

***Settlement Agreement Between DOT
and General Motors Corporation
Regarding Model C/K Pickup Trucks***

National Highway Traffic Safety Administration

<i>Report Number:</i>	<i>September 29, 1999</i>
<i>Date Issued:</i>	<i>TR-1999-139</i>



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

Memorandum

Subject: **ACTION:** Report on Settlement Agreement between DOT
and General Motors Corporation regarding Model C/K
Pickup Trucks
Report No. TR-1999-139

Date: September 29, 1999

From: Alexis M. Stefani *RF Howard*
Assistant Inspector General for Auditing

Reply to
Attn of: JA-30

To: National Highway Traffic Safety Administrator

Our review was in response to December 17, 1998 letters from the Center for Auto Safety to the Secretary of Transportation and the Inspector General about General Motors Corporation's (GM) compliance with the terms and conditions related to the Public Education provisions contained in the March 7, 1995 Settlement Agreement (Agreement) between the United States Department of Transportation (DOT) and GM. The Center for Auto Safety specifically referenced the GM funded media awards program and referred to it as a "sham awards program" and questioned the expenditure of funds. This report presents the results of our review of the Public Education provisions contained in this Agreement.

The review of the Public Education Program projects showed that the selections and funding of projects by GM were done in accordance with the terms and conditions of the Public Education Program section of the Agreement. All the projects, including the \$25,000 expenditure for a media awards program, met the criteria in the Agreement. The National Highway Traffic Safety Administration (NHTSA) is responsible for monitoring and executing the Agreement for DOT.

THE AGREEMENT

On October 17, 1994, then Secretary of Transportation Federico Peña announced an initial decision that GM pickup trucks contained a motor vehicle safety defect. The defect involved model years 1970-1991 full size GM pickup trucks (Model C/K) equipped with sidesaddle gas tanks, i.e., fuel tanks mounted outboard of the frame rails. Before a final decision was made, DOT and GM reached an Agreement on March 7, 1995. According to DOT and GM, this Agreement would avoid time-consuming, costly litigation and instead offered an opportunity for meaningful cooperation between government and industry to significantly enhance the safety of the driving public. The Agreement required GM to spend \$51.4 million over a 5-year

period on safety related projects in eight different program areas as represented in the chart below.

Safety Program Areas Funded By The Agreement		
Section	Terms and Conditions	Funding (millions)
A	Enhance Federal Motor Vehicle Safety Standard	None
B	Fire Safety Research	\$10.0
C	Public Education	\$11.9
D	Crash Test Dummy Research and Development	\$ 6.5
E	Burn and Trauma Research	\$ 5.0
F	Computer Modeling	\$ 5.0
G	Impairment Research	\$ 5.0
H	Child Safety Seats	\$ 8.0
	Total	\$51.4

Projects funded from the \$51.4 million Agreement were required to be “new” expenditures in the eight program areas. New expenditures were defined as those expenditures that were not provided for in any approved GM budget or otherwise planned before the Agreement. The Agreement also called for the dismissal of a lawsuit GM had initiated against Secretary Peña and DOT to close its investigation of the GM C/K pickup trucks. These actions were subsequently taken. Furthermore, GM would certify compliance with the terms and conditions of the Agreement by maintaining records reasonable to DOT.

SCOPE AND METHODOLOGY

The Center for Auto Safety’s letters specifically referenced GM’s funding of the National Safety Council’s media awards program. Consequently, we focused our review on the \$11.9 million Public Education Program section of the Agreement, which included the \$25,000 media awards program project. To determine if the projects selected and funded were proper, according to the terms and conditions of the Agreement, we conducted tests.

We reviewed NHTSA’s: (1) Agreement with GM; (2) records and documents, including documentation in DOT’s docket files; (3) analysis of GM’s expenditures, progress reports, and financial reports; and (4) plans for audit of GM’s actions to comply with the Agreement. We reviewed GM’s records and documents concerning the selection and funding of 10 Public Education Program projects totaling \$960,000. We contacted the 10 recipients to verify whether they had received GM’s funding for various Public Education Program projects. We also contacted officials of the National Safety Council, which received funding from GM to develop a media awards program. In addition, we met with the Executive Director of the Center for Auto

Safety. We conducted this review in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States.

We did not review \$39.5 million in GM expenditures for the other seven program areas of the Agreement which were not specifically identified by the Center for Auto Safety.

PUBLIC EDUCATION CRITERIA

The criteria in the Agreement required GM to spend at least \$11.9 million within the 5-year period following the date of the agreement in the areas of public education as generally described. Funds shall be spent in the following areas:

- Support for enactment, upgrading and/or retention of state legislation for the enhancement of driver and vehicle safety including, for example, administrative license revocation laws and blood alcohol content (BAC) laws (e.g., .08 BAC laws, zero tolerance laws for youth), and for the primary enforcement of seat belt laws;
- Public information and education materials (including public service announcements) on driver and vehicle safety (e.g., anti-drinking and driving messages, encouragement of seat belt usage), particularly in support of legislative and/or enforcement campaigns and/or to publicize new or existing laws, and development and distribution of special safety awareness materials for targeted hard-to-reach populations; and
- Support of the Network of Employers for Traffic Safety program and the Techniques of Effective Alcohol Management program.

The Agreement also required NHTSA to review and approve GM's projects and to review status and progress of these projects.

RESULTS

Our review of the Public Education Program projects showed that the selections and funding of projects by GM, with NHTSA's concurrence, were done in accordance with the terms and conditions of the Public Education Program section of the Agreement. The criteria in the public education section of the Agreement did not specify specific amounts to be spent on driver or vehicle safety. This is important in the context of judging what is and what is not technically "required" by the Agreement. This is because some controversy has centered on the amount of money spent on Public Education that was targeted for driver safety, as distinguished from vehicle safety. We reviewed 198 Public Education Program projects, funded for

\$10.4 million, for the first 4 years of the 5-year period of the Agreement. (For a listing of the projects, see the Exhibit to this report.) All the projects, including the \$25,000 expenditure for a media awards program, met the criteria contained in the Agreement. The projects are summarized in the following chart.

NUMBER AND AMOUNTS OF PUBLIC EDUCATION PROJECTS										
Purpose of Projects	Year 1		Year 2		Year 3		Year 4		Total	
	Awards	Amounts	Awards	Amounts	Awards	Amounts	Awards	Amounts	Awards	Amounts
Support of State Safety Legislation	17	\$432,500	24	\$613,500	24	\$520,000	21	\$445,000	86	\$2,011,000
Support of Enforcement of State Safety Laws	19	\$1,617,500	20	\$1,386,500	23	\$1,840,000	25	\$1,455,000	87	\$6,299,000
Support of Safety Organizations	5	\$425,000	6	\$510,000	7	\$600,000	7	\$535,000	25	\$2,070,000
Total	41	\$2,475,000	50	\$2,510,000	54	\$2,960,000	53	\$2,435,000	198	\$10,380,000

Note: We did not review year 5 of the Agreement because it was not finalized at the time of our review.

Examples of GM-funded projects under the Agreement are:

- Support of State Safety Legislation--GM funded four SAFE KIDS Campaigns totaling \$115,000 to support legislation for the use of child safety seats.
- Support of Enforcement of State Safety Laws--GM funded the Maryland Committee for Safety Belt Use for \$135,000 to support public education and enforcement of the state's new standard enforcement safety belt use law.
- Support of Safety Organizations--GM funded Mothers Against Drunk Driving (MADD) for \$200,000 for expansion of the Youth In Action program and to help develop a new magazine.

NHTSA and GM did not document in their records details regarding the methodology for selecting and approving projects. NHTSA and GM met annually to confer regarding project proposals before GM submitted them to NHTSA for approval. Although NHTSA and GM were able to fully explain their process, they had not prepared minutes or otherwise documented in the records the details regarding the methodology used for selecting and approving these projects.

We verified that funds were "new" expenditures for 10 of the Public Education Program projects. We contacted eight recipients, who stated that they had not received funding from GM before the Agreement. The other two recipients stated that the funds received from the Agreement were in addition to annual donations received from GM.

The Agreement did not include a requirement for an audit of the GM expenditures. However, during our review we supported GM's proposal to NHTSA to have an independent certified public accounting firm perform an audit of GM expenditures under the Agreement. The audit would be accomplished in sufficient time for GM to take corrective actions, if needed, before the Agreement is completed by April 2000. GM agreed to pay for the cost of the audit, with funds in addition to the \$51.4 million that GM agreed to expend under the Agreement, to submit to NHTSA a proposed statement of work for the audit prior to proceeding with it, and to furnish a copy of the audit report to NHTSA. We indicated to NHTSA and GM that we planned to review the proposed statement of work to determine the methodology proposed for conducting the audit to ensure GM complied with the financial terms and conditions of the Agreement and whether all GM expenditures were "new." We also indicated that we planned to review the results of the audit before NHTSA closes the Agreement.

MEDIA AWARDS PROGRAM

The letter from the Center for Auto Safety addressed the GM funded media awards program as a "sham awards program" and questioned the "frivolous expenditure" of funds for ostentatious replica statues of the Washington Monument to the winning entries. The Center for Auto Safety claimed that the winning entries were those news stories that blamed the driver and not the vehicle for crashes and offered seven examples of auto safety journalism that focused on the vehicles role in death and injuries that were "passed over" in favor of the GM funded awards.

The solicitation and nominations received for the media awards program were proper. The National Safety Council, a nonprofit membership organization, solicited nominations for the media awards program from various sources, such as news releases; media organizations; and local chapters of SAFE KIDS, National Safety Council, and MADD. These sources submitted a combined total of 37 nominations. However, none of the seven examples that the Center for Auto Safety cited were nominated; therefore, the seven news stories could not have been selected or "passed over." The Washington Monument statues were presented to the winners of the news stories at the National Press Club in Washington, DC. We concluded that the media awards program was proper.

The Center for Auto Safety also stated that the media awards project was funded by the Public Education Program section of the Agreement which required funds to be spent on "driver and vehicle safety" not just driver safety. The criteria in the public education section of the Agreement did not specify specific amounts to be spent on driver or vehicle safety. This is important in the context of judging what is and what is not technically "required" by the Agreement. This is because some controversy has

centered on the amount of money spent on Public Education that was targeted for driver safety, as distinguished from vehicle safety. The National Safety Council's media awards program was for news stories on "highway safety," rather than "driver and vehicle safety." Although the wording "highway safety" is more general than the precise wording in the Agreement, we concluded that the nomination and the selection of the news stories were reasonable because a variety of news stories on driver and vehicle safety were nominated and selected for awards.

Of the 37 nominations, we found that 22 news stories were related to driver's safety, 13 to highway safety (e.g., trucking safety, safer roads, and pedestrian safety), and 2 to vehicle safety. Although the majority of the 37 nominations for awards concerned driver's safety, the 2 nominations related to vehicle safety included a newspaper article entitled, "Air Bag Fears Inflated" and a television broadcast on "2 On Your Side Child Car Seat Inspection Program." The newspaper article on air bags received honorable mention for newspapers with a circulation of 75,000 and over, and the television broadcast on the child car seat inspection program was a winner of the local television broadcast award.

The nomination and selection processes were reasonable. A panel of five National Safety Council personnel (GM was not part of the panel) judged the nominated news stories based on the importance of the issue, clarity and accuracy of reporting, effectiveness in addressing the subject, and impact of coverage. Awards were presented to six journalists; three winners and three honorable mentions for each category.

RECOMMENDATIONS

We recommend that any future agreements that NHTSA enters into require (1) documentation of critical decisions, such as selecting and approving projects, and (2) provisions for independent verification of actions taken. Finally, we recommend that NHTSA provide us with the statement of work for the independent audit and a list for review of any actions GM or NHTSA plan to take to ensure financial compliance with the Agreement as a result of the audit, before closing the Agreement.

MANAGEMENT COMMENTS

NHTSA stated they agree with the results and recommendations contained in the report. NHTSA's response is provided as an appendix to this report.

ACTION REQUIRED

Although NHTSA agreed with our results and recommendations, specific corrective actions and target dates were not provided. Therefore, this report is considered

unresolved. Please reply in accordance with Department of Transportation Order 8000.1C on the specific actions taken or planned to address the recommendations and target dates for completion of these actions. We would appreciate your written response within 30 calendar days. NHTSA's progress in implementing corrective actions is also subject to follow-up provisions of Department of Transportation Order 8000.1C.

We appreciate the courtesies and cooperation of NHTSA and GM representatives. If you have any questions or require additional information concerning this report, please call me on (202) 366-1992 or Patricia J. Thompson, Deputy Assistant Inspector General for Highways and Highway Safety, on (202) 366-0687.

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RECIPENTS AND FUNDING AMOUNTS FOR PUBLIC EDUCATION PROJECTS

Recipients	Support of State Safety Legislation		Support of Enforcement of State Safety Laws		Support of Safety Organizations	
	Awards	Amounts	Awards	Amounts	Awards	Amounts
Year 1						
MADD-Local Affiliates	9	\$190,000	1	\$12,500		
SADD	1	\$22,500				
CT Childhood Injury Protection Center	1	\$35,000				
FL Safety Belt Alliance	1	\$35,000				
GA Arrive Alive	1	\$35,000				
MD Committee for Safety Belt Use	1	\$32,500				
TSA of MI/Safety Belt Coalition	1	\$37,500				
MS Public Safety and Planning	1	\$22,500				
NC Passenger Safety Association	1	\$22,500				
AZ DUI Task Force			1	\$65,000		
FL Dept. of Highway Safety and Motor Vehicles			1	\$140,000		
IL Division of Traffic Safety			1	\$140,000		
IN Criminal Justice Institute			1	\$140,000		
IA Governor's Traffic Safety Bureau			1	\$75,000		
KY State Police			1	\$95,000		
LA Safety Belt Use Coalition			1	\$50,000		
TSA of MI/Highway Safety Planning			1	\$140,000		
NV Dept. Motor Vehicles			1	\$50,000		
Safer NM Now			1	\$50,000		
NC Governor's Highway Safety Program			1	\$75,000		
ND Nurses Association			1	\$35,000		
SC Dept. of Public Safety			1	\$95,000		
TN Governor's Highway Safety Office			1	\$100,000		
TX DOT-Safe and Sober			1	\$140,000		
UT Highway Patrol - C.A.R.E.			1	\$50,000		
VT Governor's Highway Safety Program			1	\$65,000		
WI- Office of Transportation Safety			1	\$100,000		
NETS					1	\$150,000
MADD-national					1	\$200,000
TEAM					1	\$25,000
American Academy of Pediatrics					1	\$25,000
Lifesavers Conference					1	\$25,000
Total	17	\$432,500	19	\$1,617,500	5	\$425,000

RECIPIENTS AND FUNDING AMOUNTS FOR PUBLIC EDUCATION PROJECTS

Recipients	Support of State Safety Legislation		Support of Enforcement of State Safety Laws		Support of Safety Organizations	
	Awards	Amounts	Awards	Amounts	Awards	Amounts
Year 2						
MADD-Local Affiliates	11	\$200,000				
AR Safety Belt Coalition	1	\$35,000				
CA Safe Roads	1	\$12,500				
CT-American Academy of Pediatrics	1	\$20,000				
FL Safety Belt Alliance	1	\$45,000				
TSA of MI/Safety Belt Coalition	1	\$50,000				
MN Safety Council	1	\$35,000				
MS Division Of Public Safety Planning	1	\$20,000				
NC Passenger Safety Assoc.	1	\$30,000				
OK Coalition	1	\$31,000				
SAFE KIDS Coalition-various	1	\$35,000				
TX DOT	1	\$25,000				
WA Traffic Safety Council	1	\$40,000				
WV Safety Council	1	\$35,000				
Southeast Child Safety Institute			1	\$45,000		
AR DUI Task Force			1	\$30,000		
DC SAFE KIDS			1	\$25,000		
FL Highway Patrol			1	\$140,000		
IL Division Of Traffic Safety			1	\$100,000		
IN Criminal Justice Institute			1	\$140,000		
IA Governor's Traffic Safety Bureau			1	\$140,000		
MADD KY			1	\$20,000		
KY State Police			1	\$75,000		
LA Highway Safety Commission			1	\$19,000		
TSA of MI/Safety Belt Coalition			1	\$50,000		
MN Dept. of Public Safety			1	\$80,000		
NV Dept. of Motor Vehicles			1	\$50,000		
Safer NM Now			1	\$75,000		
ND Nurses Association			1	\$25,000		
MADD OH			1	\$17,500		
OR DOT			1	\$140,000		
SC Dept. of Public Safety			1	\$75,000		
UT Dept. of Public Safety			1	\$40,000		
WI DOT Bureau of Transportation Safety			1	\$100,000		
MADD-national					1	\$200,000
NETS					1	\$200,000
Video Active Productions-NHTSA					1	\$50,000
American Academy of Pediatrics					1	\$25,000
Lifesavers Conferences, Inc.					1	\$25,000
International Assoc. of Chiefs of Police					1	\$10,000
Total	24	\$613,500	20	\$1,386,500	6	\$510,000

RECIPIENTS AND FUNDING AMOUNTS FOR PUBLIC EDUCATION PROJECTS

Recipients	Support of State Safety Legislation		Support of Enforcement of State Safety Laws		Support of Safety Organizations	
	Awards	Amounts	Awards	Amounts	Awards	Amounts
Year 3						
MADD-Local Affiliates	19	\$360,000				
Coalition for Citizens for Disabilities	1	\$30,000				
AAA Carolinas	1	\$50,000				
SAFE KIDS Coalition-various	3	\$80,000				
Drugs Don't Work			1	\$40,000		
Washington DC Regional Alcohol Program			1	\$35,000		
SAFE KIDS Coalition-various			1	\$50,000		
FL Highway Patrol-Operation Beltway			1	\$140,000		
Children and Youth Coordinating Council			1	\$75,000		
IL DOT			1	\$100,000		
IN Criminal Justice Institute			1	\$140,000		
IA Governor's Traffic Safety Bureau			1	\$70,000		
KS Safety Belt Education Office			1	\$75,000		
KY State Police-Buckle-Up Campaign			1	\$75,000		
LA Safety Belt Use Coalition			1	\$40,000		
SAFE KIDS-ME			1	\$25,000		
MD Committee for Safety Belt Use			1	\$135,000		
Traffic Safety Association of MI			1	\$100,000		
MN Dept. of Public Safety-Safe and Sober NightCAP			1	\$75,000		
NV Dept. of Motor Vehicles-Occupant Protection Special Traffic Enforcement			1	\$50,000		
Safer NM Now			1	\$75,000		
S.A.F.E.-OK			1	\$160,000		
OR DOT			1	\$140,000		
TX Dept. of Health			1	\$100,000		
UT Dept. of Public Safety			1	\$40,000		
UT Safety Council			1	\$20,000		
WA Traffic Safety Commission			1	\$80,000		
MADD-national					1	\$200,000
NETS					1	\$200,000
National Safety Council					1	\$85,000
TEAM					1	\$50,000
Lifesavers Conference					1	\$30,000
American Academy of Pediatrics					1	\$25,000
Chiefs Challenge Award Program					1	\$10,000
Total	24	\$520,000	23	\$1,840,000	7	\$600,000

RECIPIENTS AND FUNDING AMOUNTS FOR PUBLIC EDUCATION PROJECTS

Recipients	Support of State Safety Legislation		Support of Enforcement of State Safety Laws		Support of Safety Organizations	
	Awards	Amounts	Awards	Amounts	Awards	Amounts
Year 4						
MADD-Local Affiliates	12	\$260,000				
American Academy of Pediatrics	1	\$30,000				
GA Coalition for Driver Safety	1	\$25,000				
Trustees of Dartmouth College NH	1	\$10,000				
Brain Injury Association NJ	1	\$15,000				
Safer New Mexico Now and SAFE KIDS	1	\$15,000				
AAA Carolinas NC	1	\$25,000				
SAFE KIDS Coalition SC	1	\$25,000				
Fletcher Allen SAFE KIDS Fund VT	1	\$15,000				
WI SAFE KIDS	1	\$25,000				
SAFE KIDS-Various			4	\$260,000		
AZ Governor's Office of Highway Safety			1	\$50,000		
DE Office of Highway Safety-DUI			1	\$20,000		
FL Highway Patrol			1	\$90,000		
GA Office of Highway Safety			1	\$75,000		
IN Criminal Justice Institute			1	\$100,000		
IA Governor's Traffic Safety Bureau			1	\$65,000		
KS Safety Belt Education Office			1	\$40,000		
LA Safety Belt Use Coalition			1	\$35,000		
ME Transportation Safety Coalition			1	\$45,000		
MD Committee for Safety Belt Use			1	\$80,000		
Traffic Safety Association of MI			1	\$50,000		
NV Dept. of Motor Vehicles			1	\$25,000		
Safer NM Now-Operation Buckle Down			1	\$60,000		
NY Governor's Traffic Safety Commission			1	\$50,000		
ND Peace Officers Association			1	\$40,000		
S.A.F.E. in OK			1	\$90,000		
OR DOT			1	\$70,000		
TX DOT			1	\$90,000		
MADD WA			1	\$25,000		
WA Traffic Safety Commission			1	\$45,000		
WI DOT			1	\$50,000		
MADD-national					1	\$200,000
NETS					1	\$150,000
SAFE KIDS Campaign-national					1	\$75,000
National Safety Council					1	\$40,000
Lifesavers Conference, Inc.					1	\$37,500
SADD-national					1	\$25,000
International Association of Chiefs of Police					1	\$7,500
Total	21	\$445,000	25	\$1,455,000	7	\$535,000

List of Acronyms

AAA	American Automobile Association
Assoc.	Association
C.A.R.E.	Combined Accident Reduction Effort
Dept.	Department
DOT	Department of Transportation
DUI	Driving Under the Influence
INC.	Incorporated
MADD	Mothers Against Drunk Driving
NETS	Network of Employers for Traffic Safety
SADD	Students Against Destructive Decisions
S.A.F.E.	Seatbelts Are For Everyone
TEAM	Techniques for Effective Alcohol Management
TSA	Traffic Safety Association

Note: All state abbreviations are standard postal 2 digit codes.