

# United States Senate

WASHINGTON, DC 20510

March 3, 2015

The Honorable Gene Dodaro  
Comptroller General of the United States  
United States Government Accountability Office  
441 G Street, Northwest  
Washington, District of Columbia 20548

Dear Mr. Dodaro:

The Federal Highway Administration (FHWA) disburses about \$40 billion annually to states for projects to build, improve and maintain the nation's highways and bridges. These projects incorporate important safety features, including roadside safety hardware devices like reflectors, steel guardrails, sign posts, concrete barrier walls, and breakaway highway lighting poles, among other equipment critical to the safety of the traveling public. In recent months, we have witnessed a host of troubling developments that call into question the safety of certain roadside devices known as highway guardrail end terminals. In October 2014, a federal jury in Texas returned a \$525 million verdict against a manufacturer of these devices who was alleged to have altered their specifications without notifying federal authorities. Since then, dozens of states have suspended installation of these devices on their roads. Some experts have voiced concerns about the devices as well.

We are committed to looking closely at this issue. As a group of senators that includes both the ranking member of the Senate Commerce Committee's Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security as well as the ranking member of the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security, we feel a particular responsibility to ensure that a strong and effective oversight regimen exists. The developments over the past several months raise serious questions about the effectiveness of the current framework for evaluating the reliability and integrity of roadside hardware products, including guardrail end terminals. Under the current oversight regimen, several parties are involved in setting safety standards and evaluating whether roadside hardware devices meet appropriate criteria. These entities include FHWA, the Transportation Research Board, the American Association of State Highway and Transportation Officials, research facilities, and device manufacturers. FHWA, as the guardian of federal taxpayer dollars, has a unique and vital role and responsibility in ensuring that roadside hardware has been properly vetted for safety purposes and is eligible for reimbursement with federal funds. We write requesting that GAO investigate the current framework, specifically addressing the following topics:

1. The role that FHWA is obligated to play in ensuring the safety and sufficiency of roadside hardware.

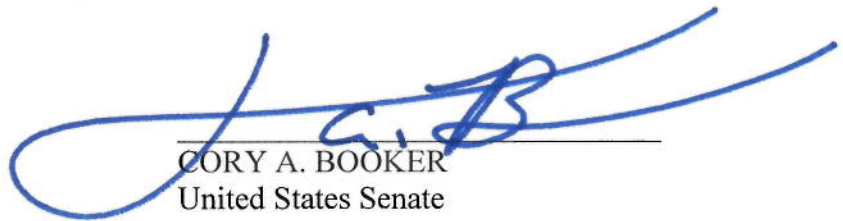
2. The role the agency actually plays in ensuring the safety and sufficiency of roadside hardware and whether and how this differs at all from the role the agency is required to play.
3. The regulatory process for developing standards for roadside safety hardware.
4. The respective roles that FHWA, other federal agencies, states, trade associations, research facilities, device manufacturers, and any other parties play in the development of safety standards.
5. The testing process for roadside safety hardware, including the thoroughness and transparency of the process.
6. The mechanisms in place to mitigate any actual or apparent conflicts of interest between entities with a commercial interest in roadside safety hardware and entities (a) developing standards and (b) testing roadside safety hardware.
7. The adequacy of government-maintained and publicly available information about the quantity and location of particular types of roadside safety hardware devices installed on public roads, as well as the performance of those devices.
8. Any additional actions that FHWA or Congress can take to ensure the safety and sufficiency of roadside safety hardware.

There may be many other issues you encounter in your study besides those we have laid forth above, and we urge you to pursue those as appropriate. Your efforts will help as we work to ensure that taxpayers can rest assured that federal dollars are only spent on safe, trustworthy and reliable products.

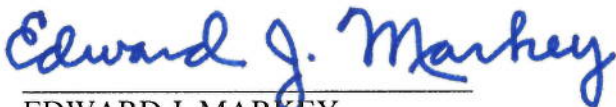
Sincerely,



RICHARD BLUMENTHAL  
United States Senate



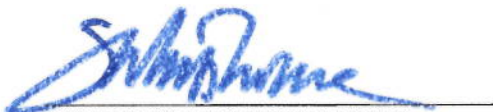
CORY A. BOOKER  
United States Senate



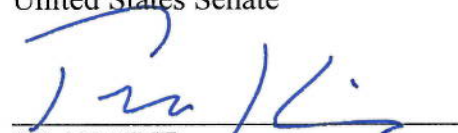
EDWARD J. MARKEY  
United States Senate



MARK WARNER  
United States Senate



SHELDON WHITEHOUSE  
United States Senate



TIM KAINE  
United States Senate