor claims, backcharges, and liquidated damages in the event that they are settled at the historical rate, instead of the more optimistic estimates used to prepare the Plan.
- disclose the Commonwealth's commitment to fund future transportation projects.

In addition, the Plan should be updated to describe whether the Commonwealth will contribute \$210 million in additional funding, as specified in its letter agreement,⁶ even if the MTA is unable to reimburse this amount. The letter agreement between the Commonwealth and the MTA called for the MTA to reimburse the Commonwealth from cost recoveries; however, a recent lawsuit settlement⁷ requires that most of the cost recoveries be placed in a separate trust fund and used for future repairs and maintenance. Thus, these cost recoveries may not be available to the MTA for reimbursement to the Commonwealth.

If the Commonwealth agrees to contribute the funds without reimbursement, the Commonwealth Treasurer will need to provide an assessment of the availability of funds in the Transportation Infrastructure Fund (TIF),⁸ as has been done for prior plans. In contrast, if the Commonwealth will not contribute the funds unless the MTA can provide reimbursement, the MTA will need to identify an alternative funding source.

To achieve full compliance with FHWA Guidance, the MTA must amend the Plan to correct these issues and resubmit required certifications reflecting the changes.

⁶ In May 2007, the Commonwealth of Massachusetts Executive Office of Transportation (EOT) and the Executive Office for Administration and Finance (A&F) signed a letter agreement with the MTA. The Commonwealth of Massachusetts agreed to contribute an additional \$210 million with the understanding that it could recoup the contribution when the MTA recovers funds from contractor errors, insurance proceeds, or other credits due the Project.

⁷ On January 23, 2008, the U.S. Attorney's Office in Boston and the Attorney General's Office for the Commonwealth settled the lawsuit with Bechtel/Parsons Brinkerhoff. In the settlement Bechtel/Parsons Brinkerhoff agreed to pay over \$407 million to resolve its criminal and civil liabilities associated with the collapse of part of the I-90 connector tunnel ceiling and defects in the slurry walls of the Tip O'Neil tunnel. In addition, 24 section design consultants who also worked on various parts of the Project agreed to pay an additional \$51 million to resolve certain cost recovery issues associated with the design of the Project. The Central Artery/Tunnel Repair and Maintenance Trust Fund will receive \$414.9 million, the Federal government will receive \$23.5 million, with others receiving \$19.8 million.

⁸ The official title of the TIF is the Central Artery and Statewide Road and Bridge Infrastructure Fund.

In summary, we recommend that FHWA advise the MTA to amend the Finance Plan to increase insurance cost, reduce the Federal funding cap, disclose the details of the non-Federal funding sources, disclose the Commonwealth's prior commitment to fund future transit projects, describe the Commonwealth's commitment to advance State funding, and provide the Treasurer's assessment of current TIF balances and future projections for completing the Project. The full list of recommendations are on pages 8 and 9.

We discussed the preliminary results of our audit and the audit recommendations with FHWA, Commonwealth, and MTA officials on October 4, October 18, and November 28, 2007. These officials expressed general agreement. Additionally, the Commonwealth and the MTA agreed to amend the Plan in accordance with our recommendations. As of the date of this report, we have not received the necessary amendments from the Commonwealth and the MTA.

In its March 28, 2008, written response to our report, FHWA concurred with our seven recommendations and provided an action plan to address each of the recommendations. FHWA's comments and our responses are fully discussed on pages 9 through 10.

FINDINGS

As addressed in the detailed findings below, the MTA's Plan generally complied with the FHWA Guidance, except that it did not fully: provide a cost estimate based on all known and reasonably expected costs, identify appropriate and available funding sources and cash flows sufficient to meet the total estimated cost, and disclose other issues affecting the project.

Insurance Expenses Were Understated by \$8.8 Million

The MTA developed its May 2007 Plan under the assumption that savings would result from the transfer of the insurance liability in December 2007, an event that did not occur. If MTA had been able to negotiate the transfer with the current insurance underwriter as planned, doing so would have resulted in an \$8.8 million savings to the Project.⁹

Based on the guidelines presented by the American Institute of Certified Public Accountants (AICPA),¹⁰ financial forecasts should be prepared in good faith and assumptions should be reasonable and suitably supported. MTA has assumed the

⁹ The Plan refers to a "Loss Portfolio Transfer," which allows the Project to eliminate its future liability generated under the self-insured portion of its workers' compensation program by paying an insurance underwriter \$46.2 million to assume the \$55 million future liability, for a savings of \$8.8 million.

¹⁰ American Institute of Certified Public Accountants' publication titled, "Guide for Prospective Financial Information," included as Attachment A in the FHWA Guidance.

transfer of the insurance liability with varying amounts of costs savings since the 2003 Finance Plan Update. As of February 2008, the transfer had not occurred.

Because of the historical delays encountered in transferring the insurance liability, the continuous changes in the estimated value, and the fact that the December 2007 transfer did not occur as planned, the MTA should not assume that the cost savings will be achieved. Accordingly, the Plan's insurance cost should be increased by \$8.8 million, which results in a total Project cost of \$14.807 billion.

Available Federal Funding Was Overstated by \$28.9 Million

The Plan overstated the remaining Federal funding available to the Project, because the MTA did not adjust the amount of remaining Federal funds to reflect \$28.9 million of investment income earned on Federal monies. The investment income earned on Federal funds represents an additional contribution of Federal funds. Consequently, the balance of Federal funding available, as shown in the Plan, should have been reduced by \$28.9 million to ensure that the Project did not receive Federal funds in excess of the statutory cap.¹¹

In 2007, the Commonwealth determined that \$58 million in residual market credit,¹² including the \$28.9 million Federal share of interest income, was due the Project. The Plan described the receipt of these funds, but the \$28.9 million Federal share was not reflected in the Project cash flow tables, as required. The FHWA Guidance requires that the Plan provide a description of the financial resources to be used in meeting Project cost. Accordingly, the Plan must reflect this amount.

In 2002, we reported that the Project received additional unplanned funds through the Owner Controlled Insurance Program trust's investment of the Project's excess Federal funds.¹³ At that time, we determined that \$76 million of the investment income represented an additional Federal contribution to the Project. Therefore, the MTA was required to reduce the Federal cap by that amount. Similarly, the 2007 Plan must be amended to reflect the \$28.9 million in excess funds as an additional Federal contribution to be applied to the Federal cap.

¹¹ The original Federal funding cap of \$8.549 billion was set in 2000. This \$8.549 billion cap in the FHWA financial management information system was reduced by \$76 million in 2001 to reflect excess Owner Controlled Insurance Program (OCIP) investment income. The latest revised Federal funding cap should be \$8.444 billion, after removing the \$28.9 million Federal share of investment income associated with the residual market credit.

¹² Residual market credit is the net amount due the OCIP trust from distributions made to the insurer by the Massachusetts Worker's Compensation Assigned Risk Pool, based on the Pool's operating income from the inception of the program.

¹³ OIG Report Number IN-2002-086, "October 2001 Finance Plan for the Central Artery/Tunnel Project," March 11, 2002. OIG reports and testimonies can be found on our website: www.oig.dot.gov.

Costs Exceed Funding by \$37.7 Million

The Plan must be adjusted to reflect both an \$8.8 million insurance expense understatement and the \$28.9 million overstatement of the available Federal funding, which together resulted in a \$37.7 million shortfall; that is, costs exceed available funding by \$37.7 million.

The Commonwealth refinanced some of the long-term debt associated with the Project, which resulted in an \$11 million savings. Although officials informed us of a proposal to use the \$11 million to reduce the shortfall, it is not identified in the Plan. If the Commonwealth goes forward with the use of the savings to reduce the shortfall, the MTA should clearly identify this use in the Plan. In any event, the MTA must adjust the Plan to show how it will fund the entire shortfall.

Funding Source To Cover Higher-Than-Budgeted Claim Settlements Was Not Disclosed

The Plan's estimate of funds needed to resolve outstanding contractor claims, backcharges, and liquidated damages was optimistic when compared to the Project's historical settlement rate. Specifically, the Plan funded \$95 million and disclosed that the MTA might be liable for an additional \$160 million.

The Plan identified funding for \$95 million in outstanding contractor claims, backcharges, and liquidated damages, and an additional \$160 million that was unfunded, for a total of \$255 million. According to Project officials, the \$95 million funded estimate (37 percent) will be sustained in future negotiations or legal settlements; and the remaining \$160 million (63 percent) in unfunded exposure will not require future funding. While this may be possible, we found that the Project's reported historical rate for construction claim settlements was approximately 50 percent. If the Project settles at the historical rate, claim settlements will be \$127.5 million—\$32.5 million higher than the \$95 million budgeted.

According to the FHWA Guidance on revenue shortfall mitigation, a plan is needed to identify known or potential funding shortfalls. Additionally, it requires that a plan discuss the mitigation steps that have been taken or will be taken to address such funding shortfalls, including measures that increase project funding. Finally, the FHWA Guidance states that budget forecasts should be compared with actual attained results to provide a historical measure of success.

To comply with the FHWA Guidance, the Plan must disclose the anticipated source of funds to cover additional costs should claim settlements exceed the amount budgeted. This can be achieved by disclosing the details of the non-Federal funding sources that will be made available to cover higher-than-budgeted

settlement amounts—an additional \$32.5 million if contractor claims are settled at the historical rate.

Commitment to Fund Future Transportation Projects Was Not Disclosed

Before MTA assumed management authority for the Project, the Commonwealth committed to certain environmental mitigations as a condition of Project approval. However, the Plan did not disclose the Commonwealth's commitment to fund \$750 million in future transit projects.

The FHWA Guidance states that project finance plans should include all costs and the value of all resources necessary to deliver a project, including the cost of environmental mitigation. Further, FHWA's Major Project Program Cost Estimating Guidance, published in 2004 and revised in 2007, notes that, even if the environmental enhancement work is not directly related to a project, it must be disclosed in the project's finance plan.

In March 2007, the Massachusetts Transportation Finance Commission, which was established to develop a long-range transportation finance plan for the Commonwealth, reported four remaining transit projects related to the Project's prior environmental commitments. The four transit projects were the Fairmount Commuter Rail Improvements, design work for the Red Line–Blue Line Connector, the 1,000 Parking Space Initiative, and the Green Line Extension to Medford. Although these projects will be funded from Commonwealth resources rather than from MTA resources, they should be disclosed in the Plan to comply with FHWA cost estimating guidance and to ensure that stakeholders are informed of the full value of resources necessary to deliver the Project.

Recent Lawsuit Settlement May Impact the Commonwealth's Funding Commitment

The Plan includes \$210 million in funding to be provided by the Commonwealth, subject to certain conditions. In a May 2007 letter agreement, the Commonwealth and the MTA agreed that the MTA would reimburse the Commonwealth from cost recoveries and other revenue that the MTA expected to receive. However, based on a recent lawsuit settlement, the MTA may not be able to meet the condition of the letter agreement regarding the use of cost recoveries to reimburse the Commonwealth.

Restriction on Use of Cost Recoveries. A January 23, 2008, settlement of a lawsuit filed by the U.S. Department of Justice and the Massachusetts Attorney General's Office against Bechtel/Parsons Brinkerhoff and other firms requires that

most of the cost recoveries be held in a new Central Artery/Tunnel Project Repair and Maintenance Trust Fund. Additionally, the cost recoveries are to be used only for future non-routine repairs and maintenance of the Project. Thus, these recoveries may not be available to reimburse the Commonwealth in accordance with the letter agreement.

The FHWA Guidance requires that the Plan provide a description of how a project will be implemented over time by identifying project costs and the financial resources to be used in meeting those costs. The Plan should describe whether the Commonwealth will advance \$210 million in additional funding, as specified in its letter agreement, even if the MTA is unable to reimburse this amount. Conversely, the MTA will need to identify an alternative funding source in the event that the Commonwealth does not agree to advance the funds.

Treasurer's Assessment Was Not Provided. As noted above, the Plan includes \$210 million in funding to be provided by the Commonwealth, of which \$140 million is from the TIF. However, unlike previous updates, the May 2007 Plan did not provide the Commonwealth Treasurer's assessment of the TIF balance and funding projections. At the time the Plan was issued, the Treasurer was in the process of validating the TIF funding projections, and the assessment was not available for inclusion in the Plan. If the Commonwealth follows through with its commitment to advance funds from the TIF, a significant funding source for the Project, the MTA should include the Treasurer's assessment in the Plan.

We discussed the preliminary results of our audit and the audit recommendations with FHWA, Commonwealth, and MTA officials on October 4, October 18, and November 28, 2007. These officials expressed general agreement. Additionally, the Commonwealth and the MTA agreed to amend the Plan in accordance with our recommendations. As of the date of this report, we have not received the necessary amendments from the Commonwealth and the MTA.

RECOMMENDATIONS

The cost, funding amounts, and disclosures included in the May 2007 Plan must be adjusted, which also will require updated certifications. These certifications will confirm that the adjusted amounts and other information presented in the Plan are accurately and reasonably stated. We recommend that FHWA advise the Massachusetts Turnpike Authority to amend the Finance Plan to:

1. Increase insurance cost by \$8.8 million for a total Project cost of \$14.807 billion.
2. Reduce the Federal funding cap by \$28.9 million to reflect investment income earned on Federal funds.
3. Identify an additional \$37.7 million in non-Federal funding to meet the shortfall resulting from increasing insurance cost and reducing the Federal cap.
4. Disclose the details of the non-Federal funding sources, totaling at least \$32.5 million, which will be made available to cover higher-than-budgeted settlement amounts.
5. Disclose the Commonwealth's prior commitment to fund \$750 million in future transit projects.
6. Describe the Commonwealth's commitment to advance the \$210 million in State funding, even if the funds are not reimbursed by MTA, or identify alternative funding sources.
7. Provide the Treasurer's assessment of the current TIF balances and future projections needed to complete the Project, if the TIF remains a significant funding source.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In its March 28, 2008, written comments to our draft report, FHWA concurred with our seven recommendations and provided an action plan to address each of the recommendations. FHWA's written comments to our recommendations are included as an appendix to this report.

FHWA agreed to take the following actions:

- Recommendation 1, FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.
- Recommendation 2, FHWA stated that the Federal funding cap of \$8.549 billion was set in 2000. This \$8.549 billion funding ceiling, in the FHWA fiscal management information system, has been reduced to \$8.444 billion

based on the two adjustments of \$76 million and \$28.9 million. FHWA will again notify the appropriate Commonwealth of Massachusetts and MTA personnel that this action must be reflected in their 2007 CAT Finance Plan Update before it can be approved by FHWA. This action will be completed by April 15, 2008.

- Recommendation 3, FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.
- Recommendation 4, FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.
- Recommendation 5, FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.
- Recommendation 6, FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.
- Recommendation 7, FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.

We consider FHWA's planned actions to our seven recommendations to be responsive; and therefore, consider the recommendations to be resolved. We will, however, continue to monitor the status of FHWA's implementation of our recommendations, and the recommendations will remain open until FHWA completes its proposed actions.

We appreciate the courtesies and cooperation of the FHWA, Commonwealth, and MTA representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5630 or Joseph Marchowsky, Program Director, at (202) 366-1515.

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EXHIBIT A. SCOPE AND METHODOLOGY

To determine whether the Plan complied with the FHWA Guidance, we compared the Plan with the applicable FHWA requirements. We also reviewed the Plan's cost, funding, cash flow, and disclosure statements for Project cost risks. We relied upon OIG Finance Plan audit work conducted in prior years to identify prior issues that impacted the 2007 Plan submission.

To evaluate the Plan's cost estimate, we assessed the Commonwealth and MTA's certifications of the cost estimate, analyzed incurred costs and "to-go" cost estimates, reviewed the independent cost assessments prepared by the Executive Office of Transportation audit staff, and examined construction claim documents prepared by the Project and its consultants. We also reviewed prior cost estimating process reviews conducted by Rubino & McGeehin and Deloitte & Touche. As needed, we requested additional disclosures and obtained supplemental documents and explanations for significant Project cost differences.

To evaluate the Plan's funding projections, we reviewed the Commonwealth and MTA's certifications of Project-related cash flow projections for non-Federal funding sources, including Commonwealth bonds and other revenue sources. We also reviewed Commonwealth bonding and TIF financial documents to determine whether the Plan accurately presented the Project's cash flow. We interviewed Commonwealth and MTA officials and reviewed relevant documentation to assess the Plan's financing requirements, cash flow, and other relevant factors. We also reviewed FHWA funding records related to the Project.

Our audit was conducted from April 2007 through February 2008 at the FHWA Massachusetts Division Office in Cambridge, Massachusetts; the Massachusetts Turnpike Authority, the Central Artery/Tunnel Project Offices, the Commonwealth's Executive Office of Transportation, the Executive Office of Administration and Finance, and the Department of State Treasurer in Boston, Massachusetts; and Deloitte & Touche in Philadelphia, Pennsylvania. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

EXHIBIT B. MAJOR CONTRIBUTORS TO THIS REPORT**THE FOLLOWING INDIVIDUALS CONTRIBUTED TO THIS REPORT.**

<u>Name</u>	<u>Title</u>
Joseph Marchowsky	Program Director
Peter Babachicos	Project Manager
William Lovett	Senior Auditor
Laurence Burke	Senior Analyst
P. David McBride	Analyst
Harriet E. Lambert	Writer/Editor
Jean Diaz	Writer/Editor

APPENDIX. MANAGEMENT COMMENTS



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **INFORMATION:** Federal Highway Administration
Response to the Office of Inspector General (OIG) Draft
Report, "Audit of the Central Artery/Tunnel Project
May 2007 Finance Plan Update"

Date: March 28, 2008

From: James D. Ray
Acting Administrator

Reply to
Attn. of: HIPA-1

To: Calvin L. Scovel III
Inspector General (JA-40)

Thank you for the opportunity to review and comment on the OIG Draft Report, "Audit of the Central Artery/Tunnel (CAT) Project May 2007 Finance Plan Update." FHWA has been coordinating its review of the Finance Plan Update with your office and has been working closely with the appropriate Commonwealth of Massachusetts and Massachusetts Turnpike Authority (MTA) officials to explain all of the concerns of FHWA and the DOT OIG.

We concur in the OIG's recommendation that FHWA advise the MTA to amend the 2007 CAT Finance Plan Update to account for the seven recommendations in your draft report. The following information addresses the recommendations and our planned actions for these recommendations.

Recommendation #1: Advise the Massachusetts Turnpike Authority (MTA) to amend the Finance Plan Update to increase insurance costs by \$8.8 million for a total Project cost of \$14.807 billion.

Response: Concur. FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.

Recommendation #2: Advise the MTA to amend the Finance Plan Update to reduce the Federal funding cap by \$28.9 million to reflect investment income earned on Federal funds.

Response: Concur. The Federal funding cap of \$8.549 billion was set in 2000. This \$8.549 billion funding ceiling, in the FHWA fiscal management information system, has been reduced

to \$8.444 billion based on the two adjustments of \$76 million and \$28.9 million. FHWA will

again notify the appropriate Commonwealth of Massachusetts and MTA personnel that this action must be reflected in their 2007 CAT Finance Plan Update before it can be approved by FHWA. This action will be completed by April 15, 2008.

Recommendation #3: Advise the MTA to amend the Finance Plan Update to identify an additional \$37.7 million in non-Federal funding to meet the shortfall resulting from increasing insurance costs and reducing the Federal cap.

Response: Concur. FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.

Recommendation #4: Advise the MTA to amend the Finance Plan Update to disclose the details of the non-Federal funding sources, totaling at least \$32.5 million, which will be made available to cover higher-than-budgeted settlement amounts.

Response: Concur. FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.

Recommendation #5: Advise the MTA to amend the Finance Plan Update to disclose the Commonwealth of Massachusetts's prior commitment to fund \$750 million in future transit projects.

Response: Concur. FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.

Recommendation #6: Advise the MTA to amend the Finance Plan Update to describe the Commonwealth's commitment to advance the \$210 million in State

funding, even if the funds are not reimbursed by MTA, or identify alternative funding sources.

Response: Concur. FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.

Recommendation #7: Advise the MTA to amend the Finance Plan Update to provide the Treasurer's assessment of the current Transportation Infrastructure Fund (TIF) balances and future projections needed to complete the Project, if the TIF remains a significant funding source.

Response: Concur. FHWA will notify the appropriate Commonwealth of Massachusetts and MTA personnel that this item must be changed before FHWA can approve the 2007 CAT Finance Plan Update. This action will be completed by April 15, 2008.

In addition to the seven recommendations, your office requested that FHWA comment on the reasonableness of the \$28.9 million in Federal funds being put to better use. We have reviewed the basis for the \$28.9 million repayment and believe the dollar amount is appropriate and reasonable. The Commonwealth of Massachusetts is in agreement with FHWA and has already repaid a portion of the funds. Total repayment of the funds was completed on March 26, 2008. As the monies are returned to FHWA, the funds become available for obligation on Federal-aid projects in Massachusetts.

We will continue to work closely with the appropriate personnel in the Commonwealth of Massachusetts, MTA, and your office until we are all able to approve the 2007 CAT Finance Plan Update. If you have any questions or comments concerning this response, please contact Carl Gottschall at (202) 366-1561.