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BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Secretary Of Transportation

UMTA Needs Better Assurance That Grantees Comply With Selected Federal Requirements

The Department of Transportation's Urban Mass Transportation Administration (UMTA) provides grants for mass transportation projects. It accepts grantees' certifications that they are complying with federal regulations. The regulations include such transportation activities as charter and school bus operations, services for the elderly and handicapped, and procurement procedures. Compliance with these requirements is a condition of receiving federal grants.

UMTA relies on auditors and third-party complaints (from such sources as private school and charter bus operators) to identify noncompliance. GAO found that auditors did not routinely identify noncompliance because their efforts were not intended to focus on compliance. GAO also found that grantees and UMTA regional staff sometimes misinterpreted UMTA regulations, which contributed to noncompliance.

If grantees do not comply with these requirements, federal funds might not be used as intended. GAO believes that the triennial reviews mandated by the Surface Transportation Assistance Act of 1982 provide UMTA an opportunity to systematically examine grantees' compliance.



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FEBRUARY 19, 1985





UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

RESOURCES, COMMUNITY,
AND ECONOMIC DEVELOPMENT
DIVISION

B-217498

The Honorable Elizabeth H. Dole
The Secretary of Transportation

Dear Madam Secretary:

This report discusses the Urban Mass Transportation Administration's efforts to assure that grantees are complying with federal requirements. We did this review because of the increasing reliance UMTA places on grantees' certifications that they are complying with federal requirements.

This report contains recommendations to you on page 24. As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

In addition to sending copies to the committees mentioned above, we are sending copies of this report to the Chairmen of the House Committee on Public Works and Transportation and the Senate Committee on Banking, Housing and Urban Affairs. Copies are also being sent to your Assistant Secretary for Administration and the Director, Office of Management and Budget.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ralph H. Dalton Jr." or "Ralph H. Dalton, Jr.", though the name is actually J. Dexter Peach.

J. Dexter Peach
Director



GENERAL ACCOUNTING OFFICE
REPORT TO THE SECRETARY
OF TRANSPORTATION

UMTA NEEDS BETTER ASSURANCE
THAT GRANTEES COMPLY WITH
SELECTED FEDERAL REQUIREMENTS

D I G E S T

The Department of Transportation's Urban Mass Transportation Administration (UMTA) administers federal aid to mass transportation systems. In fiscal year 1984, federal aid for these systems totaled about \$3.6 billion. As a condition of receiving aid, grantees must comply with applicable federal laws and regulations. (See p. 1.)

In recent years, laws and UMTA regulations have permitted grantees to submit signed statements certifying that they comply with 31 federal requirements. Grantees certify, for example, that they comply with federal procurement requirements, do not operate exclusive school bus services, and comply with federal charter bus requirements; and that accessible service for elderly and handicapped persons is provided in their service areas. These signed statements do not include supporting documentation. (See pp. 1 and 2.)

UMTA relies primarily on three sources to identify whether grantees are not complying with federal laws and regulations: information from the Department of Transportation's Office of Inspector General (OIG); independent audits of grantees' operations required by Office of Management and Budget Circular A-102 Attachment P; and complaints from third parties, such as private school and charter bus operators.

In addition, the 1982 amendments to the Urban Mass Transportation Act mandated that UMTA perform triennial reviews of grantees' performance in carrying out their programs. UMTA is developing detailed guidance for these reviews. (See. pp. 5 to 7.)

Because UMTA's reliance on grantee certifications has increased, GAO examined the extent to which this technique gives UMTA adequate assurance that grantees are following federal regulations. GAO's objectives were to determine (1) how UMTA ensures that grantees actually are in compliance as they have certified, (2) if grantees understand what constitutes compliance, (3) whether the grantees are complying with the

applicable regulations, and (4) what enforcement actions UMTA takes when grantees are not in compliance. (See p. 7.)

GAO reviewed 20 grantees' compliance with the requirements on procurement, charter bus operations, school bus operations, and provision of transportation for elderly and handicapped persons. Although grantees in 8 of the 10 UMTA regions were reviewed, the information cannot be projected to describe all UMTA grantees because GAO used a judgmental rather than a statistical sample. (See pp. 7 to 10.)

UMTA'S MECHANISMS FOR IDENTIFYING
NONCOMPLIANCE DO NOT PROVIDE
THOROUGH COVERAGE

While the mechanisms on which UMTA relies to monitor grantees' compliance--OIG reports, grantees' independent audits, and complaints--have identified instances of noncompliance, GAO found the following:

--OIG's economy and efficiency audits are not intended to specifically review compliance. Furthermore, OIG's responsibilities do not include routine examinations of every UMTA grantee. (See pp. 11 and 12.)

--To date, independent audits have concentrated on financial matters. However, legislation passed in October 1984 provides for independent audits to include compliance testing. (See pp. 6, 7, 12, and 13.)

--Complaints by third parties are limited by their knowledge of the regulations. In addition, several groups indicated that they are reluctant to complain because they did not want to be identified as complainers or to draw attention to themselves. (See pp. 13 to 15.)

GAO believes that triennial reviews will provide UMTA an opportunity to supplement existing mechanisms for assuring grantees' compliance with federal requirements. However, UMTA was unable to provide GAO with any information on what the reviews will focus on and how they will be conducted. (See pp. 18, 19, and 23.)

INSTANCES OF NONCOMPLIANCE NOT
IDENTIFIED BY UMTA

All of the 20 grantees GAO reviewed had submitted the required self-certifications that they were complying with UMTA regulations. However, GAO identified instances of noncompliance with charter bus regulations, school bus regulations, and procurement requirements but not with elderly and handicapped regulations.

Charter bus regulations

Charter bus regulations are designed to restrict use of federal capital and operating assistance for charter operations. A grantee may provide charter service outside of its service area only if it enters into a written agreement with UMTA that its charter revenues will cover all costs of providing local and intercity charter service and that the grantee will not use federal funds to foreclose private operators from intercity charter service. (See pp. 2 and 3.) GAO found that one grantee operated intercity charters without showing UMTA a cost allocation plan indicating that charter revenues would equal or exceed charter costs. (See p. 16.)

School bus regulations

Exclusive school bus service is allowed only if (1) private operators cannot provide the needed service at a reasonable rate, (2) the grantee was providing such service at the time the prohibiting legislation was passed, or (3) the grantee is a local government unit that also operates a school system. The grantee must, however, have an agreement with UMTA regarding the provision of such service and not use federally funded equipment for that service. (See p. 3.) One of the grantees GAO reviewed operated exclusive school bus service without an UMTA agreement. (See pp. 16 and 17.)

Grantees may, however, modify regular mass transit service specifically to meet the needs of students traveling to and from school as long as the service remains available to the general public. To ensure that this service is available to the general public, the buses must use identified bus stops and not display school designations, and the routes must appear on published maps and schedules. (See pp. 3 and 4.) GAO found that three of the systems reviewed did

not comply with these requirements by displaying school designations or failing to include these routes in published schedules. (See p. 17.)

Procurement requirements

Three grantees GAO reviewed did not comply with UMTA's procurement requirements. One grantee had not established the required written procurement procedures, another's procedures differed from the UMTA requirements, and a third had not followed the procedures requiring UMTA's approval of certain contracts. As a result, UMTA has no assurance that federal grant money was spent properly or efficiently. (See pp. 17 and 18.)

PROBLEMS UNDERSTANDING UMTA REGULATIONS

GAO found that grantees' interpretations of how they should comply with regulations are not always consistent and that legal rulings which clarify regulations do not reach all grantees and UMTA officials. For example, the charter and school bus regulations have been misinterpreted by grantees, UMTA regional staffs, and other affected parties. (See pp. 20 and 21.)

The charter regulations permit grantees to use UMTA-funded buses to operate incidental charter service that does not interfere with regular transit service. They also state that certain operations, such as charters during morning and evening peak periods, are presumed not to be incidental. (See pp. 2 and 3.) A private operator believed that these operations were absolutely prohibited, but in response to its complaint, a 1979 UMTA legal decision clarified circumstances where such service would be permitted. However, UMTA's Chief Counsel does not routinely distribute its legal rulings to all UMTA regional staffs or grantees. GAO noted that one grantee that was not aware of the legal ruling had limited its charter operations more than the regulations required. (See pp. 20 and 21.)

NEED FOR ENFORCEMENT GUIDANCE

When UMTA determines that a grantee has not complied with federal requirements, it has such options as withholding grant monies, suing to recover funds, or working with a grantee to

obtain corrective action. When UMTA has been made aware of grantee noncompliance through OIG and independent audits and third-party complaints, it has chosen to work with grantees to bring about compliance. However, UMTA does not have guidelines for handling noncompliance. While GAO did not identify enforcement problems, independent audits, OIG audits, and UMTA's triennial reviews have the potential to identify more cases of grantee noncompliance. Therefore, guidance addressing such factors as the impact of noncompliance on third parties, the presence of fraud, and grantee's effort to correct the problem, would assure that UMTA takes appropriate enforcement action on noncompliance cases. (See pp. 21 and 22.)

RECOMMENDATIONS

GAO recommends that the Secretary of Transportation direct the Administrator of UMTA to

- require UMTA's triennial reviews to emphasize compliance with those regulations that are not routinely covered by OIG and independent audits;
- increase the understanding of and compliance with UMTA's regulations by disseminating legal rulings, such as those on charter and school bus operations, to all grantees and UMTA regional offices; and
- establish guidelines for appropriate enforcement action when noncompliance is identified. (See p. 24.)

AGENCY COMMENTS AND GAO EVALUATION

GAO requested but did not receive comments from the department in time to be included in the report before its issuance. GAO did, however, receive comments from 15 of the 20 transit systems reviewed. Their comments, which focused on improving the accuracy of GAO's information, have been considered and included where appropriate in the report.



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ABBREVIATIONS

DOT	Department of Transportation
GAO	General Accounting Office
OIG	Office of Inspector General
OMB	Office of Management and Budget
UMT Act	Urban Mass Transportation Act
UMTA	Urban Mass Transportation Administration



CHAPTER 1

INTRODUCTION

The Department of Transportation's (DOT's) Urban Mass Transportation Administration (UMTA) administers the federal mass transportation program. This program provides assistance for the development of mass transportation systems through grants to state and local entities for capital projects (e.g., equipment purchase and subway construction) and operating assistance. For fiscal year 1984, appropriations for these purposes totaled about \$3.6 billion.

The Urban Mass Transportation Act of 1964 (UMT Act), as amended (49 U.S.C. 1601), which established the program, imposes various requirements with which recipients of federal mass transportation assistance must comply. In addition, other laws such as the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) establish requirements that apply to recipients of any federal assistance. Finally, grant recipients must also comply with certain administrative requirements such as Office of Management and Budget (OMB) Circular A-102, which establishes standards to ensure consistency and uniformity among federal agencies in the administration of grants to state and local governments. UMTA has issued implementing regulations and circulars that mass transportation grantees must follow to comply with various applicable federal requirements.

As the agency that reviews and approves grant applications for federal transit assistance, UMTA has a management responsibility to ensure that grantees are complying with all federal requirements imposed as a condition of receiving that assistance. In the past, grantees were usually required to submit detailed plans as part of their UMTA grant applications to show how they would comply with the applicable requirements. More recently, UMTA has allowed grantees to indicate their compliance by submitting signed statements that their activities comply with federal requirements. These signed statements are of two types--self-certifications and standard assurances. They streamline the grant application process for both the grantee, which does not have to submit detailed plans or reports on compliance, and UMTA, which has fewer documents to review during the grant approval process.

A standard assurance is generally a one-time statement, while a self-certification must be submitted with each grant application. These statements involve the same basic process--the grantee submits a written statement that it is complying with the relevant requirements. If the grantee submits false information for either its certifications or assurances, it is subject to the criminal sanctions provided by 18 U.S.C. 1001 for knowingly and willfully providing false information to the federal government.

Because of this, we use the term "grantee certification" to refer to both certifications and standard assurances.

Since UMTA does not regularly audit grantees to determine their compliance with legislative and regulatory requirements, it relies on DOT's Office of the Inspector General (OIG) audits, independent audits required under OMB Circular A-102, and complaints by third parties to identify instances of noncompliance. The Surface Transportation Assistance Act of 1982 (Public Law 97-424, Jan. 6, 1983) requires DOT to conduct triennial reviews of grantees. However, as of October 1, 1984, UMTA had not completed its plans for implementing this requirement.

UMTA GRANTEE CERTIFICATION REQUIREMENTS

Grantee certifications are now the principal way UMTA grantees indicate their compliance with federal requirements. With the move to reduce federal involvement in local operations, UMTA's previous requirements to review and approve grantee activities have been replaced by these statements. Mass transit grantees may certify, if appropriate, compliance with such laws and regulations as those limiting charter and school bus operations, requiring conformity with federal procurement processes, and requiring special efforts to meet the transportation needs of elderly and handicapped persons. In addition, the Surface Transportation Assistance Act of 1982 has expanded the use of grantee certifications. We reviewed 4 of the 31 statutes, regulations, and executive orders for which UMTA requires grantee certifications. They are discussed below. A list of these 31 statutes, regulations, and executive orders is presented in appendix I.

Charter and school bus operations

UMTA's charter bus regulations (49 C.F.R Part 604) are designed to restrict use of federal capital and operating assistance for charter bus operations. The UMT Act, as amended, authorizes federal financial assistance to support mass transportation, and the legislative definition of that term specifically excludes charter or sightseeing operations--49 U.S.C. 1602 and 1608(c)(6). The Comptroller General has ruled that this provision prohibits approval of grants to purchase buses to be used exclusively for charter operations, but it does not preclude grantees from using buses for charter service during idle periods when they are not needed for regularly scheduled service.¹ The regulations, therefore, permit UMTA-funded buses to be used for incidental charter operations that do not interfere with regularly scheduled service to the public.

The regulations also contain the statutory prohibition against using federal funds to enable grantees to foreclose private operators from the intercity charter industry. Grantees

¹See Comptroller General Decision B-160204, Dec. 7, 1966.

are permitted to operate charter activities outside the urban areas in which they provide regularly scheduled mass transit service if they enter into a written agreement with UMTA. (Grantees that earn \$15,000 or less annually from charter operations do not need UMTA's approval.) To obtain UMTA's approval, these agreements must provide that the grantee's intercity and intracity charter revenues will equal or exceed all charter operating costs, consistent with its cost allocation plan; any use of facilities and equipment will be incidental to and will not interfere with regular mass transit service; and the grantee will not take actions to preclude competition from private charter operators.

The regulations specify that the following charter operations are presumed not to be incidental: operations during weekday rush hours, charters that last more than 6 hours on weekdays, and weekday charters that extend more than 50 miles outside the grantee's service area. These types of charter operations would coincide with the grantee's heaviest period of demand--the daily rush hours--when all of its equipment should be devoted to regular mass transit service.

Under the UMT Act, as amended, and applicable regulations, grantees are permitted to operate exclusive school bus service only in certain situations² but are prohibited from using federally funded equipment and facilities for this service--49 U.S.C. 1602(g), 49 C.F.R. Part 605. Even in these situations a grantee must obtain UMTA's approval to provide exclusive school bus service. The grantee must state that it has notified all private operators of its intended service and agree that it will not compete with private operators, will notify UMTA of changes in its operations, and will assure that the school bus service will not interfere with its regular service.

While exclusive school bus service by grantees requires UMTA's approval, the regulations permit grantees to operate school "tripper service" without UMTA's approval. Tripper service is regularly scheduled mass transportation service open to the public and designed or modified to accommodate the needs of school students and personnel. To be acceptable, however, the buses must be clearly marked as available to the general public and may not have any designations such as "school bus" or "school special." These buses may stop only at regular bus stops, and all routes traveled by the buses must be part of the regular route service as

²The regulations permit exclusive school bus operations only if (1) the grantee, such as a county, also operates both a school system and a separate and exclusive school bus program for that system, (2) private operators are unable to provide the school bus service at a reasonable rate and in conformance with applicable safety standards, or (3) the grantee was providing such service at the time the prohibiting legislation was enacted.

shown on published route schedules. These restrictions are intended to ensure that the tripper service supported by federal funds is available to the general public.

Procurement requirements

Prior to 1978, UMTA required all mass transportation grantees to submit proposed procurements for preaward review if they involved a sole-source procurement of over \$5,000 or a negotiated contract of over \$10,000. To reduce its involvement in local activities, UMTA exempted the larger grantees from preaward reviews of some procurements if the grantee submitted a written certification that its procedures met minimum federal requirements. Certain procurements still had to be submitted for UMTA's preaward review. These included sole-source contracts of over \$10,000, negotiated contracts of over \$1 million, and contracts proposed to be awarded to other than the apparent low bidder under formally advertised procurements.

A 1981 revision to OMB Circular A-102 Attachment O (Procurement Standards) allowed grantees to award all contracts without preaward review by the federal agency, if that agency had reviewed and certified the grantee's procurement system as meeting federal requirements. In implementing this requirement, DOT recommended that these reviews not be undertaken on an across-the-board basis because of the large amount of resources needed to certify grantees' procurement systems. UMTA, therefore, in response to DOT's instructions, indicated in 1982 that it would review and certify a procurement system only if requested by the grantee. Once certified, the grantee is exempted from all UMTA preaward reviews. UMTA began these procurement reviews in 1983, and has allocated funds to conduct about two reviews per year. As of July 1984, UMTA had completed two reviews, had one in process, and had pending requests from about 20 more grantees.

To further reduce its involvement in grantee activities, in 1982 UMTA restricted its preaward reviews for all grantees certifying that their procedures meet federal requirements. These reviews are now required only for (1) procurements using a formal advertising process which are proposed to be awarded to a bidder other than the apparent low bidder or (2) those which total more than \$10,000 when a single bid or offer is received or the procurement uses a noncompetitive negotiation process because the item was available from only one source.

Service for elderly and handicapped persons

DOT's interim regulations for UMTA grantees implementing the legislative prohibition against discrimination on the basis of handicap (which were issued in 1981) allow grantees to certify that special efforts are being made in their service areas to provide transportation to handicapped persons (49 C.F.R. Part 27). In developing these interim regulations, DOT established a policy

that local communities should decide how best to meet the transportation needs of handicapped people and certify to UMTA that they are making special efforts to provide such transportation through locally determined methods. DOT is finalizing regulations to replace these interim ones, and the proposed regulations published for comment in September 1983 continue the provision for self-certifications of compliance by grantees.

EXPANDED USE OF GRANTEE CERTIFICATIONS

Use of the grantee certification process is increasing. The mass transit formula grant program, established by a 1982 amendment to the UMT Act (49 U.S.C. 1607a), included provisions for each grantee to certify annually that it is complying with eight federal requirements. For example, grantees certify that they will have control over the use of and will maintain facilities and equipment funded by UMTA, will establish reduced rates for elderly and handicapped persons during nonpeak hours, and have had public involvement in the development of federally funded programs and projects. In addition, the June 1983 revision to the planning regulations replaced the procedure for federal certification of a grantee's planning process with a self-certification.

UMTA'S PROCEDURES FOR ENFORCING FEDERAL REQUIREMENTS

Because grantees certify that they are complying with the requirements, UMTA does not routinely review or approve grantees' plans or activities. UMTA officials told us they instead rely on third-party complaints or protests, audit reports by the OIG, and the grantees' independent auditors to surface instances of noncompliance. In the future, UMTA's triennial reviews will provide an additional source of information on noncompliance.

The third parties that might file protests or complaints are those groups or individuals that would be adversely affected by the grantee's noncompliance with the regulations. For example, elderly and handicapped groups could file a complaint against a grantee with UMTA if they believed that special efforts were not being made to meet their transportation needs. Similarly, private school or charter bus operators and bidders on procurement actions might also file protests or complaints if they believed they were being harmed by a grantee's noncompliance with federal requirements.

OIG conducts economy and efficiency audits of all department programs. As part of its examination of UMTA programs, OIG may audit grantees' use of federal assistance. While OIG does not undertake reviews specifically examining grantees' compliance with federal regulations, violations may be identified as part of the economy and efficiency reviews.

OMB Circular A-102 Attachment P requires an independent audit of recipients of federal grants to determine whether financial operations are conducted properly, the financial statements are presented fairly, the organization has complied with laws and regulations affecting the expenditure of federal funds, internal procedures have been established to meet the objectives of federally assisted programs, and financial reports to the federal government contain accurate and reliable information. Private accounting firms or state audit agencies conduct the independent audits.

Attachment P established the single-audit concept in 1979 as a replacement for auditing on a grant-by-grant basis because it is costly and difficult to achieve adequate audit coverage through detailed grant audits. The single audit emphasizes a review of internal controls to provide reasonable assurance that the grantee is managing its federal financial assistance program in compliance with applicable laws and regulations.

There have been some problems, however, with implementing the single audit concept. We recently reported³ that transition to the single audit has been slow and difficult partly because of varying interpretations of the requirement in the 4 years since it was established. We concluded that a major problem impeding progress in implementing Attachment P is the lack of a clear definition and common agreement of the goals of the audit.

Disagreement over the goals of the single audit revolves around two different, but basic, approaches for ensuring compliance with laws and regulations. The traditional federal approach has been one of after-the-fact detection of noncompliance through the testing of numerous transactions for an individual grant or a number of grants. The other approach concentrates on preventing noncompliance by ascertaining whether internal controls are in place and functioning to help ensure compliance with federal laws and regulations. This latter approach is supplemented by transaction and compliance testing based on the degree of reliance the auditor can place on the internal control system. The problem with the traditional approach is that while it may identify many individual problems associated with each grant, it does not identify weaknesses in internal controls. Therefore, it does not generate recommendations that will improve the systems and help prevent future problems.

While past Attachment P audits did not provide an adequate examination of compliance matters, recent legislative and administrative actions may correct some of the problems. The Single

³Study of Progress Made in Implementing the Single Audit Concept
(GAO/AFMD-84-21, Mar. 14, 1984).

Audit Act of 1984⁴ provides guidance for the selection, testing, and reporting of compliance items, and directs OMB to issue regulations to implement these changes.

Triennial reviews

The Surface Transportation Assistance Act of 1982 amended the UMT Act to require DOT to conduct triennial reviews of grant recipients. The amendment provides for ". . . a full review and evaluation of the performance of a recipient in carrying out the recipient's program with specific reference to compliance with statutory and administrative requirements . . .".⁵ As of October 1, 1984, UMTA was determining how it will carry out this responsibility. It had defined the scope of the triennial reviews and performed five pilot reviews, using draft procedures and questionnaires which have now been incorporated in the draft Triennial Review guidelines. UMTA has developed a training plan and has scheduled training sessions for regional offices on the conduct of triennial reviews in December 1984 and January 1985. We did not examine the proposed plan because UMTA was in the process of finalizing it.

OBJECTIVES, SCOPE, AND METHODOLOGY

We reviewed 20 transit systems' compliance with regulations covered by grantee certifications because UMTA is increasingly relying on this technique as evidence that grantees are complying with federal regulations. Our objectives were to determine (1) how UMTA ensures that grantees are complying with the related regulations, (2) if grantees have a clear understanding of what actually constitutes compliance, (3) whether the grantees are actually complying with the applicable regulations, and (4) what enforcement actions UMTA takes when grantees are not in compliance.

We reviewed grantees' compliance with requirements regarding --procurement, particularly Buy America,⁶ single bid, contracts awarded to other than the lowest bidder, and competitive negotiations;

⁴Public Law 98-502, October 19, 1984.

⁵49 U.S.C. 1607a(g)(2).

⁶"Buy America" requirements stipulate that certain products procured with federal funds be of domestic manufacture or origin.

--charter bus operations;
--school bus service; and
--transportation services for the elderly and handicapped.

We selected these regulations because they were in place long enough to be implemented by grantees and, in our opinion, were subject to interpretation by grantees.

We reviewed the compliance of the 20 U.S. transit systems listed in the following table, which were selected on a judgmental basis from the universe of 319 transit systems included in the National Urban Mass Transportation Statistics 1981 Section 15 report.⁷ In making our judgmental sample, we selected the transit systems on the basis of the size of their bus fleets, selecting four small-, seven medium-, and nine large-sized systems. More large systems were selected because the bulk of federal assistance goes to these systems. Although we did not examine a statistically reliable sample of all transit systems in the country, to provide nationwide coverage, we selected systems that are located in eight⁸ of the 10 UMTA regions. Because the systems were not selected on a statistically valid basis, the information in this report represents only the systems examined and should not be interpreted as applying to all transit systems in the nation as a whole.

For each of the four compliance areas reviewed, we examined the legislation and implementing regulations to determine what actions were necessary for a grantee to be in compliance. We also interviewed UMTA headquarters and regional officials to determine (1) what requirements were imposed, (2) what actions UMTA took to oversee grantees' compliance with these requirements, (3) what compliance problems UMTA had identified in the 20 systems being reviewed, and (4) what enforcement actions, if any, had been taken. In addition, we discussed the implementation of triennial reviews. We examined UMTA's grant files to determine if the required grantee certifications were submitted and to identify any problems with grantees' compliance with these four requirements.

⁷That report summarizes financial and operating data submitted annually to UMTA by the nation's public transit systems that receive federal assistance.

⁸The regions included in our review are Region 2, centered in New York, N.Y.; Region 4, in Atlanta, Ga.; Region 5, in Chicago, Ill.; Region 6, in Ft. Worth, Tex.; Region 7, in Kansas City, Mo.; Region 8, in Denver, Colo.; Region 9, in San Francisco, Calif.; and Region 10, in Seattle, Wash.

At each of the 20 transit systems, we interviewed transit officials to ascertain their interpretation of the 4 requirements being reviewed. We also reviewed procurement files, charter and school bus operations, and transportation programs for the elderly and handicapped to determine if any of the transit systems' actions did not comply with applicable federal requirements. Instances of possible noncompliance were discussed with both transit and UMTA officials. We then turned the potential noncompliance instances over to UMTA officials for correction.

TRANSIT SYSTEMS INCLUDED IN THIS REVIEW^a

Large-sized systems (500 or more vehicles)

Bi-State Development Agency, St. Louis, Mo. (St. Louis)
Chicago Transit Authority, Chicago, Ill. (Chicago)
Metropolitan Atlanta Rapid Transit Authority, Atlanta, Ga. (Atlanta)
Metropolitan Transit Commission, Minneapolis/St. Paul,
Minn. (Twin Cities)
Milwaukee County Transit System, Milwaukee, Wis. (Milwaukee)
Municipality of Metropolitan Seattle, Seattle, Wash. (Seattle)
New Jersey Transit Corporation, State of New Jersey (New Jersey)
Regional Transportation District, Denver, Colo. (Denver)
San Francisco Municipal Railway, San Francisco, Calif. (San Francisco)

Medium-sized systems (100 to 499 vehicles)

Broward County Mass Transit Division, Ft. Lauderdale, Fla. (Broward County)
Capital District Transportation Authority; Albany, Schenectady, and Troy, N.Y. (Albany)
City of Fresno Transit Department, Fresno, Calif. (Fresno)
City Transit Service of Fort Worth, Fort Worth, Tex. (Fort Worth)
Des Moines Metropolitan Transit Authority, Des Moines, Iowa (Des Moines)
Indianapolis Public Transportation Corporation, Indianapolis, Ind. (Indianapolis)
San Diego Transit Corporation, San Diego, Calif. (San Diego)

Small-sized systems (fewer than 100 vehicles)

Austin Transit System, Austin, Tex. (Austin)
Greater Peoria Mass Transit District, Peoria, Ill. (Peoria)
Municipality of Anchorage Department of Transit, Anchorage, Alaska (Anchorage)
Rockford Mass Transit District, Rockford, Ill. (Rockford)

^aIn referring to these transit systems in this report, we will use the locations shown in parentheses.

We discussed with third parties their concerns regarding grantee compliance. We contacted representatives of elderly and handicapped groups in 11 of the locations reviewed to determine if problems existed with the transportation services for the elderly and handicapped. Where possible, we contacted charter and school bus operators to determine if they had any problems with the services being provided by the grantee.

We also examined the OIG and GAO reports on the transit systems included in our review to determine if any instances of noncompliance with the applicable regulations had been identified. Appendix II contains a list of the reports that identified instances of noncompliance with these requirements by the transit systems reviewed. We discussed these reported instances of non-compliance with the grantees and UMTA to determine what corrective actions were taken.

We also contacted OIG offices in the eight regions in our review to determine the extent to which the independent auditors examined compliance with the federal requirements reviewed. We reviewed the audit guidelines used by independent auditors and reports on the transit systems in our review when they were available.

DOT and the transit systems discussed in the report were given the opportunity to submit comments on the report. The Department's comments were not received in time to be included in the report. However, 15 of the 20 grantees we reviewed provided comments to improve the accuracy of information contained in the report (see apps. III through XVII).

This review was made in compliance with generally accepted government auditing standards. Our review was conducted from June 1983 to September 1984.

CHAPTER 2

NEED TO IMPROVE UMTA'S IDENTIFICATION OF GRANTEE NONCOMPLIANCE

The sources UMTA relies on to identify noncompliance--OIG and the grantees' independent auditors and complaints or protests by third parties--have reported instances of noncompliance. However, the focus of these groups does not always result in identification of noncompliance. For example, we found eight instances of noncompliance not identified by these groups. As UMTA finalizes its plan for conducting triennial reviews, its approach should ensure that focus is given to those regulatory compliance areas not covered by other UMTA sources.

UMTA'S SOURCES OF IDENTIFYING NONCOMPLIANCE DO NOT PROVIDE SUFFICIENT COVERAGE

We found that although UMTA's sources did identify some instances of noncompliance with school bus, charter bus, and procurement regulations, their responsibilities are not structured to provide total coverage. OIG audits are primarily intended to examine the economy and efficiency of grantees' operations and do not routinely cover all grantees. Independent audits of grantees have not consistently examined regulatory compliance. Third parties' complaints are limited by their knowledge of the regulations or their reluctance to complain. In addition, we found that while UMTA's procurement reviews, which are done at the grantee's request, identify noncompliance with procurement requirements, UMTA plans to conduct about two procurement reviews a year.

OIG audits

OIG officials told us that the main purpose of OIG audits is to examine the economy and efficiency of grantees' programs. While they have identified instances of noncompliance with regulations, that is not the purpose of their reviews. Furthermore, they told us that the OIG is not responsible for conducting audits of every grantee and added that Circular 102 Attachment P provides that independent auditors are responsible for determining grantee compliance.

At 6 of the 20 grantees we reviewed, OIG had conducted audits that identified noncompliance in at least one of the four regulatory areas we examined. For example, OIG found one system not complying with the charter regulations, two violating the school bus regulations, and three not following procurement requirements. One of these reviews was conducted in response to a third-party complaint, and is discussed in detail on page 14. (The grantees audited by OIG and the dates of these audit reports are shown in app. II.)

One grantee--Chicago--had not complied with the regulations restricting charters to incidental use of federally funded vehicles. In 1981 DOT's Region 5 OIG reported that Chicago had operated charters that interfered with regularly scheduled operations and thus were not incidental in nature. UMTA required Chicago to revise its charter procedures to assure that it provided incidental operations only.

In 1983 the Region 7 OIG found that St. Louis was using UMTA-funded buses for exclusive school bus service. The buses were marked "school," "charter," or "garage;" did not stop at designated stops; and transported only students--all of which is contrary to UMTA regulations. St. Louis subsequently discontinued this service. In its comments on our draft report, St. Louis stated that its service could have qualified for an exemption under UMTA's regulations, but the service was replaced in 1983 by a more cost-effective alternative.

In 1983 the Region 7 OIG also found that St. Louis had not followed established internal control procedures when procuring goods and services. In several instances, operating officials committed the grantee to major procurements without the required prior knowledge and involvement of purchasing division personnel. The grantee, in response to the OIG audit, has implemented a revised set of procurement procedures.

In 1983 the Region 2 OIG identified problems in grant construction contracts administered by New Jersey and Albany. OIG reported that New Jersey lacked sufficient supporting documentation for the basis of its independent estimates for four of the five architect/engineering contracts reviewed, did not maintain sufficient records of price negotiations, and failed to allow sufficient time for contractors to prepare bids for construction contracts. In commenting on our draft report, New Jersey said that its new procedures requiring better documentation and additional procurement training for staff should reduce these problems. OIG also reported that Albany's files showed no preparation and use of an independent cost estimate, and Albany had inadequate controls for all aspects of the architect/engineering procurement reviewed. In its comments on our draft report, Albany said it had followed its procedures for architect/engineering procurements. However, after reviewing the draft report and Albany's comments, OIG said that Albany had not followed its own requirements for such procurements. UMTA is holding training sessions on procurement for grantees and regional staff in order to address these problems.

Independent audits

Circular A-102 Attachment P audits of the grantees we reviewed generally focused on the financial aspects of grantees' operations. Furthermore, because the auditors use sampling procedures to select transactions for review, concentrate on items that will have a material impact on the financial statement, and focus

on items included in the Attachment P compliance supplement, compliance with regulations such as charter or school bus operations might not be examined. In addition, all grantees have not had independent audits.

Three of the 20 systems that we examined--Fresno, Rockford, and San Francisco--had not complied with the requirement to have a Circular A-102 Attachment P audit at least every 2 years. Although that requirement had been in effect for over 3 years, these grantees had never had an Attachment P audit. In its comments on our draft report, Rockford said that it recognizes the requirement to have an Attachment P audit. It believes the City of Rockford is responsible for implementing the requirement and has taken steps to ensure that the audit occurs. Two of the 23 reports that we examined for the 17 other grantees identified noncompliance with the 4 regulations we reviewed. For example, according to its fiscal year 1981 Attachment P audit report, St. Louis had not adequately documented its procurement actions. In commenting on our draft report, St. Louis said subsequent audit reports indicated that it had corrected this problem. The independent audit of Seattle's 1982 operations also identified noncompliance with the procurement regulations. It cited noncompliance with bid and approval procedures, using improper condemnation procedures in acquiring real property, and failure to provide for separation of duties among appraisors, reviewers, and negotiators in real property acquisitions.

Third-party complaints or protests

Although UMTA identified a few instances of noncompliance as a result of complaints or formal protests by third parties, such actions cannot be relied on to surface all instances of noncompliance. According to affected third parties we interviewed, they do not always file complaints or protests because they (1) do not understand the regulations that grantees are supposed to follow, (2) do not know where to complain, or (3) are reluctant to complain.

Some of the affected parties we interviewed were familiar with UMTA's regulations and appeared to understand them. Others did not. For example, a group representing the wheelchair-bound on Des Moines' advisory council did not have copies of the regulations governing elderly and handicapped services and did not know where to get them. Similarly, a private bus operator in the Twin Cities service area had concerns about Twin Cities' charter bus operation, but was uncertain of how UMTA defined charter bus operations. The third-party complaints we examined that UMTA rejected indicated to us that the third parties did not understand the regulations.

Third parties we contacted cited a variety of reasons why they were reluctant to complain. A charter bus company official in Peoria, for example, did not want to complain to UMTA because he did not want to draw attention to the company. A charter bus

prohibited by UMTA's regulations. In February 1979, the private operator had entered into a 5-year contract with two schools and purchased 17 buses to provide the service. In August 1979, however, Chicago extended two of its regular routes to serve these schools. Since the Chicago student fares were below the private operator's subscription prices, many students opted to ride Chicago's buses. Consequently, the private operator's ridership declined to the point where only two buses were required.

The complaint alleged that Chicago's service on these two route extensions could not be classified as tripper service because the service was unavailable to the general public. Furthermore, students boarded and alighted from the buses on school property, and Chicago was using improper "school" and "charter" designations on the buses. Finally, the operator stated that Chicago was operating beyond the city limits. UMTA said that Chicago was operating within its service area and the routes themselves conformed to UMTA requirements. It concurred with the other points cited by the private operator and found Chicago's claims that the service was open to the public unpersuasive because there were no designated Chicago bus stops along the route extensions and the service was not published on Chicago's schedules or maps. UMTA subsequently required Chicago to conform to the bus designation requirements, publish the routes, establish regular bus stops, and make the buses available to the public. In commenting on the draft report Chicago said that it has complied with UMTA's requirements by installing bus stop signs over regular intervals, publishing timetables, and ensuring that vehicles do not carry restrictive designation signs.

Protests and complaints have also been filed regarding grantees' procurement actions. These are usually submitted by an unsuccessful bidder when an award is based on competitive sealed bids. We identified nine instances where bidders filed protests with UMTA concerning procurement actions. In all but one of these cases, UMTA found that the grantee had followed proper procedures in awarding the contract.

Procurement system reviews

When requested, UMTA will review and certify a grantee's compliance with federal procurement requirements. These reviews are another potential source of compliance information. However, their use is limited because at the time of our review, UMTA had completed two procurement system reviews and had allocated funds to conduct about two additional reviews a year. During our review, UMTA had pending requests from about 20 more grantees. Approximately 320 grantees receive UMTA funds.

UMTA's first two procurement system reviews identified several deficiencies which are being corrected. For example, in its first review UMTA found several problems with Atlanta's procurement practices. These included the use of incorrect selection procedures for procuring professional services, improper methods for

determining construction costs, and inadequate preparation of independent price analyses. UMTA's second review examined Denver's system and noted similar problems. Denver pointed out in its comments on the draft report that it has corrected the problems UMTA identified, and UMTA subsequently certified Denver's procurement system.

INSTANCES OF NONCOMPLIANCE NOT IDENTIFIED BY UMTA'S METHODS

Although UMTA's sources had identified some noncompliance at the 20 systems we reviewed, we found additional cases. Our review of the 20 systems disclosed one case of noncompliance with charter bus regulations, four with school bus regulations, and three with procurement requirements. We did not find any instances where grantees were not complying with the elderly and handicapped requirements.

Charter bus regulations

We found that 1 of the 20 grantees did not comply with the regulations concerning charter bus operations. The grantee operated charters outside its service area without submitting the required cost allocation plan to UMTA.

Peoria did not provide UMTA with the cost allocation plan required when a grantee operates charter service outside its regular service area. We found that Peoria operated two intercity charters to Pekin, Illinois, within a 4-month period. UMTA officials were not aware of these charters until we brought them to their attention. Without a cost allocation plan, UMTA had no assurance that the grantee would not use federal funds to improperly compete with private operators.

School bus regulations

We found that 4 of the 20 systems reviewed were not complying with school bus regulations. Des Moines operated exclusive school bus service without the required agreement with UMTA and improperly used UMTA-funded buses for these purposes. Des Moines provided an exclusive school bus service for a parochial high school, transporting high school students between their residences and the school under a contract arrangement. While UMTA regional officials agreed that the grantee should have an agreement with UMTA for these services, they found that the grantee would have met the conditions that permit operation of exclusive school bus service since private operators were not able to provide the needed service. UMTA headquarters staff said the grantee could not use federally funded buses to provide this service. Corrective action had not been taken at the time we completed our review. In its comments on the draft report, Des Moines said that it is working with UMTA to formalize an agreement covering its exclusive school bus service. Des Moines also commented that it is aware of the

restriction on the use of UMTA-funded buses for such service and, at the direction of UMTA region 7, is working toward a solution.

We also identified three systems operating school tripper services that did not comply with the restrictions intended to ensure that such service is available to the general public:

- Rockford operated seven morning and eight afternoon school bus routes. The routes were not published, students were picked up on school property at unmarked locations that were not regular bus stops, and the buses had designation signs such as "Jefferson High School" and "Special." Rockford's comments state that its tripper service complies with federal regulations. However, it acknowledges that tripper service is not published in the route/schedule guide as the regulations require. Rockford said any individual may use tripper service and obtain information about it by calling Rockford's route information specialists.
- Although most of Atlanta's tripper service followed regular bus routes and used established bus stops, some sections of school tripper routes extended beyond the regular routes. In addition, Atlanta did not publish information about tripper service in its schedules or service maps.
- Albany's tripper buses carried both regular destination signs and additional signs indicating schools served. Although Albany's tripper buses traveled along regular fixed routes, tripper service was not shown in Albany's schedules.

Atlanta officials told us they do not want to include tripper service on the route map because it would make the map more confusing for customers and require more frequent revisions to the map, since tripper service is changed more frequently than regular service. Albany officials said that supplementary school signs on tripper buses allow people who do not wish to ride with a large number of school children to board other buses. They also indicated that including tripper service in schedules would require more frequent reprinting of schedules.

Procurement requirements

We found that three grantees were not complying with UMTA's procurement requirements. As a result, UMTA has no assurance that federal grant money was spent properly or efficiently. UMTA requires grantees to have written procurement policies and procedures, but Rockford had not developed written procedures. It was using UMTA instructions as a guide, but the lack of detailed operating procedures could result in the improper award of federally funded contracts. Rockford officials agreed that the lack of written procedures would probably not be acceptable, were UMTA to perform a detailed review of their procurement system, but told us no changes will be made until such a review occurs. In

its comments on our draft report, Rockford pointed out that it does have a written procurement policy. While Rockford has such a policy, it has not established operating procedures as required by UMTA.

We also found a discrepancy between New Jersey's procurement procedures and UMTA's requirements. UMTA approval is required for all contracts proposed to be awarded to bidders other than the apparent low bidder under any formally advertised procurement. New Jersey's procedures, however, provide for UMTA's review of such contracts only if they exceed \$10,000. Since New Jersey uses competitive procurement for purchases over \$7,500, it is possible that an award between \$7,500 and \$10,000 to bidders other than the apparent low bidder would not be submitted for UMTA's approval. If that were to occur, UMTA would have no assurance that the contract was properly awarded. In its comments New Jersey reported it is completing new procurement procedures that follow UMTA's requirements.

Albany did not get required UMTA approval of two contract awards. In one case, the award did not go to the apparent low bidder, and in the other, a single bid was received. Region 2 UMTA officials said that Albany should have obtained prior approval. However, UMTA conducted a review of the awards on the basis of the information we provided and concluded that the awards were proper.

Elderly and handicapped regulations

We identified no instances of noncompliance with DOT regulations requiring the provision of special transportation services for the elderly and handicapped in grantees' service areas. We noted, however, that there are no uniform standards concerning quantity and comparability of service against which services can be measured. Among the 20 systems we reviewed, there was a variety of (1) forms of service provided, (2) restrictions on use of special services, (3) hours of service, (4) costs to passengers, and (5) sources and amounts of funds allocated.

TRIENNIAL REVIEWS

As previously discussed, UMTA has relied on OIG and Circular A-102 Attachment P audits and third-party complaints to identify instances of grantee noncompliance. However, these sources are not intended to systematically identify noncompliance with UMTA regulations. The legislative requirement for triennial reviews directs DOT to evaluate grantee compliance. During our review we tried to determine the approach UMTA intends to use in performing these reviews. We were not able to learn (1) who will conduct these reviews, (2) which specific compliance requirements will be examined, (3) when these reviews will occur, or (4) how many reviews will be done each year because UMTA had not decided on how it will conduct these reviews.

As mentioned in chapter 1, OIG performs economy and efficiency audits which include grantees' use of federal assistance, and Circular A-102 Attachment P requires an independent audit of grantees to determine compliance with laws and regulations affecting the expenditure of federal funds. (See pp. 5 to 7.) The audit efforts of OIG and independent auditors may affect UMTA's plans for focusing the triennial reviews.

CHAPTER 3

NEED TO DISSEMINATE CLARIFICATION OF REGULATIONS

AND PROVIDE ENFORCEMENT GUIDANCE

UMTA regulations have sometimes been misinterpreted by grantees, UMTA regional staff, and third parties. Such misinterpretations have resulted in regulations not being properly followed, which could result in federal grant funds not being used as intended. On occasion UMTA has issued legal rulings which provide additional guidance on how the regulations are to be interpreted. However, UMTA does not disseminate such rulings to all of its regional staff or the transit authorities. As a result, grantees and third parties may not be aware of clarifying instructions.

In addition, UMTA has not provided any guidance to its regional offices to assist them when they identify grantees that are not complying with its regulations. As a result, UMTA cannot be assured that its regional offices will take appropriate enforcement actions for instances of noncompliance.

PROBLEMS UNDERSTANDING UMTA REGULATIONS

Transit authorities certify to UMTA that their use of grant money complies with UMTA regulations. However, we identified instances where the transit authorities misunderstood the regulations, and as a result, were not in compliance or restricted their operations. In some situations, UMTA had issued rulings which clarified the regulations but had not disseminated them. In addition, UMTA's regional offices had different interpretations of the same regulation.

Federal regulations are not always correctly interpreted. As questions are raised, the chief counsel may provide a written decision that interprets the meaning of specific regulations. Although a decision discusses only the grantee that is involved, the interpretation of the regulation may apply to all UMTA grantees. The chief counsel does not, however, routinely distribute these rulings to all grantees and all UMTA regional staff. This contributes to continued misinterpretations of regulations and their inconsistent application.

For example, in operating its school tripper service, Rockford did not comply with UMTA's regulations regarding bus designation, did not publish the tripper routes, and picked up students at unmarked locations. (See p. 17.) However, Rockford believed that it was complying with the regulations because it was not operating an "exclusive bus service for students." UMTA's chief counsel had issued two decisions which clarified the requirements for tripper service but did not distribute the decisions to all grantees and regional offices. Had UMTA disseminated the decisions to Rockford, it may have recognized that it was not complying with the regulations and may have taken corrective action.

In another situation, a private bus operator misinterpreted UMTA's charter regulations when it complained about Atlanta's charter service in 1978. The operator erroneously believed that a grantee could not operate charters during weekday rush hours, for more than 6 hours on weekdays, or more than 50 miles beyond its service area. However, in response to the complaint, UMTA's chief counsel ruled in 1979 that as long as a grantee can demonstrate that these activities have not interfered with regular mass transit service, it can provide such service. If a grantee has more buses than it needs for rush hour operations, it can operate charters during peak hours or for more than 6 hours and still comply with the regulations. The chief counsel ruled that Atlanta's charter operations complied with UMTA regulations and with Atlanta's charter bus agreement with UMTA.

Broward County was unaware of this ruling and implemented a policy prohibiting weekday charter operations of over 6 hours. UMTA, however, has no objection to these charters as long as Broward County meets its service requirements and uses the buses as they were intended by the UMTA grant. Therefore, Broward County may have unnecessarily limited its charter operations.

UMTA regional offices also have interpreted and applied regulations inconsistently. For example, two UMTA regions had different interpretations of the prohibition of the use of UMTA-funded equipment for exclusive school bus service. When we discussed the school bus regulations with UMTA Region 5 officials, they informed us that a grantee could not use UMTA-funded buses for this purpose. When we discussed Des Moines' provision of exclusive school bus service (see p. 16) with Region 7 officials, they said the grantee was permitted to use UMTA-funded buses. UMTA headquarters confirmed the interpretation that the grantees cannot use federally funded equipment for exclusive school bus service.

GUIDANCE NEEDED ON ENFORCING COMPLIANCE

When UMTA determines that a grantee is not complying with federal requirements, it can take one of several options. For example, UMTA can withhold grant monies until corrective action is taken, sue the grantee to recover improperly used monies, or work with the grantee to achieve compliance.

UMTA was made aware of instances of grantee noncompliance through OIG and Circular A-102 Attachment P audits and third-party complaints. In addition, we identified eight instances of grantee noncompliance. Our review of UMTA procedures showed that UMTA does not have any policy or procedures for addressing instances of grantee noncompliance. UMTA officials informed us that their operating approach to handling noncompliance is to work with the grantee to bring about compliance. While we did not identify any problems with UMTA's enforcement actions, we did find an instance where UMTA determined that a transit system was not complying with

the school bus regulations (see p. 14) and UMTA's regional office staff worked with the transit system to obtain compliance. In 1980 UMTA identified that Seattle was conducting prohibited school bus operations. UMTA asked Seattle to conduct a reassessment of all routes to ensure they were complying with UMTA regulations. Subsequently, in July 1981, OIG reported that Seattle was conducting prohibited school bus operations. A December 1981 UMTA review revealed that Seattle was still not in compliance. UMTA in 1982 verified that Seattle was now complying with its school bus regulations. Subsequently in 1983, an OIG review, which was done in response to a third-party complaint, determined that Seattle was in compliance with the school bus regulations.

UMTA has relied on other groups to identify grantee noncompliance with its regulations. The number of noncompliance cases and related corrective action taken was too small for us to evaluate UMTA's efforts. UMTA does not have enforcement guidelines for handling noncompliance cases. The effort to improve Circular A-102 Attachment P audits and the focus of triennial reviews, as well as OIG audits, provide the potential for identifying more cases of grantee noncompliance.

Enforcement guidelines would not remove all discretion from UMTA's regional offices, but would set out factors for regional offices to consider when they choose actions to bring about compliance. Such factors could include the impact of noncompliance on third parties, the involvement of fraud, good faith efforts by the grantee to correct its problems, and the need for UMTA repeatedly to correct the same noncompliance by a grantee. Guidelines would formally heighten grantees' awareness of the consequences of noncompliance and enable regional offices to apply appropriate sanctions.

CHAPTER 4

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

UMTA uses grantee certifications as a primary means of determining compliance with federal regulations. UMTA relies on OIG audits, independent audits, and complaints by third parties to identify noncompliance. While these three mechanisms identify instances of noncompliance, they are not structured to focus on compliance with UMTA's regulations.

Although each of the 20 grantees we reviewed submitted certifications stating they were complying with the regulations, we found that 1 was not complying with the charter bus regulations, 4 were not complying with school bus regulations, and 3 were not complying with procurement regulations. Therefore, grantees may not have been using federal funds as intended, such as using funds to improperly compete with private industry. UMTA officials were not aware of these instances of noncompliance until we told them.

In addition to other sources, the triennial reviews mandated by the Congress provide UMTA with an opportunity to routinely examine grantees' compliance with regulations. Although past independent audits have not been able to provide an adequate examination of compliance matters, recent legislative and administrative actions should correct some of the problems. As independent audits evolve, UMTA could use them to identify problems that warrant detailed examination during triennial reviews. In addition, the coverage provided by OIG and independent audits could be considered by UMTA when it plans the scope of its triennial reviews.

Interpretations of federal regulations, such as those governing charter and school bus operations, have varied. In some cases, UMTA's Chief Counsel had clarified the regulations through a decision. However, because these decisions were not distributed to all grantees and regional UMTA staff, some grantees are not aware of clarifying decisions and have misinterpreted the regulation. This has resulted in cases of noncompliance with regulations.

UMTA has several available options when it determines that a grantee is not complying with federal requirements. While we did not identify problems with UMTA's enforcement actions, UMTA does not have guidelines for handling and enforcing noncompliance. UMTA's approach to correcting such cases has been to work with the grantee to bring about compliance. Circular A-102 Attachment P and OIG audits, and UMTA's triennial reviews have the potential for identifying more cases of grantee noncompliance. Therefore, we believe that UMTA should provide guidance which will assist its staffs to select the appropriate corrective action.

RECOMMENDATIONS TO THE
SECRETARY OF TRANSPORTATION

We recommend that the Secretary of Transportation direct the Administrator, Urban Mass Transportation Administration, to

- require UMTA's triennial reviews to emphasize compliance with those regulations that are not routinely covered by OIG and independent audits;
- increase the understanding of and compliance with UMTA's regulations by disseminating legal rulings, such as those on charter and school bus operations, to all grantees and UMTA regional offices; and
- establish guidelines for appropriate enforcement action when noncompliance is identified.

AGENCY COMMENTS AND OUR EVALUATION

We requested but did not receive comments from the Department in time to be included in the report. However, 15 of the 20 grantees we reviewed did provide comments that focused on improving the accuracy of information related to their experiences as UMTA grantees. We considered them and, where appropriate, revised those sections of the report related to the grantees' comments.

UMTA-PROVIDED LIST OF STATUTES, REGULATIONS, AND
EXECUTIVE ORDERS COVERED BY GRANTEES' SELF-CERTIFICATIONS

STATUTES

Section 9(a) of the Urban Mass Transportation Act (UMT Act) of 1964, as amended by Section 303(a) of the Surface Transportation Assistance Act of 1982, Public Law 97-424.

18 U.S.C. 1001:

which provides criminal sanctions for those who knowingly and willfully provide false information to the federal government.

Section 3(e) of the UMT Act, 49 U.S.C. 1602(e):

which requires, among other things, the recipient to provide to the maximum extent feasible for the participation of private mass transportation companies.

Section 3(f) of the UMT Act, 49 U.S.C. 1602(f):

which requires, among other things, the recipient to enter into an agreement with the Department not to provide charter service that will foreclose private operators.

Section 3(g) of the UMT Act, 49 U.S.C. 1602(g):

which requires, among other things, the recipient to enter into an agreement with the Department not to provide exclusive school bus operations.

Section 5(k) of the UMT Act, 49 U.S.C. 1604(k):

which requires, among other things, the provision of the designated recipient's pro-rata share of the cost of the project.

Section 12(c) of the UMT Act, 49 U.S.C. 1608(c):

which provides definitions applicable to the grant.

Section 13 of the UMT Act, 49 U.S.C. 1609:

which requires, among other things, the recipient to comply with applicable labor requirements.

Section 19 of the UMT Act, 49 U.S.C. 1615:

which, among other things, prohibits discrimination on the basis of race, color, creed, national origin, sex, or age.

Section 8 of the UMTA Act, 49 U.S.C. 1607:

which provides, among other things, for a continuing, cooperative, and comprehensive planning process.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000 d:
which, among other things, prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000 e:
which among other things, prohibits discrimination on the basis of employment.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794:
which, among other things, prohibits discrimination on the basis of handicap by recipients of federal financial assistance.

"Hatch Act," 5 U.S.C. 1501:
which, among other things, imposes certain restrictions on political activities on recipients of federal financial assistance.

"Buy America Requirements," Section 165 of the Surface Transportation Assistance Act of 1982, Public Law 97-424:
which, among other things, requires that steel, cement, and manufactured products procured under UMTA-funded contracts of a certain size be of domestic manufacture or origin (with four exceptions).

"Davis Bacon Act," 40 U.S.C. 276 a:
which requires, among other things, that all mechanics and laborers working on federally assisted construction projects (in excess of \$2,000 contract value) be paid not less often than once a week, at computed wage rates not less than the prevailing wages for similar work in the same geographic area of the project.

"Copeland Anti Kickback Act," 40 U.S.C. 276 a:
which, among other things, prohibits payroll deductions from the wages of employees who are covered by the Davis Bacon Act for any reason except those specifically stated in the Copeland Act.

Contract Work Hours and Safety Standards Act, 40 U.S.C. 327:
which, among other things, establishes the required basis and conditions for hours of work and for overtime pay of laborers and mechanics, and directs the Department of Labor to formulate construction safety and health standards.

National Environmental Policy Act of 1969, 42 U.S.C. 4321:
which, among other things, prohibits federal assistance that will adversely affect the quality of the environment.

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601:

which, among other things, establishes the terms and conditions for compensation to property owners and occupants who are displaced as a result of federally assisted projects.

National Historic Preservation Act of 1966, 16 U.S.C. 470:

which, among other things, provides for the protection of national historic sites.

Clean Water Act.

Clean Air Act.

REGULATIONS

49 C.F.R. Part 600:

regulations promulgated by UMTA.

49 C.F.R. Parts 21, 23, 25, and 27:

regulations promulgated by the Department of Transportation governing Title VI of the Civil Rights Act of 1964, Minority Business Enterprise, Relocation and Land Acquisition, and Nondiscrimination on the Basis of Handicap, respectively.

OMB Circular A-87 (citation):

which provides cost principles applicable to grants and contracts with state and local governments.

OMB Circular A-102 (citation):

which provides uniform requirements for assistance to state and local governments.

Note: It is possible to include a sublist of requirements imposed pursuant to this circular.

Department of Treasury Regulations governing Letter of Credit.

EXECUTIVE ORDERS

Executive Order 11246:

which establishes requirements in federally assisted construction activities.

Executive Order 11988:

which establishes certain specific requirements related to flood protection and control.

Executive Order 12372:

which rescinded OMB Circular A-95 and established new requirements.

OIG AND GAO REPORTS IDENTIFYING INSTANCES
OF NONCOMPLIANCE AT THE 20 SYSTEMS INCLUDED IN OUR STUDY

U.S. Department of Transportation, Office of Inspector General.
Final Audit Report of Selected Bus Procurements. CO-03-0007 and
CO-03-0010, May 6, 1982.

U.S. Department of Transportation, Office of Inspector General.
Report on Audit of Bi-State Grant Administration Activities.
R7-UM-4-003, Oct. 1983.

U.S. Department of Transportation, Office of Inspector General.
Report on Audit of Bus Fleet Utilization of the Chicago Transit
Authority. R5-UM-2-127, Sept. 1982.

U.S. Department of Transportation, Office of Inspector General.
Report on Audit of Department of Transportation (DOT) Funded Grant
Construction Contracts, Urban Mass Transportation Administration,
New York, New York. R2-UM-3-045, Mar. 11, 1983.

U.S. Department of Transportation, Office of Inspector General.
Report on Audit of Grant Administration Practices of the Chicago
Transit Authority and the Twin Cities Area Metropolitan Transit
Commission. R5-UM-1-082, Aug. 1981.

U.S. Department of Transportation, Office of Inspector General.
Report on Audit of Grant Administration, Use of Capital Equipment,
Urban Mass Transportation Administration. R0-UM-1-085, July 17,
1981.

U.S. Department of Transportation, Office of Inspector General.
Report on Evaluation of UMTA Funded Construction Programs of the
Chicago Transit Authority. R5-UM-3-126, Mar. 1983.

U.S. Department of Transportation, Office of Inspector General.
Report on Grant Management of the Bi-State Transit System.
R7-UM-3-119, Sept. 1983.

U.S. Department of Transportation, Office of Inspector General.
Report on Interim Audit of UMTA Capital Improvement Grants With
Municipal Railroad Division, City and County of San Francisco.
R9-UM-2-127, Sept. 21, 1982.

U.S. Department of Transportation, Office of Inspector General.
Report on Results of Joint Fraud Prevention and Detection Survey
of the Bi-State Transit System. R7-UM-4-024, Dec. 1983.

U.S. General Accounting Office. Metropolitan Atlanta's Rapid
Transit System: Problems and Progress. PSAD-80-34, Apr. 9, 1980.



THE BI-STATE DEVELOPMENT AGENCY
707 North First Street • Saint Louis, Missouri 63102

314/982-1400

November 27, 1984

Mr. Oliver W. Krueger
 Associate Director
 Resources, Community and Economic
 Development Division
 U.S. General Accounting Office
 Washington, D.C. 20548

Dear Mr. Krueger:

Thank you for giving us the opportunity comment on the General Accounting Office's proposed report, UMTA Needs Better Assurance that Grantees Comply with Selected Federal Requirements. We shall direct our comments specifically to the references to St. Louis found on pages 12 and 13 of the draft report.

1. Use of UMTA funded buses for exclusive school bus service.

As was reported to OIG in 1983, the school bus service identified by OIG was part of the original service being provided by private transit companies when Bi-State took over those companies in 1963. Under UMTA's school bus operations regulations (49 C.F.R. 605.11), Bi-State could have qualified for an exemption because its school service was a continuation of the service provided by the private transit companies when they were taken over. This service was discontinued in 1983 because a more cost effective alternative was favored by the local communities involved.

2. As a follow up to the comment that the FY81 Attachment P audit report stated that St. Louis had not adequately documented its procurement actions, subsequent Attachment P reports indicated that the situation had been corrected.

If you have any questions or need additional information, please feel free to contact me or Mr. Eugene K. Leung, Director of the Grants and Aid Office.

Sincerely,

Manuel C. De La O
 Executive Director

EKL:pr

[GAO note: Page references in this appendix which referred to the draft report were changed to reflect their location in this final report. St. Louis' comments were incorporated in the final report.]



Mass Transit Division

3201 West Copans Road
Pompano Beach, Florida 33064

November 9, 1984

Mr. Oliver W. Krueger
Associate Director
U. S. General Accounting Office
Resources, Community, and Economic
Development Division
Washington, D.C. 20548

Dear Mr. Krueger:

We have reviewed your proposed draft report, UMTA Needs Better Assurances That Grantees Comply With Selected Federal Requirements and we have the following comments.

For many years this organization had a very low bus spare ratio and was having a difficult time maintaining our regular schedule service. There were times when we could not permit charter service.

Our interpretation of the charter regulations was that scheduling a charter for more than six hours was not permitted by UMTA. We are pleased with the information provided in your report which indicates that the Chief Counsel of UMTA had ruled that Atlanta's charter operations complied with UMTA regulations. This places a different light on our charter service potential.

We presently have an excellent bus spare ratio and will be reviewing charter operations as an additional revenue source in the future.

Thank you for this opportunity to review this informative report.

Sincerely,

Joel Volinski
Joel Volinski
Director

JV/brw
c: Victor Iskowitz, Transit Manager/Development

BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS

Marcia Beach	Scott I. Cowan	Howard Craft	Howard Forman	Jack Fried	Nicki Englander	Grossman	Gerald Thompson
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An Equal Opportunity Employer

November 13, 1984



Mr. Oliver W. Krueger
 Associate Director
 U. S. General Accounting Office
 Washington, D. C. 20548

Re: UMTA Needs Better
 Assurances That Grantees
 Comply with Selected
 Federal Requirements

Dear Mr. Krueger:

We are in receipt of your agency's draft subject audit. With one notable exception, we generally concur with the audit findings. We are extremely concerned about the comments on page 12 of the draft audit concerning architect-engineer selection. There is a clear error of fact here. The Authority has had in place since November, 1971 a written procedure on Architect-Engineer selection. This was revised in March, 1983. Copies of both are attached. The current procedure is contained in a procedures manual issued to all CDTA Departments.

Since 1974, CDTA has engaged architect-engineer services for only two major projects. These were construction of a bus facility in Troy (construction cost \$2.7 million) and renovations of our administrative offices (construction cost \$0.6 million). In each of these, the procedures were followed. A narrative describing the selection of the Troy Bus Facility architect is attached.

Further, we have no record that the Inspector-General met with this agency's Director of Planning & Development on this subject. As I mentioned, the remainder of the audit is both fair and accurate. Should you wish to discuss this further with me, please call me at 482-1125.

Very truly yours,

Dennis J. Fitzgerald
 Dennis J. Fitzgerald
 Executive Director

ek

Robert G. Lyman
 Chairman
 Albany County

Bernard A. Fleishman
 Vice Chairman
 Rensselaer County

Anthony J. Sabatello
 Second Vice Chairman
 Schenectady County

Hamilton D. South
 BG, USMC (Ret)
 Secretary
 Albany County

James W. Cramer
 Rensselaer County

Arthur Dimmick, Jr.
 Schenectady County

A. Jerome McCormick
 Saratoga County

Stelio P. Sticco
 Albany County

Dennis J. Fitzgerald
 Executive Director

William J. Schoonmaker
 General Counsel

CAPITAL DISTRICT TRANSPORTATION AUTHORITY
 110 Watervliet Avenue Albany N.Y. 12206

[GAO note: Page reference in this appendix which referred to the draft report was changed to reflect its location in this final report. In our draft report, we pointed out that the OIG report stated that Albany had no written procedures for architect/engineering procurements. In commenting on our draft report, Albany said it has had a written procedure for such procurements since November 1971. As a result of its comments and because it had not commented on the OIG report, we have deleted the reference to procurement procedures from our final report. Albany's attachments are not included.]

Chicago Transit Authority

Merchandise Mart Plaza PO Box 3555, Chicago, Illinois 60654 (312) 664-7200

Bernard J. Ford
Executive Director

November 29, 1984

(mailed 11/30/84)

Mr. Oliver W. Krueger
Associate Director
United States General
Accounting Office
Washington, D.C. 20548

Re: Proposed G.A.O. Report
Letter dated 10/30/84

Dear Mr. Krueger:

After review of the proposed report accompanying your letter of October 30, 1984, I wish to submit the following comments in reference to the findings appearing on pp. 14-15 of the report.

The complaint referenced on pp.14-15 alleged that the Authority was violating UMTA regulations by engaging in prohibited school bus operations. UMTA concluded that the Authority was conducting tripper service which is allowed by UMTA regulations, but had failed to comply with certain provisions of the basic regulations, e.g. signing. However, UMTA did acknowledge that the Authority had taken steps to correct the signing issue prior to issuance of its decision (page 5, UMTA Decision Letter, 1/19/81). Furthermore, UMTA never found that the public was excluded from the tripper service, but concluded "that the public nature of this service" could be emphasized by the issuance of public schedules and bus stop signing (Letter, page 3). In my view, these facts make the penultimate sentence on page 19 inaccurate. [Now p. 15.]

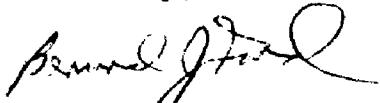
The last two sentences should be deleted and replaced with language consistent with UMTA's findings and conclusions:

UMTA concluded that while the Chicago Transit Authority was conducting operations that substantially complied with the tripper service provisions of the regulations, certain aspects of this service were inadequate. Consequently, Chicago was required to install bus stop signs over regular intervals, publish timetables and insure that the vehicles did not carry restrictive destination signs. Chicago has complied with these requirements.

Mr. Oliver W. Krueger
November 29, 1984
Page 2

I believe this provision more fairly and accurately describes the conclusion reached by UMTA in its Decision Letter.

Yours truly,



Bernard J. Ford
Executive Director

BJF:RFB:jlo

[GAO note: Page references in this appendix which referred to the draft report were changed to reflect their location in this final report. We do not believe that Chicago's recommended change is appropriate because UMTA concurred with the bus operator's complaints regarding tripper service. However, we did recognize Chicago's statement that it has installed bus stop signs, published timetables, and ensured that vehicles do not carry restrictive designation signs.]

APPENDIX VII



2223 "G" Street • 209 488-1393
Fresno, California 93706

APPENDIX VII

Transit Department

Terry O. Cooper
Transit Director

November 13, 1984

Mr. Oliver W. Krueger, Associate Director
Resources, Community and Economic Development Division
United States General Accounting Office
Washington DC 20548

RE: Request for Comments
UMTA Needs Better Assurance That Grantee Comply With
Selected Requirements

Dear Mr. Krueger:

Thank you for your letter of October 30, 1984, in which you solicited comments on the above referenced report.

Our only comment on your report concerns Page 13 where Fresno is cited as one of three transit properties (the others are not mentioned by name) not in compliance with Attachment P single audit requirements.

It is the City of Fresno position that the requirement for a single audit was not in effect until federal legislation (Senate, S. 1510, "Uniform Single-Audit Act of 1983"; House, H. R. 4821, "Single-Audit Act of 1984") was enacted into law on May 15, 1984. We have been in contact with UMTA on this matter; copies of our correspondence are attached.

We respectfully request that the reference to Fresno be deleted from page 13 and that the report show that Single Audit legislation was not enacted by the Congress and signed into law by the President until May 15, 1984.

Should you have any questions, or wish to discuss this further, please contact me at 209-488-1393.

Sincerely,

A handwritten signature in black ink that reads "Terry O. Cooper". Below the signature, the name "Terry O. Cooper" is printed in a smaller, all-caps font, followed by "Transit Director".

cc: Ann Pierce
Jim Dirlam

1381E

[GAO note: Page reference in this appendix which referred to the draft report was changed to reflect its location in this final report. The requirement for an Attachment P audit went into effect October 22, 1979, and not in 1984 as the grantee states. Fresno's attachments are not included.]



P.O. Box 1477 / 2304 Pine Street
Fort Worth, Texas 76101
(817) 870-6221

November 9, 1984

Mr. Oliver W. Grueger, Associate Director
Resources Community & Economic Development Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Grueger:

Thank you for transmitting the proposed report, UMTA Needs Better Assurance That Grantees Comply With Selected Federal Requirements. CITRAN appreciates the opportunity to review the report and correct some errors of interpretation and fact. My comments will be related to specific sections of the report.

Page 2 "UMTA's charter bus regulations (49 CFR 604) are designed to ensure that federal capital and operating assistance will not be used in support of charter bus operations."

This statement is not true. UMTA's charter bus regulations are designed to prohibit operators from providing charter service that interferes with regularly scheduled mass transportation service. In fact, the regulations allow incidental charter operations. These charter operations allow local operators to defray operating costs by producing "properly regulated" profit. Local and federal operating subsidies are reduced by incidental charter operations.

Page 21 "Fort Worth, did not have the required agreement with UMTA to provide charter service outside the regular service areas."

While this was technically true at the time of the review, the inspectors who visited CITRAN were informed that we were in the process of filing a charter agreement application with UMTA. That application has subsequently been approved by UMTA and permits operation of charter service outside our service area.

Page 21 "And during October and November 1983, Fort Worth operated approximately 30%, respectively, of their charter buses outside their service areas.

This statement is not true. The attached chart shows the destination of all charter buses provided during October and November 1983. You can see from the chart that out of 550 buses only 10 buses were provided outside the service area. Our service area is defined for UMTA purposes as the metropolitan area

Mr. Oliver W. Grueger
Page 2

November 9, 1984

for which UMTA's Section 5 and 9 assistance are allocated. This represents all of Dallas and Tarrant counties and some of the urbanized areas in neighboring counties. The 10 buses provided outside the service area represent only .018% of all charters provided during those months.

Page 21 "Because the grantees did not have agreements specifying the charter revenues would exceed charter costs, UMTA had no assurance that the grantees were not using federal funds to compete with private operators unfairly."

This statement is also not true for Fort Worth. We have provided that assurance to UMTA and showed your inspectors our annual charter cost allocation computation that identifies all charter costs plus imputed depreciation, taxes and profit. These are used to set a rate that exceeds costs. In addition, our public hearings include charter bus notifications so that UMTA can be assured that our revenues exceed our costs. Our charter rates are approved annually by the local policy body based on this cost allocation and profit plan. This report to the policy body includes an annual comparison of our charter rates to all the known private and public carriers in the Metroplex, to insure that we do not have an unfair competitive advantage. This process is obviously working since no charter complaint has ever been filed against CITRAN by any private charter operator.

Thank you again for giving us the opportunity to correct the errors found in your report. If I can provide any further information or assistance, please let me know.

Yours truly,

John P. Bartosiewicz
John P. Bartosiewicz
General Manager

JPB/bk

[GAO note: Page reference in this appendix which referred to the draft report was changed to reflect its location in this final report. On the basis of our discussions with UMTA, the statement regarding charter bus regulation is correct as stated in the draft report. On the basis of additional information provided by UMTA, this example was deleted from the final report. Fort Worth's attached chart is not included.]

Regional Transportation District

Chester E. Colby
General Manager



November 7, 1984

1600 Blake Street
Denver, Colorado 80202
303/628 9000

Mr. Oliver W. Krueger
Associate Director
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Krueger:

The purpose of this letter is to provide comments on your proposed report, UMTA Needs Better Assurance That Grantees Comply With Selected Federal Requirements, of which a draft was received by our office on November 5, 1984. Sections of this report that made reference to the Regional Transportation District (RTD) were the Procurement System Reviews on page 16 and Charter Bus Regulations on pages 21 and 22. Copies of these pages are attached to this letter with the sections to be addressed highlighted.

The problems that were identified by UMTA with RTD's procurement system have since been corrected. We have subsequently received UMTA certification of RTD's third-party contracting procedures this summer.

Also, this summer, RTD has revised the charter rate structure, with UMTA concurrence on methodology, whereby the requirement that charter revenues equal or exceed charter operating cost has been satisfied.

I hope these comments can be incorporated in the above draft report in order to ensure that the information about our organization is both complete and current.

Sincerely,

A handwritten signature in black ink, appearing to read "Colby".

Chester E. Colby
General Manager

/mh

Attachment

[GAO note: Page reference in this appendix which referred to the draft report was changed to reflect its location in this final report. On the basis of additional information provided by UMTA, the information about Denver's charter operations was deleted from the final report. Denver's comment on procurement was incorporated in the final report.]

An Equal Opportunity/Affirmative Action Employer



November 16, 1984

Mr. Oliver W. Krueger
Associate Director
United States General Accounting Office
Washington, DC 20648

Dear Mr. Krueger:

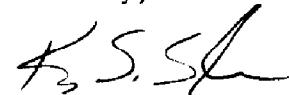
Thank you for the opportunity to review and comment on the report, "UMTA Needs Better Assurance that Grantees Comply with Selected Federal Requirements." After reviewing the document, we feel that it is factually correct, and I would like to take this opportunity to update your office on where we stand related to some of the issues that pertain to Des Moines.

The Des Moines MTA does provide exclusive school bus service for a parochial high school. Although we meet the conditions that permit this type of operation, we have not formalized the agreement needed to satisfy the regulations. We are presently in the process of working with UMTA Region VII to formalize this agreement.

We are also aware that grantees are not permitted to use UMTA-funded buses to provide school service. At our regional office's direction, we are presently working toward a solution to this issue.

Again, thank you for the opportunity to review and comment on the above-mentioned document.

Sincerely,


K. Stephen Spade
General Manager

JS:MI:82

cc: UMTA, Region VII

[GAO note: Des Moines' comments were added to the final report.]

1100 MTA LANE

METROPOLITAN TRANSIT AUTHORITY
■ DES MOINES, IA 50309 ■

(515)283-8111



2105 N.E. JEFFERSON AVENUE
PEORIA, ILLINOIS 61603-3587 (309) 676-4040

November 19, 1984

James M. Blume
U.S. General Accounting Office
441 G. Street, N.W.
Room 4903
Washington, D.C. 20548

Dear Mr. Blume:

Regarding the enclosed report, the Greater Peoria Mass Transit District has no comments on the contents.

If you have any help in the future, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay A. Banasiak".

Jay A. Banasiak,
Assistant Manager

Enclosures (1)

JAB/az

GREATER PEORIA MASS TRANSIT DISTRICT

Indianapolis Public Transportation Corporation
P. O. Box 2383, Indianapolis, IN 46206
Telephone (317)635-2100

November 29, 1984

Oliver W. Krueger, Associate Director
 United States General Accounting Office
 Resources, Community, and Economic
 Development Division
 Washington, DC 20548



J. H. ARMINGTON
 General Manager

Dear Mr. Krueger:

The Indianapolis Public Transportation Corporation appreciates the opportunity to review and respond to the draft report entitled "UMTA Needs Better Assurance That Grantees Comply With Selected Federal Requirements". We have carefully reviewed the draft report and would like to offer the following comments.

Of particular concern to the IPTC is the statement on page 22 of the draft report which states that "Indianapolis -- operated exclusive school bus service without the required agreement with UMTA and improperly used UMTA funded buses for these purposes." The IPTC believes that this service is in actuality a subscription-type service and falls under the description of school tripper service which is permitted under 49 CFR Part 605.

The IPTC does have a contract with the school board for the Indianapolis Public Schools to supplement regular route service, with additional buses to transport school children. However, the service provided by these supplemental buses is open to the public. Cash fares and IPTC monthly passes are accepted on these routes. The terms of the contract provide for the school board to pay the costs of the service in excess of the fares received from the school children and the general public utilizing the service. Thus, the service is in fact a subscription route guaranty service and not a charter-type service.

The service is modified to accommodate the needs of school students which is allowed under the regulations. The buses used do not carry designations such as "school bus" or "school special". Time tables for this service have been printed which identifies them as part of the IPTC's regular route service and certainly not as exclusive school bus service.

APPENDIX XII

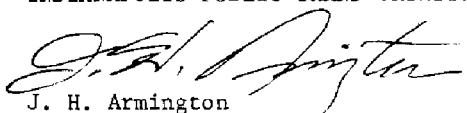
APPENDIX XII

Oliver W. Krueger
Page Two
November 29, 1984

We believe that we are properly interpreting and implementing the requirements of 49 CFR Part 605. We are curious to learn how this apparent misunderstanding of our school tripper service came about and desire a meeting with appropriate UMTA personnel to quickly resolve the issue to everyone's satisfaction.

Sincerely,

INDIANAPOLIS PUBLIC TRANSPORTATION CORPORATION



J. H. Armington
General Manager

JHA:jrc

[GAO note: On the basis of additional information provided by Indianapolis, this example has been deleted from the final report.]

APPENDIX XIII

APPENDIX XIII

Office of the
General Manager

marta.

2200 Peachtree Summit
401 West Peachtree Street NE
Atlanta Georgia 30365

November 12, 1984

Mr. Oliver W. Krueger
Associate Director
United States General Accounting Office
Resources, Community, and Economic
Development Division
Washington, D. C. 20548

Dear Mr. Krueger:

We have reviewed the draft report UMTA Needs Better Assurance
That Grantees Comply With Selected Federal Requirements enclosed
with your letter of October 30, 1984.

The Authority has no comments to offer at this time.

Sincerely,

Kenneth M. Gregor
Kenneth M. Gregor
General Manager

KMG:GKL:JJ

Metropolitan Atlanta Rapid Transit Authority



M E T R O P O L I T A N T R A N S I T C O M M I S S I O N
560-6th Avenue North, Minneapolis, Minnesota 55411-4398 612/349-7400

November 20, 1984

Mr Oliver W Krueger
Associate Director
United States General Accounting Office
Washington DC 20548

Dear Mr Krueger:

The Metropolitan Transit Commission has received your letter of October 30, 1984 with respect to the draft report entitled, UMTA Needs Better Assurance That Grantees Comply With Selected Federal Requirements.

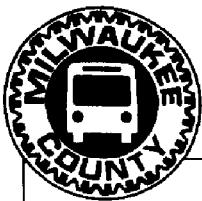
Please be advised that we have reviewed the contents of this draft report and have no major comments with regard to the information contained therein.

Thank you for the opportunity to respond to your draft report.

Sincerely,

Louis B Olsen
Chief Administrator
and General Manager

LBO:jw



Milwaukee County Transit System

4212 WEST HIGHLAND BLVD., MILWAUKEE, WISCONSIN 53208
414 344-4550

November 7, 1984

Mr. Oliver W. Krueger
Associate Director
Resources, Community, and
Economic Development Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Krueger:

We appreciate the opportunity to review and comment on your proposed report, UMTA Needs Better Assurance That Grantees Comply With Selected Federal Requirements. With respect to the comments on Page 21 relative to charter bus regulations, we would like to offer the following clarifying information.

In May, 1977, the Milwaukee County Transit System obtained an agreement pursuant to Section 3(f) of the UMTAct. Subsequently, we have annually filed an update of our charter rates, rules, and regulations with the Region V office of UMTA. This filing was after sending the information to all area competitors and allowing each a 30 day period in which to respond. We received no further comment from UMTA and, therefore, concluded that we were in compliance with the regulations.

We trust that the foregoing explanation demonstrates an attempt by Milwaukee to comply with the regulations as we understood them. We will immediately undertake a review of the requirements and will make every effort to comply with the provisions of the UMTAct.

Thank you again for the opportunity to comment on the proposed draft report.

Very truly yours,

Galen C. Larson
Managing Director

GCL/jf

[GAO note: On the basis of additional information provided by grantee and UMTA, this example was deleted from the final report.]

MILWAUKEE TRANSPORT SERVICES, INC. OPERATOR



November 15, 1984

Mr. Oliver W. Krueger
Associate Director
Resources, Community and
Economic Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Krueger:

The following are the comments of the New Jersey Transit Corporation (NJ TRANSIT) on the draft GAO Report "UMTA Needs Better Assurance that Grantees Comply with Selected Federal Requirements."

General

NJ TRANSIT has welcomed UMTA's expanded use of grantee certifications. It reduces our paperwork processing requirements and expedites the approval of grant awards and third party contracts. However, we recognize that certifying compliance with various regulations places the burden on us as a corporation to assure that we do indeed comply. We take this responsibility seriously. Our own internal audit staff continually reviews procurement and other functional areas to determine compliance and whether corrective action is required. Follow-up activity assures that required corrective actions are indeed accomplished.

GAO Citations

1. Problems in grant construction contracts administered by New Jersey (p. 12).

We are confident that the better documentation of procurement process requirements in our new procedures, together with additional procurement training for our staff, will result in minimal problems of this nature.

2. Third party complaints or protests (p. 13)

Our new procurement procedures, which contractors may request copies of, clearly state the regulations we must follow and the

McCarter Highway & Market St., P.O. Box 10009, Newark, N.J. 07101 (201) 648-7300

APPENDIX XVI

APPENDIX XVI

procedures for filing a bid protest (including where to complain).

3. Complaints from private operators regarding New Jersey's charter operations (p. 14)

Steps have been taken to assure that if it is necessary to use an UMTA-funded bus for charter purposes, that NJ TRANSIT Bus Operations complies with the charter regulations.

4. Noncompliance with UMTA's procurement requirements (p. 18)

NJ TRANSIT is currently finalizing new procurement procedures. These procedures reflect that any contract proposed to be awarded to other than the apparent low bidder will need UMTA approval.

If you have any questions, please contact me at (201) 648-7415.

Sincerely,

Patricia M. Collett
for Sarah J. Siwek
Assistant Executive Director
for Capital Program Control

Copies to: Alan Dustin
George Heinle
Billy Threadgill
Madaline Evans

[GAO note: Page references in this appendix which referred to the draft report were changed to reflect their location in this final report. New Jersey's comments were incorporated in the final report.]



November 20, 1984

Mr. Oliver W. Krueger
Associate Director
Resources, Community and
Economic Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Re: GAO Report "UMTA Needs Better Assurance..."

Dear Mr. Krueger:

An additional comment with respect to complaints by private carriers concerning our charter operations. NJ TRANSIT Bus Operations, Inc. informs me that their own investigation into any alleged complaints have always proved the complaints unfounded. Furthermore, the steps to assure compliance where necessary merely follow NJ TRANSIT Bus Operations controls that have always been in place.

Sincerely,

Sarah J. Siwek
for
Sarah J. Siwek

Copies to: George Heinle
Madaline Evans

[GAO note: These comments refer to New Jersey's November 15, 1984, letter to GAO.]

McCarter Highway & Market St., P.O. Box 10009, Newark, N.J. 07101 (201) 648-7300



ROCKFORD MASS TRANSIT DISTRICT

November 19, 1984

P-84-0204

Mr. Oliver W. Krueger, Associate Director
United States General Accounting Office
Resources, Community and Economic Development Div.
Washington, DC 20548

RE: Comments on GAO Draft Report
"UMTA Needs Better Assurance That Grantees
Comply with Selected Federal Requirements"

Dear Mr. Krueger:

Thank you for the opportunity to comment on the above referenced report.

Our comments to the specific portions of the report which refer to RMTD policies and procedures can be categorized into three areas: Attachment P Audit, Procurement Requirements, and Tripper Bus Service.

ATTACHMENT P AUDIT:

On page 13 of your report, it states: "Three of the 20 systems that we examined Rockford, .. had not complied with the requirement to have an Attachment P audit at least every 2 years...."

Please be advised that the RMTD has not ignored the need to meet this requirement. It is our understanding that the City of Rockford is responsible for conducting this audit. We have attached a copy of a memorandum from the RMTD to the City of Rockford asking for confirmation of this fact. We will keep you advised of progress in this area.

TRIPPER BUS SERVICE:

On page 17 of your report it states: "Rockford operated seven morning and eight afternoon school bus routes.... We also identified 3 systems operating school tripper services that did not comply with the restrictions intended to ensure that such service is available to the general public. Rockford operated seven morning and eight afternoon school bus routes. The routes were not published, students were picked up on school property at unmarked locations that were not regular bus stops, and the buses had designation signs such as "Jefferson High School" and "Special."

We're going places for you!

625 South Central Avenue • Rockford, Illinois 61102-2094 • (815) 987-5760

Mr. Krueger, GAO
November 19, 1984

Page -2-

Please be advised that the RMTD does operate tripper bus service in accordance with 49 CFR 605. This is not an exclusive bus service for students as anybody can ride these buses. These trips are not on the published route/schedule guide placed on the line routes because the requirements for this service is generally based upon enrollment information from the Rockford School Board received by us several weeks before school starts.

Although the times of tripper service is not on the published route/schedule guide, this information is disbursed to all high, middle and secondary public schools as well as the parochial schools in the Rockford area.

Any individual may ride any of these tripper buses, and may obtain any information desired on service times by merely calling the RMTD offices and speaking to one of our route information specialists. In most all cases, these trips are over system service routes and merely augment scheduled service to avoid overcrowding or provide adequate service.

The added service that the RMTD provides makes it possible for all passengers on the system routes to benefit from uninterrupted assured service. The tripper routes do not in any way compete with any private school bus service in the Rockford area. The Rockford School District is the owner and operator of the regular school bus service in Rockford. The Rockford school board does not contract with a private carrier for its regular school bus service, as is often the case in many municipalities. Therefore, we believe the full intent of 49 CFR 605 has been met in the case of the Rockford Mass Transit District.

PROCUREMENT REQUIREMENTS:

On page pp. 17-18 of your report it states: "UMTA requires grantees to have written procurement policies and procedures, but Rockford had not developed them. Instead it was using obsolete UMTA instructions as a guide, which could result in the improper award of federally funded contracts."

The RMTD By-Laws contain our procurement policy. A copy is attached. Please also note that for all procurements funded by Federal and State funding contracts, the RMTD uses the applicable circulars issued by the Urban Mass Transportation Administration and Illinois Dept. of Transportation. In all cases where procurement contracts have been awarded to vendors and where these contracts were in turn funded by Federal and State Capital Grants, the RMTD has scrupulously followed the procurement guidelines of the Urban Mass Transportation Administration as well as those of the Illinois Dept. of Transportation.

All major capital procurement contracts administered by the RMTD over the past several years have been submitted to IDOT and UMTA for pre-bid and pre-award concurrence, although if the RMTD were to follow the letter of Circular 4220.1A it would not have to do so. We continue to follow this procedure because we fully agree with your contention that it is UMTA's responsibility

Mr. Krueger, GAO
November 19, 1984

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to notify all grantees of any change in procurement procedures. Our submission of all major capital procurement contracts to UMTA and IDOT for pre-bid and pre-award concurrence, we think, does ensure compliance with Federal and State procurement requirements.

If you have any questions concerning these comments or seek any clarification, please call Mr. John C. Pippin, Executive Director at (815) 987-5761.

Sincerely,



Mary P. Gorman,
Chairman, Board of Trustees
Rockford Mass Transit District

MPG/JCP/mlb

Enclosure

[GAO note: Page references in this appendix which referred to the draft report were changed to reflect their location in this final report. Rockford's attachments are not included. Rockford's comments were incorporated in the final report.]

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company in Chicago did not complain to UMTA because it was concerned that a complaint could affect its existing contracts with the city. A charter bus company in Minneapolis did not complain because it had complained to UMTA in 1974 about Twin Cities' charter rates, and UMTA had upheld the grantee. One private charter bus operator in San Francisco told us he had not filed a complaint with UMTA regarding San Francisco's charter operations. While he felt the competition was unfair, he did not file a complaint because he did not want to be known as a complainer.

UMTA Region 2 has two pending complaints from private operators regarding New Jersey's charter operations. New Jersey officials told us that the buses used for charter operations were not purchased or leased with UMTA funds and, therefore, they were not obligated to comply with the charter regulations. However, New Jersey's records showed that buses used on two charters were purchased with UMTA funds. One of these was a 4-day trip with one bus, and the other was a 2-bus trip of over 12 hours that took place during morning and evening peak periods. UMTA officials told us that in response to the complaints, it will examine New Jersey's charter operations to determine whether any UMTA-funded facilities, such as garages, are used to support New Jersey's charter activities, and whether any of the local funds used to purchase buses for charter operations are the matching funds for UMTA grants, which would make the buses part of the UMTA-funded fleet. That investigation had not begun as of September 5, 1984. New Jersey's comments on our draft report state that it has controls to assure that it complies with charter regulations if it uses an UMTA-funded bus for charter purposes.

UMTA has received two complaints from a private school bus operator about Seattle's school bus operations. Seattle has contracted with the Seattle School District to provide buses to transport students to and from schools since 1973, classifying the operation as tripper service. In 1983, Seattle dedicated 65 buses exclusively for this service, and each bus makes two morning and afternoon trips transporting students to and from schools. The buses make limited stops to and from the schools; the school district designates the bus routes, assigns students to the buses, designates student pick-up points, and pays for the transportation service. A private operator had complained in 1979 that Seattle was operating an exclusive school bus service because the buses carried school designations and did not use regular bus stops, and the runs were not shown on published schedules. An UMTA review in 1980 and an OIG review in 1981 agreed that Seattle was conducting prohibited school bus operations. Seattle subsequently removed the "school" designations, established regular bus stops at these locations, and published a schedule. When OIG reviewed Seattle's operations in 1983 as the result of another complaint by the private operator, it found Seattle to be in compliance with the UMTA regulations.

A private bus operator filed a complaint against Chicago in 1979, alleging that Chicago was engaging in school bus operations