Memorandum

U.S. Department of Transportation
Office of the Secretary of Transportation
Office of Inspector General

Subject: **<u>ACTION</u>:** Close Out – Audit of Department of Transportation's Credit Council
Department of Transportation
Project No. 16S3004S000

Date: January 10, 2017

From: Calvin L. Scovel III
Inspector General

Calvin L. Scovel III

Reply to Attn. of: JA-30

To: Deputy Secretary

This letter is to inform you that we are closing out our audit of the Department of Transportation's (DOT) Credit Council.[1] On February 17, 2016, we announced an audit of the Credit Council, which oversaw programs[2] with loan and bond portfolios totaling over $30 billion. We initiated the audit to assess the Council's policies and procedures given its role in ensuring the application of consistent credit policies and management practices across DOT's credit programs, the value of the portfolios, and our prior work on the RRIF program.[3]

The Fixing America's Surface Transportation (FAST) Act of 2015[4] mandated the restructuring of DOT's credit programs and established the Council on Credit and Finance (CCF) to replace the Credit Council and an organization to support the CCF. In July 2016, DOT established the Build America Bureau (the Bureau) as the CCF's support organization. DOT is currently staffing the Bureau and establishing policies and procedures for it and the CCF.

In light of the ongoing changes in DOT's management of its credit programs, we are ending our audit and will not make any recommendations requiring further action.

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[1] The Council was established in 2004 by DOT Order 2301.1 which was amended in December 2009 and September 2010 to change the composition of the Council and to expand the credit programs it oversaw.

[2] The Council oversaw the Federal Highway Administration's Transportation Infrastructure Finance and Innovation Act of 1998 and Private Activity Bond programs, the Federal Railroad Administration's (FRA) Railroad Rehabilitation and Improvement Financing (RRIF) program, the Maritime Administration's Federal Ship Financing program (Title XI), and the Office of Small and Disadvantaged Business Utilization's Minority Business Resource Center program.

[3] In February 2013, in response to congressional concerns over RRIF's low participation rate, we initiated an audit to assess FRA's management of RRIF. We identified process inefficiencies, including some stemming from the Credit Council's oversight of RRIF, which extended application processing times (*Process Inefficiencies and Costs Discourage Participation in FRA's RRIF Program,* CR-2014-054, June 10, 2014).

[4] Public Law No. 114-94.

However, as we briefed to the Office of Secretary of Transportation on November 2, 2016, we are providing observations from our work and steps for DOT to consider for the future.

OBSERVATIONS

Under DOT's 2004 Order, the Council made changes to the credit programs' policies and procedures. Specifically, the Council:

- Revised the programs' application processes and required program staff to submit each application and pertinent information to the Council for review and recommendation.

- Revised the credit programs' processes for amendments to credit agreements by defining when the Council would review amendment requests.

- Required programs to submit monthly financial data on their portfolios and borrowers' creditworthiness.

The addition of the Council's input to these processes provided a degree of consistency across the credit programs as called for in the DOT Order.

The Council also established some oversight mechanisms, including the Credit Council Working Group's (Working Group)[5] operational support for the Council and its loan application reviews, and the Council's determination of whether to hire independent financial advisors to assess applicants' creditworthiness. However, the Council did not establish an internal control framework as prescribed by the Government Accountability Office's Federal Internal Control Standards.[6] These standards require Federal entities to (1) define objectives, (2) assess the risks to achieving those objectives, (3) design and implement internal controls to mitigate risks, and (4) monitor their controls' effectiveness. The standards also suggest that Federal agencies assess whether they are achieving their objectives. Specifically, the Council did not take the following steps:

- Define objectives, roles and responsibilities. While the DOT Order established high level objectives for the Council and spelled out its roles and responsibilities, the Council did not establish specific and measurable objectives for its activities or clearly define roles and responsibilities for the Working Group.

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[5] The Working Group—comprised of a representative of each Credit Council member—ensured that the credit programs conducted comprehensive reviews of credit applications. Each Working Group member reported directly to his or her Credit Council member on the Group's analyses and conclusions.

[6] Government Accountability Office, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

- Identify some risks associated with its activities. For example, while we did not identify any specific violations of the Department Code of Conduct and Ethics, we noted that the Council did not have procedures to identify conflicts of interest when Council or Working Group members reviewed applications from program offices other than their own. Additionally, despite its reliance on prior decisions, the Council risked making inconsistent decisions because it lacked standards for documenting justifications for its recommendations.

- Establish clear and measurable performance metrics to ensure the credit programs achieved their objectives. For example, the Council did not define standard criteria to identify distressed loans or establish metrics to assess whether the programs it oversaw served their target audience.

STEPS TO CONSIDER

As DOT continues to restructure its credit programs, establishment of an internal control framework as prescribed by the Federal Internal Control Standards would help the CCF and the Bureau effectively manage their operations. Elements of this framework would include the following:

- Specific and measurable objectives, including ones for the CCF and Bureau's portfolio monitoring activities;

- Clear roles and responsibilities for oversight and management activities;

- Identification of risks to achievement of objectives, such as conflicts of interest and lack of documentation of justifications for decisions;

- Procedures to mitigate risks, including conflicts of interest, and periodic reviews of those procedures as appropriate;

- Performance metrics, such as criteria for identifying distressed loans, that will facilitate periodic reviews of CCF and Bureau performance; and

- Periodic reviews of performance metrics to ensure the CCF and the Bureau are achieving objectives.

We appreciate the courtesies and cooperation of representatives from the Office of Secretary of Transportation, Federal Railroad Administration, Federal Highway Administration, and Maritime Administration during this audit. If you have any questions concerning this letter, please call me at (202) 366-1959, or Barry DeWeese, Assistant Inspector General for Surface Transportation Audits, at (202) 366-5630.

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cc: DOT Audit Liaison, M-1
FHWA Audit Liaison, HCFB-32
FRA Audit Liaison, ROA-3
MARAD Audit Liaison, MAR-390