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MASS TRANSIT GRANTS

Risk of Misspent and Ineffectively Used Funds in FTA's Chicago Region



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Economic Development Division**

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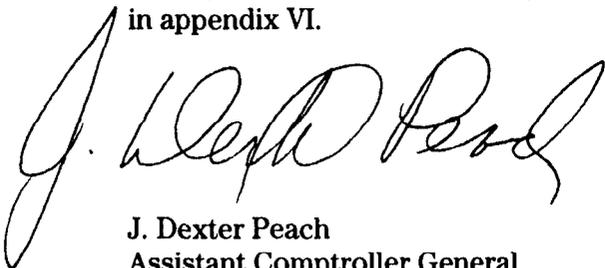
Congressional Recipients

In January 1990 GAO began a special audit effort to help ensure that areas vulnerable to fraud, waste, abuse, and mismanagement are identified and that appropriate corrective actions are taken. This effort focuses on 16 areas, 1 of which is the grants program administered by the Department of Transportation's Federal Transit Administration (FTA)—formerly named the Urban Mass Transportation Administration (UMTA).

This report presents the results of one of several assignments that we are conducting at FTA and examines (1) the compliance with federal regulations of selected grant recipients in FTA Region V, headquartered in Chicago, Illinois, and (2) the effectiveness of FTA's oversight of Region V grantees. Earlier we reported the results of our reviews of FTA Region II (Mass Transit Grants: Noncompliance and Misspent Funds by Two Grantees in UMTA's New York Region, GAO/RCED-92-38, Jan. 23, 1992), Region III (Mass Transit Grants: Scarce Federal Funds Misused in UMTA's Philadelphia Region, GAO/RCED-91-107, June 13, 1991), and Region IX (Mass Transit Grants: Improved Management Could Reduce Misuse of Funds in UMTA's Region IX, GAO/RCED-92-7, Nov. 15, 1991).

We are sending copies of this report to the Secretary of Transportation; the Administrator, Federal Transit Administration; and the Director, Office of Management and Budget. We will make copies available to others upon request.

This work was performed under the direction of Kenneth M. Mead, Director, Transportation Issues, who can be reached at (202) 275-1000. Other major contributors to this report are listed in appendix VI.



J. Dexter Peach
Assistant Comptroller General

List of Recipients

**The Honorable John Glenn
Chairman, Committee on Governmental Affairs
United States Senate**

**The Honorable Donald W. Riegle, Jr.
Chairman, Committee on Banking,
Housing, and Urban Affairs
United States Senate**

**The Honorable Alan Cranston
Chairman, Subcommittee on Housing and
Urban Affairs
Committee on Banking, Housing, and
Urban Affairs
United States Senate**

**The Honorable Barbara Boxer
Chair, Government Activities
and Transportation Subcommittee
Committee on Government Operations
House of Representatives**

**The Honorable Cardiss Collins
House of Representatives**

Executive Summary

Purpose

Financial losses in federally administered savings and loan and housing programs have raised questions about the adequacy of management and internal controls protecting federal programs. In response, GAO has implemented reviews of 16 federal programs—including the Urban Mass Transportation Administration, recently renamed the Federal Transit Administration (FTA)—to help ensure that areas vulnerable to fraud, waste, abuse, and mismanagement are identified and appropriate corrective actions taken. This report presents the results of one of several GAO reviews of FTA and examines (1) compliance with federal requirements by selected grantees, including the Chicago Transit Authority (CTA), in FTA Region V, headquartered in Chicago, Illinois, and (2) the effectiveness of FTA's oversight of Region V grantees.

Background

The Federal Transit Act of 1991 authorizes FTA to award transit grants and monitor grantees to ensure that federal requirements are met. In 10 regional offices, FTA oversees about \$34.5 billion in active grants to local transit authorities or state and local transit entities. Grant recipients certify that they have adequate management systems to comply with federal requirements and use federal funds appropriately. FTA has various oversight tools to monitor grantees' compliance, including performance evaluations at least once every 3 years (triennial reviews), quarterly progress and financial reports, single audits, and grant close-out reviews. FTA also uses contractors to oversee selected large construction projects. Region V administers over \$5 billion, or 15 percent, of FTA's total active grants; these grants have been awarded to 109 grantees in Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, West Virginia, and Wisconsin. About \$1.6 billion has been awarded to CTA, the region's largest grantee.

Results in Brief

Grantees' inadequate controls and the region's ineffective oversight have left Region V's grants vulnerable to fraud, waste, abuse, and mismanagement. GAO's analysis of reports by contractors, the Department of Transportation's (DOT) Office of Inspector General (OIG), and others disclosed numerous deficiencies in grantees' management systems, noncompliance with federal grant requirements, and the misuse and mismanagement of millions of grant dollars. For example, since fiscal year 1988, the OIG has recommended the recovery of almost \$41 million misspent by Region V grantees. At CTA, GAO found significant and long-standing deficiencies in capital program management, procurement, and inventory controls. Despite CTA's serious management problems, Region V has taken no action to stop the flow of new grants to CTA or

otherwise compel CTA to implement effective internal controls over its use of federal funds.

Region V's monitoring lacks the scope, depth, and timeliness to reasonably ensure the proper use of funds. Triennial reviews are superficial, and the region has not used quarterly reports and other oversight mechanisms effectively to detect and correct grantees' noncompliance. Regional officials acknowledge the limitations of their monitoring activities and are strengthening their oversight by hiring additional staff and using contractors for technical assistance on selected construction projects. However, the region does not coordinate its oversight activities with those of the state and local agencies that monitor transit funds, and it does not take advantage of information available from these agencies to augment its own oversight.

Principal Findings

Grantees' Inadequate Controls Result in Mismanaged and Misused Funds

Two of Region V's largest grantees—CTA and Metra, Chicago's suburban commuter train system—have had significant problems managing their capital improvement programs, procurement actions, and inventories. CTA had a massive backlog of unspent funds—\$800 million—in its capital improvement program in April 1990. Concerned about this situation, Illinois made state bond authority for mass transit in the Chicago area contingent on a substantial reduction in unspent funds. GAO's analysis of findings by contractors, the OIG, and others shows that management capabilities at other Region V grantees also may not be adequate to reasonably ensure the proper use of FTA funds.

Furthermore, OIG reports issued from fiscal year 1988 through September 1991 have identified \$58.2 million in grant funds wasted, misspent, or mismanaged by Region V grantees. These reports recommended recovering \$40.8 million from grantees for prohibited costs or misused federal property or funds. The OIG found, for example, that grantees violated laws prohibiting the use of federal funds to rebuild bus parts, charged questionable costs to FTA, and made unallowable expenditures for extended warranty and service agreements. Region V has recovered or is recovering over \$21 million and has agreed to alternative actions on over \$17 million of the misspent funds. (See ch. 2.)

Region V's Monitoring Does Not Ensure Grantees' Compliance

The region's primary monitoring tool—the triennial review—is limited in scope by FTA headquarters. Although GAO has repeatedly recommended that FTA expand the scope of triennial reviews to test and evaluate grantees' compliance with federal requirements, FTA continues to administer the reviews narrowly. As a result, a 1989 triennial review did not recognize the magnitude and severity of CTA's management weaknesses or detect the \$12.6 million in bus parts that CTA had procured but not included in its inventory system. GAO found that 65 percent of Region V's triennial reviews for 1989 and 1990 were not completed on time and that the reviews did not demonstrate whether grantees had corrected previously identified deficiencies. Regional officials agreed that they should test and verify more information during triennial reviews but noted that staff reductions—from 28 in the early 1980s to 18 in 1991—had precluded their doing so. The region expects to increase its staff to 23 by 1993 and has hired contractors to oversee selected projects at five grantees.

In addition, because single audits were not grant-specific, they were not always adequate to disclose grantees' noncompliance or management weaknesses. Yet the region relied primarily on these audits to verify the appropriateness of costs for closing completed grants. Furthermore, the region used other monitoring tools—quarterly reports, procurement system reviews, and site visits—so seldom that they were not effective for oversight. For example, although Region V has identified deficiencies in grantees' procurement systems as a regionwide vulnerability, it has conducted only two limited procurement system reviews. (See ch. 3.)

Better Coordination With States Could Augment Region V's Oversight

Region V has not taken advantage of state and local agencies' monitoring of grantees to compensate for its own shortages in staff and specialized expertise. State and local agencies provide substantial funds to Region V grantees and share FTA's interest in ensuring that funds are properly spent. For example, FTA, the state, and the Regional Transit Authority have provided \$1.6 billion, almost \$300 million, and almost \$140 million, respectively, to CTA. The state and regional authorities exercise similar—and at times more comprehensive—monitoring than FTA. For example, the state reviews all contracts over \$10,000, whereas FTA reviews only noncompetitive contracts over \$1 million.

However, the region has not coordinated its oversight activities with those of state and local organizations, and no mechanism exists for Region V to receive grantees' own management studies, which could help focus the

region's monitoring activities and ensure that grantees correct identified problems. In at least one instance, a contractor hired by CTA identified significant management problems, but Region V did not receive this information. (See ch. 3.)

Recommendations

GAO recommends that the Administrator, FTA, improve Region V's grant oversight and better safeguard federal transit funds by (1) ensuring that grantees have adequate management control systems; (2) strengthening triennial reviews to evaluate, analyze, and test compliance with federal requirements; (3) using quarterly progress and financial reports to identify cost, schedule, and performance problems; (4) implementing procedures to coordinate federal with state and local monitoring activities; and (5) reassessing the region's practice of relying primarily on single audits for grant close-outs.

Agency and Transit Authority Comments

According to DOT, oversight in FTA's Region V is generally adequate to identify problems and generate corrective actions, and FTA's enforcement efforts in the region are appropriate. GAO disagrees. Evidence shows that significant management problems at CTA and Metra—the region's first- and third-largest grantees—have gone uncorrected for up to a decade. In GAO's judgment, such oversight and enforcement cannot be construed as adequate or appropriate. In fact, for the last 3 years, DOT has cited FTA's oversight as materially weak. DOT also states that FTA already has policies coinciding with most of GAO's recommendations. Although such policies may exist on paper, Region V is not implementing them, and until FTA adopts a more proactive approach to grant management—consistent with the thrust of GAO's recommendations—scarce federal transit funds will remain vulnerable to fraud, waste, abuse, and mismanagement. Detailed discussions of DOT's comments on GAO's recommendations appear at the end of chapters 2 and 3, and DOT's written comments and GAO's responses are included as appendix IV.

CTA stated that a draft of this report contained misleading and incomplete information and did not sufficiently credit CTA for corrective actions taken. GAO believes that both the draft and this report fairly present CTA's history of serious unresolved management problems, unsuccessful past corrective efforts, and current efforts to correct problems. However, it is too early to assess the effectiveness of CTA's current efforts. Certain factual data that CTA provided have been incorporated in this report where appropriate. CTA's written comments and GAO's responses are included as appendix V.

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Table

Abbreviations

CTA	Chicago Transit Authority
DOT	Department of Transportation
FBI	Federal Bureau of Investigation
FMFLA	Federal Managers' Financial Integrity Act
FTA	Federal Transit Administration
GAO	General Accounting Office
OIG	Office of Inspector General
OMB	Office of Management and Budget
PMO	project management oversight
SEPTA	Southeastern Pennsylvania Transportation Authority
UMTA	Urban Mass Transportation Administration

Introduction

The Federal Transit Administration (FTA)—known until recently as the Urban Mass Transportation Administration (UMTA)—has provided about \$3 billion annually in grants to local governments and transit authorities—the grantees—for planning, constructing, and operating the nation's public transportation systems. Since its inception in 1964, FTA has provided over \$67 billion in transit grants and currently administers over 4,000 active grants totaling nearly \$35 billion through its 10 regional offices. FTA Region V, headquartered in Chicago, Illinois, is responsible for administering over 700 grants totaling \$5 billion (or about 14 percent of FTA's grant activity). The grants have been awarded to 107 recipients in eight states: Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, West Virginia, and Wisconsin. Because grantees do not always spend their funds in a single year, the \$5-billion figure represents the total value of open grants that have been made over many years. Table 1.1 provides further details on the grants managed by Region V.

Table 1.1: Grants Managed By Region V

Dollars in millions				
State	Number of grantees	Number of grants	Value of grants	Undisbursed balance
Illinois	20	217	\$3,481.3	\$1,060.3
Indiana	19	108	258.2	37.5
Kentucky	2	6	5.8	2.2
Michigan	18	103	284.7	75.1
Minnesota	8	55	199.0	22.1
Ohio	22	152	822.0	174.5
West Virginia	1	3	0.4	0.1
Wisconsin	19	80	209.0	55.1
Total	109	724	\$5,260.4	\$1,426.9

Source: FTA's Grant Management Information System, September 1991.

Of the 109 grantees in Region V, 13 have outstanding grants totaling more than \$50 million each. Collectively, the 13 grantees account for about 90 percent of both the total grant amount and the undisbursed balance. The four largest grantees—the Chicago Transit Authority (CTA); the city of Chicago; Metra, the Chicago suburban commuter rail authority; and the Greater Cleveland Regional Transit Authority—account for about 70 percent of total active grants and about 75 percent of total undisbursed funds. CTA is the region's largest grantee in terms of total grant receipts

and undisbursed balance—\$1.6 billion and \$525 million, respectively—as of September 30, 1991.

FTA Has Delegated Increasing Responsibility to Grantees

FTA's policy in recent years has been to transfer significant management responsibilities to grantees. FTA requires grantees to certify that they have or will have the technical capacity to carry out their proposed projects. Grantees also certify, among other things, that they will comply with federal procurement and civil rights requirements, provide special transit fares for elderly and handicapped transit users, provide for public comment on fare changes, and comply with laws that limit lobbying by grant recipients and their contractors. (See app. I for further details on grantee certifications and assurances.) Although grantees certify themselves, FTA is responsible for verifying that the grantees accurately describe their capabilities and comply with the various requirements.

FTA has a number of mechanisms to carry out its oversight responsibilities. These include quarterly progress and financial reports, annual financial audits conducted by public accounting firms, Department of Transportation (DOT) Office of Inspector General (OIG) audits, and important management reviews—called triennial reviews—generally conducted at each grantee every 3 years. Since 1987, FTA has had authority to hire contractors to monitor large construction projects, and in November 1989 it received authority to expand its use of contractors to oversee financial, procurement, and management reviews.

In recent years grantee capacity to manage federal funds has become more important for several reasons. First, FTA has delegated more management autonomy to grantees. For example, in 1988 FTA transferred significant contract authority to grantees that had certified their ability to implement federal procurement requirements. Before that time, FTA had required grantees to submit many proposed contracts for review and concurrence. Second, federal requirements have increased in number and complexity. For example, the Clean Air Act Amendments of 1990 and the Americans With Disabilities Act of 1990 impose new federal standards for pollution emission and wheelchair access that affect the way local transit agencies must operate. To receive funds, grantees must certify that they understand and will comply with these laws. Finally, regional staff reductions may preclude the same level of direct monitoring as in the past. For example, in 1981 Region V had 28 staff, including specialists in such areas as project planning. Currently, the region has 18 staff to manage a greater workload.

As a result, the region must rely on grantee internal management capabilities more than at any time in the past.

State and Local Agencies Monitor Grantees' Activities

FTA may provide up to 80 percent of transit project funding; the remainder comes from other sources, including state and local agencies. As a result, other entities that help finance transit systems have a direct interest in grantee activities and may impose requirements similar to those imposed by FTA. For instance, in Region V the Illinois Department of Transportation and the Regional Transportation Authority require grantees to submit a list of proposed projects for inclusion in planning documents. They also require quarterly progress reports and a review of grantee contracts—activities that have federal counterparts.

FTA's Grant Oversight Is Materially Weak

On the basis of our and the OIG's prior work at FTA, DOT identified FTA's oversight of grantees as a material internal control weakness in its 1989, 1990, and 1991 reports to the President and the Congress, which were required by the Federal Managers' Financial Integrity Act of 1982, as amended. (App. II summarizes our earlier FTA reports.) DOT cited FTA's ever-growing workload and shrinking staff as causes of the oversight problems. According to DOT, FTA had a 27-percent reduction in staff over the 9 years ending in fiscal year 1990. DOT's 1990 report identified an action plan to improve the situation and noted that additional resources would be needed in fiscal years 1991 and 1992 to correct the weakness. The 1991 report extended the targeted date for correcting the deficiency by 2 years to 1994 to allow time to (1) seek approval for additional staff by DOT, the Office of Management and Budget, and the Congress and (2) hire, train, and place the additional personnel.

FTA received authority to expand its use of contractors to provide oversight and in fiscal year 1991 received approval to hire 14 additional staff. FTA requested 31 additional staff for fiscal year 1992. Region V expects to receive authority to increase its staff from 18 to 21 in 1992 and to 23 in 1993. In addition, the region is using contractors to provide technical oversight at selected projects at five grantees and to perform about 26 percent of its triennial reviews.

Objectives, Scope, and Methodology

In January 1990 we implemented a special audit effort to help ensure that areas vulnerable to fraud, waste, abuse, and mismanagement are identified and that appropriate corrective actions are taken. This effort focuses on 16

areas, 1 of which is FTA grants. This report presents the results of one of several assignments we are conducting at FTA and examines (1) compliance with federal requirements by selected grant recipients in Region V and (2) the effectiveness of FTA's oversight of Region V grantees. Earlier we reported the results of our reviews of FTA Regions II, III, and IX (Mass Transit Grants: Noncompliance and Misspent Funds by Two Grantees in UMTA's New York Region, GAO/RCED-92-38, Jan. 23, 1992; Mass Transit Grants: Scarce Federal Funds Misused in UMTA's Philadelphia Region, GAO/RCED-91-107, June 13, 1991; and Mass Transit Grants: Improved Management Could Reduce Misuse of Funds in UMTA's Region IX, GAO/RCED-92-7, Nov. 15, 1991).¹

To address our objectives, we reviewed the Federal Transit Act of 1991 (formerly named the Urban Mass Transportation Act of 1964, as amended), as well as numerous FTA orders, circulars, and notices. We also interviewed Region V officials responsible for grant approval, program management, and financial management to gain an understanding of FTA's organization and activities in the region.

We obtained audit reports on grantees in the region, including single audits performed by independent accounting firms, as required by the Single Audit Act of 1984, for six grantees, and 14 OIG reports issued between October 1987 and September 1991. We reviewed these reports to identify major findings and recommendations and to determine whether findings were resolved in a satisfactory and timely manner. In addition, we reviewed FTA's collection and enforcement actions on OIG reports on Region V grantees and discussed the findings and actual recoveries with the OIG.

It was not our purpose to assess the methodology used in single audits or OIG reports. Rather, we used the audits and reports to identify weaknesses in grantees' internal controls and FTA's oversight. Our work focused on actions taken by FTA to ensure grantees' compliance and corrective actions. Although we did not conduct an in-depth review of the OIG's methodology or independently verify its findings, the OIG implemented our 1987 recommendations to improve the conduct of audits and received a

¹UMTA—now FTA—Region II is headquartered in New York, New York; Region III in Philadelphia, Pennsylvania; and Region IX in San Francisco, California.

satisfactory peer review in 1990.² We concluded that it was acceptable to use the OIG's information without further verification for the purpose of this review.

We also contacted other agencies interested in Region V mass transit activities to determine whether they had detected grant management problems. These agencies were the Illinois Department of Transportation, Illinois Auditor General, Regional Transportation Authority Auditor General, and Chicago Area Transportation Study (the authority in charge of transportation planning in the area).

We obtained and reviewed a variety of Region V files. For instance, we judgmentally sampled triennial review files for six grantees to test for and confirm trends and information provided by Region V officials.³ We identified single audits associated with the same grantees to compare them with triennial reviews and OIG audits. Because FTA uses contractors to assist in monitoring grantees' activities, we also obtained and reviewed several contractor reports.

At CTA, the largest grantee in Region V with about \$1.6 billion in active grants, we interviewed officials and obtained relevant documentation to help evaluate CTA's capital program and management, procurement, and inventory processes. We also received communications from private citizens alleging a variety of questionable practices at CTA and used these communications to focus our inquiries and review. We discussed ongoing and recently closed criminal investigations involving Region V grant recipients with the Federal Bureau of Investigation (FBI) and the Regional Transportation Authority Office of Inspector General. Although these agencies could not provide documentation of all of their efforts because they have not yet completed their investigations, they did offer general observations that helped us identify potential problems.

We obtained comments from DOT and CTA on a draft of this report and incorporated these comments in the report where appropriate. In addition, the full texts of DOT's and CTA's comments together with our responses

²Inspectors General: Compliance With Professional Standards by the Transportation Inspector General (GAO/APMD-87-28, Aug. 10, 1987) and a May 29, 1990, memorandum—Report on the External Quality Review of the Department of Transportation's Office of Inspector General's Audit Organization—conveying the results of a peer review conducted by the Office of the Inspector General, U.S. Department of Housing and Urban Development.

³The Capital Area Transportation Authority, Lansing, Michigan; Duluth Transit Authority, Duluth, Minnesota; Greater Cleveland Regional Transit Authority, Cleveland, Ohio; Kalamazoo Metro Transit, Kalamazoo, Michigan; Metropolitan Transit Commission, Minneapolis, Minnesota; Rockford Mass Transit District, Rockford, Illinois.

Chapter 1
Introduction

appear in appendixes IV and V, respectively. We conducted our work from July 1990 through November 1991 in accordance with generally accepted government auditing standards.

Inadequate Grantee Controls Result in Misspent Funds

Recent FTA contractor findings, OIG reports, and other sources provide considerable evidence that Region V grantees do not exercise, or have, the management capability to reasonably ensure that funds are used in compliance with federal requirements. Two of the region's largest grantees—CTA and Metra—have significant and long-standing management weaknesses, including ineffective controls over capital projects, inefficient and uneconomical procurement processes, and insufficient control over inventories, which have rendered federal funds vulnerable to fraud, waste, and mismanagement. CTA, for example, did not track 20 percent of the \$63-million bus and railcar parts inventory in its property management system. In addition, CTA had an excessive unspent balance—\$800 million at one point—in its capital improvement program, in part because its procurement system was so cumbersome that contracts could not be processed to put that money to work.

OIG reports since the beginning of fiscal year 1988 disclosed instances of noncompliance in Region V, including grantees' charging ineligible overhead costs to FTA grants or failing to reimburse FTA for the value of federally funded property that was prematurely taken out of service. In these reports the OIG identified over \$58 million that had been wasted, misspent, or mismanaged by Region V grantees and recommended recovery of nearly \$41 million. The region has recovered over \$6 million, initiated actions to recover another \$15 million, and taken alternative corrective actions for about \$17 million.¹

Contractors Disclose Significant Management Weaknesses at Major Grantees

Region V uses project management oversight (PMO) contractors to monitor selected large construction projects at five major grantees, including CTA and Metra. PMO reports for CTA and Metra disclosed serious and long-standing management deficiencies and raised questions about the two transit authorities' abilities to manage their substantial federal funds.

Capital Project Management Problems at CTA

In February 1990, FTA's PMO contractor started to assess CTA's ability to manage specific projects. As of April 1990, CTA had an unspent balance of \$800 million in its capital improvement program. In April 1991 the contractor reported that "many years of entrenched bureaucracy and lack of clearly defined policies and procedures [at CTA] for managing" CTA's

¹According to OIG officials, alternative corrective actions will vary, depending on the nature of the OIG's findings. For example, when the OIG recommended recovery of about \$20 million from a transit authority for bus purchases that exceeded FTA guidelines, FTA proposed, and the OIG agreed, to reduce the transit authority's future bus grants as an alternative action.

capital improvement program had resulted in a massive backlog of funds. According to the contractor, CTA's time-consuming, inefficient contracting process had prevented CTA from spending these funds, which, in turn, had delayed transit projects while inflation increased their costs. The PMO contractor also found that CTA's process for hiring project design consultants was complex and not based on qualifications relevant to the specific work to be performed. Furthermore, the contractor found that because CTA was unable to award competitively bid construction contracts within the required time, it often had to repeat the entire contract solicitation, selection, and award process.

CTA initiated efforts to resolve these problems in July 1990 when its newly hired executive director formulated a reorganization plan. Three months later CTA drafted a capital program management plan that generally confirmed the contractor's reservations about CTA's capital improvement program. The draft stated that CTA's implementation of projects had not kept pace either with capital improvement needs or with the receipt of new grant funds. According to the draft plan, which had not been completed at the time of our review, CTA must improve its procurement process, plan programs and projects more efficiently, and better define the roles and responsibilities of key personnel involved in project implementation.

An August 1990 internal CTA memorandum supporting the draft reorganization plan also identified deficiencies that inhibited prompt implementation of funded projects, including deficiencies in

- **planning:** lengthy implementation, unavailability of resources to fix poorly planned projects, lack of prioritization and program guidance, and inability to respond to emergencies without disrupting the program;
- **project management:** lack of a good reporting system, inadequate management and salary structure, and late and unreliable financial reports; and
- **procurement:** inadequate purchasing procedures and failure to meet procurement schedules.

PMO reports from July through December 1990 were optimistic about CTA's approach to improve its capital program. The reports cautioned, however, that adequate time would be needed to evaluate the program. In April 1991 the contractor reported that the reorganization plan had essentially been put into effect. CTA had begun efforts to award contracts on several large projects and had approved a 25-percent pay raise for its managers.

In a November 26, 1991, letter commenting on a draft of this report, CTA stated that a large portion of the \$800-million capital improvement program backlog consisted of what it characterized as "contracts in process." CTA stated that it had made extensive efforts over the past 18 months to streamline and improve management of its capital program. According to CTA, it had reduced unobligated federal grants to less than \$200 million.

PMO Identifies Capital Project Management Weaknesses at Metra

Region V started using a PMO contractor at Metra in February 1989. The contractor soon discovered that Metra did not have adequate systems to control construction costs on major capital projects. The contractor described Metra's capital project management as loosely structured; lacking in documented policies, procedures, and delegations of authority concerning project management; and inadequately attentive to controlling project costs.

The PMO contractor recommended that Metra develop a project management plan with a detailed strategy for controlling the project budget, schedule, and quality. The Federal Transit Act of 1991 requires grantees to develop and maintain project management plans as a condition for receiving FTA financial assistance on major capital projects. The contractor also recommended that Metra take the following steps:

- Prepare and implement a quality assurance/quality control plan for all projects and all phases of work from concept design through construction.
- Develop and administer a value engineering plan.²
- Formalize and consolidate a contract administration process for consultant and construction contracts.

Metra's actions on a passenger terminal rehabilitation and restoration project illustrate the effect of the authority's management deficiencies. The terminal, formerly known as the Chicago and Northwestern commuter trainshed, was constructed in 1910 and occupies an 8-acre, 2-1/2-square block area in downtown Chicago. It is a multipurpose facility that provides areas for commuter services, commercial and railroad employees' parking, business establishments, and railroad departments. Rehabilitation and restoration had been under consideration since at least 1980.

²Value engineering is the application of design review and cost control techniques that FTA encourages grantees to use on all construction projects and requires on new fixed guideway projects estimated to cost over \$150 million.

In July 1990 the PMO contractor reported that project costs had risen to an alarming level—from a 1985 estimate of \$47 million to \$161.5 million—and raised questions about whether the project, as currently planned, warranted federal funding as a cost-effective transportation project. The PMO contractor noted that it had sensed from the beginning of its review in February 1989 that the alarming cost growth would occur for the following reasons:

- No clear-cut decision-making authority existed because no single individual was responsible for both cost and schedule control and for ensuring a focused approach to the project design.
- The project's evolution from a rehabilitation to a restoration project would entail recreating the structure as it was designed in the early 1900s. Restoration, however, was not essential for the safe and efficient accommodation of transit service and passengers.
- Metra had made no concerted effort to take advantage of cost-saving opportunities in refining the design.

The PMO contractor concluded that the rehabilitation warranted FTA funds, but not the restoration. In its recommendation that FTA set a funding cap of \$115 million for the project, the contractor stated that Metra's lack of strong project management and control of costs during the design phase had resulted in FTA's being asked to fund a project whose costs appeared to exceed its projected benefits. This criticism prompted Metra to conduct an engineering evaluation to identify cost-effective design solutions for the project. The PMO contractor found that the new design would be considerably more cost-effective for transportation purposes than the original design.

A Region V official told us that Metra had subsequently received substantially lower bids to construct the redesigned project and was likely to award a contract for \$26 million less than the lowest bid Metra had received on the original design. Regional officials told us that the new design will result in a longer lasting, more cost-effective project. In its December 13, 1991, letter commenting on a draft of this report, DOT indicated that the low bid on the redesigned project was \$72.6 million.

CTA Has a History of Procurement and Inventory Control Problems

CTA's procurement activities have been plagued with problems since at least 1984, when a private investigative agency commissioned by CTA reported problems and abuses in CTA's dealings with one of its vendors. These problems included lack of controls over the receipt of repaired items, continual acceptance of shoddy work products, possible bid-rigging, collusion to rig bids by CTA employees, and possible substantial inventory shortages caused by theft. According to an FBI agent who investigated the allegations, CTA took no action to address the concerns disclosed in the report. Although the FBI believed that it had built a case against the vendor that was the subject of the investigation, the case could not be prosecuted because the statute of limitations had expired.

In May 1988, another CTA consultant reported a myriad of weaknesses in the procurement department's organization, authority, staffing, guidelines, policies, and procedures. Specifically, the report noted that CTA's procurement process took too long, unqualified vendors were used for some commodities because no program existed to screen and prequalify vendors, emergency procurements were increasing, procedures for small purchases were not adequate to prevent multiple recurring orders of identical items, and controls over large purchases were excessive and cumbersome. The consultant made numerous recommendations and was hired by CTA to manage day-to-day procurement and other functions.

In addition to these procurement problems, CTA officials told us that the authority's automated inventory tracking system did not include 20 percent of CTA's \$63-million inventory of maintenance parts for buses and railcars. The officials said that the untracked inventory was located at 20 satellite locations, including garages and terminals that maintain CTA's buses and trains. As a result, neither CTA nor Region V can determine whether federally funded inventory was actually received, used as intended, misplaced, lost, or stolen.

CTA's procurement weaknesses also create vulnerability to potentially illegal practices. According to an FBI agent, such practices have occurred at CTA, particularly in connection with bus and bus repair procurements. One case involving a CTA vendor is currently before the U.S. Attorney for prosecution. According to the FBI agent, it has been alleged that CTA officials knowingly gave bus repair contracts to an unqualified vendor, ignored procurement personnel recommendations not to award the contract, and falsified documents justifying the contract award.

A CTA official told us that CTA has taken several steps to improve its procurement practices. The steps include hiring a senior purchasing manager, reorganizing the procurement function and revising its policies, and upgrading purchasing, inventory, and accounts payable systems. CTA estimates that these initiatives will cost \$8.6 million to implement but save \$7.4 million annually. CTA attributes some of the anticipated savings to vendor performance monitoring that will eliminate returns of defective goods, improve clerical efficiency, introduce an automated system to track labor costs, and reduce costs for carrying misplaced, lost, and/or unaccounted for material. CTA was implementing these initiatives and adding the inventory at the 20 satellite locations to its tracking system at the time of this review.

Region V Has Not Compelled CTA to Correct Management Problems

Among its enforcement tools, FTA has the legislative authority to suspend or terminate payments when a grantee violates a grant agreement and to recover funds when a grantee's actions are deemed willful or unreasonable. Despite management deficiencies that leave federal transit grants to CTA vulnerable to fraud, waste, and abuse, Region V has not used its enforcement tools or withheld funding to compel CTA to correct these deficiencies.

Region V has maintained a laissez-faire attitude toward CTA's compliance with federal requirements and proper use of funds. For example, in the early 1980s the Defense Contract Audit Agency reported to FTA that CTA had used questionable overhead formulas from 1974 to 1979. Because Region V did not pursue the finding or require CTA to correct the deficiencies in its financial system, questioned costs continued to accumulate. In separate reports in 1989 and 1990, the OIG found that CTA was continuing to use the questionable cost allocation methods and warned that prohibited charges would continue to accumulate until CTA corrected the practice. CTA contends that its methods for allocating costs to FTA grants are appropriate and that FTA's failure to respond to CTA's original defense of the formulas nearly 10 years ago constituted tacit acceptance. The region agreed to a CTA request for a public accounting firm to review the formulas. The review is currently under way.

Also, FTA's Chief Counsel testified in August 1990 before the Subcommittee on Housing and Urban Affairs, Senate Committee on Banking, Housing, and Urban Affairs, that FTA uses quarterly progress review meetings—face-to-face discussions with its larger grantees—as an opportunity to draw out information that may not appear in written

quarterly progress reports. However, FTA officials have not met quarterly with CTA to discuss problems that have arisen and propose corrective actions.

In contrast, the state of Illinois, concerned over transit authorities' management of state transit funds, made its approval of bond authority for mass transit contingent upon CTA's and other Chicago area transit providers' meeting certain state requirements, including a requirement that unobligated program balances not exceed \$350 million. CTA told us that it had achieved its backlog goal in February 1991. Later that year, Illinois approved the release of bond authority for Chicago area transit.

OIG Recommends Recovery of Millions of FTA Grant Dollars

In 14 reports on Region V grantees, issued between October 1987 and September 1991, the OIG identified noncompliance and wasted, misspent, and mismanaged federal transit funds. The OIG found, among other things, that grantees had (1) violated federal legislation prohibiting the use of federal funds to rebuild bus parts, (2) made questionable cost allocations to FTA, (3) not reimbursed FTA for the remaining value of federally funded buses that were prematurely taken out of service, and (4) improperly used capital funds to purchase extended warranty and service agreements. In its reports, the OIG found that Region V grantees had wasted, misspent, or mismanaged \$58.2 million and recommended that the region recover \$40.8 million, including \$10.6 million from CTA for questionable costs charged to FTA grants. The region recovered about \$6.5 million, primarily from five grantees as compensation for the federal share of buses that were retired early, and directed the grantees to come into compliance on future grants. In addition, the region has initiated actions to recover about \$15 million and allowed grantees to take alternative corrective actions for about \$17.4 million. Appendix III lists OIG reports on Region V grantees.

Conclusions

Recent contractor disclosures, OIG audit reports, and other sources call into question whether Region V grantees exercise, or have, adequate management capability to provide reasonable assurance that grant funds are used in compliance with federal requirements. Long-standing management control weaknesses at two of the region's largest grantees and the region's limited efforts to enforce correction, as well as problems at several other grantees, raise questions about the adequacy of management systems at other Region V grantees and suggest the likelihood of fraud, waste, abuse, and mismanagement. Such questions will persist until action is taken to correct the deficiencies. To take such

action, Region V must have information on grantees' management controls and assess the extent, severity, and detrimental effects of any weaknesses identified.

Recommendation

To minimize the vulnerability of mass transit grants to waste, fraud, and mismanagement, we recommend that the Administrator, FTA, direct the Region V Manager to ensure that CTA, Metra, and other grantees with identified problems have management systems that adequately account for and protect federal funds before the grantees receive additional grants. To achieve this, FTA could itself verify the grantees' systems or require grantees to use independent firms to verify their systems.

Agency Comments and Our Evaluation

DOT noted that this recommendation is consistent with the statutory framework established in the Urban Mass Transportation Act of 1964, as amended (recently renamed the Federal Transit Act of 1991), and with FTA's plans for managing and overseeing programs. However, as the significant and long-standing management deficiencies discussed throughout this chapter show, Region V does not ensure that grantees with identified problems have adequate systems to account for and protect federal funds. We, therefore, continue to believe that a need exists for FTA to implement our recommendation.

Region V's Monitoring Does Not Adequately Ensure Grantee Compliance

Because it made inadequate use of available monitoring options, Region V did not ensure that grantees complied with federal requirements and corrected deficiencies. The region's most important monitoring tool for testing the adequacy of grantees' systems—the triennial review—is limited in scope by FTA headquarters. Annual financial audits did not disclose grantee noncompliance or management weaknesses because they were not grant-specific. Other mechanisms, such as grantee quarterly progress reports, procurement system reviews, and site visits were so seldom used that they were not effective for oversight.

Region V officials attributed the limited oversight to reduced staff levels—from 28 in the early 1980s to 18 in 1991. The region has taken steps to help compensate for these shortages—using contractors for technical assistance at selected large construction projects at five grantees¹ and to perform triennial reviews—but has not taken advantage of other opportunities that would provide greater assurance that grantees properly use federal funds. Specifically, Region V has not coordinated its oversight activities with those of state and local agencies and has not used management studies performed by grantees to identify and correct problems.

Triennial Reviews Do Not Comply With the Law and Are Often Late

Region V's triennial reviews have uncovered instances of grantee noncompliance. However, the reviews were superficial and lacked the depth and scope to fulfill their intended purpose—to review and evaluate a grantee's performance in carrying out its program, with specific reference to compliance with statutory and administrative requirements. For example, although a 1989 review conducted at CTA disclosed concerns about interference in the awarding of contracts, lack of technical capability to award contracts properly, and inadequate documentation of the contracting process, the review did not recognize the magnitude and severity of these problems or detect the substantial volume of inventory that CTA had procured but not included in its inventory system. We also found that the reviews were often late, the findings were seldom communicated to grantees within 30 days as required by FTA, the files did not clearly document the resolution of findings, and the reviews were not comprehensive enough to satisfy the Federal Transit Act.

Region V scheduled 49 triennial reviews in fiscal years 1989 and 1990. We found that 13 were conducted on or before the scheduled date, while 24

¹Region V uses PMOs not only for CTA and Metra capital projects but also for major projects at the Greater Cleveland Regional Transit Authority, Southeastern Michigan Transportation Authority, and city of Chicago.

were from 1 to more than 6 months late.² Only four letters of finding were sent to the grantees within the required 30 days; of the remaining 33, 17 were sent more than 6 months late. Also, files for six triennial reviews conducted between fiscal years 1988 and 1990 did not contain documentation to indicate how the findings were resolved. FTA guidelines require that triennial review files "provide a clear audit trail" of findings resolution, but in four cases we could not locate the letter of findings in the file. The files also lacked follow-up documentation on instances of noncompliance. For example, Region V directed the Metropolitan Transit Commission in Minneapolis, Minnesota, to update its Disadvantaged Business Enterprise policies, but Region V's file did not contain the updated policies. According to an official, the region is implementing a system to track triennial review findings.

In addition, the law requires that triennial reviews provide a complete review and evaluation of grantee performance, including compliance with statutory and administrative requirements. We first reported our concerns about the limited scope of the triennial reviews in 1989.³ At that time, we recommended that triennial reviews ensure the existence and observance of proper procedures and the inclusion of more grantee-specific information and problem follow-up. FTA did not implement our recommendations and has not expanded the scope of these reviews. FTA takes the position that the reviews are not audits, and it intentionally limits their depth. We agree that the triennial reviews are not audits. Nonetheless, as we have noted in three recent reports, this distinction does not alter our conclusion that the reviews should test or analyze, for example, procurement actions, to ensure that grantees have adequate controls and comply with statutory and administrative requirements.⁴

The OIG has also addressed the issue of triennial review coverage. In a July 1989 report, the OIG found that several transit agencies in Region V had incorrectly stated their bus fleet size requirements. As a result, the grantees requested or received funding for more buses than they were entitled to receive under FTA guidelines. The OIG report noted that FTA

²Region V's data base included complete information for only 37 of the 49 reviews.

³Mass Transit Grants: UMTA Needs to Improve Procurement Monitoring at Local Transit Authority (GAO/RCED-89-94, Mar. 31, 1989) and Mass Transit Grants: UMTA Needs to Increase Safety Focus at Local Transit Authority (GAO/RCED-90-41, Dec. 1, 1989).

⁴Mass Transit Grants: Scarce Federal Funds Misused in UMTA's Philadelphia Region (GAO/RCED-91-107, June 13, 1991), Mass Transit Grants: Improved Management Could Reduce Misuse of Funds in UMTA's Region IX (GAO/RCED-92-7, Nov. 15, 1991), and Mass Transit Grants: Noncompliance and Misspent Funds by Two Grantees in UMTA's New York Region (GAO/RCED-92-38, Jan. 23, 1992).

relies on grantee certifications to report fleet requirements accurately and does not analyze and verify these needs when performing triennial reviews. The OIG specifically recommended that FTA do so. In response, FTA headquarters said that triennial reviews should not probe beyond routinely available records unless a compelling reason existed to suspect a problem—a situation that FTA did not believe existed at the grantees where the OIG found incorrect bus fleet requirements. Region V officials agreed that they should do more testing and verification during triennial reviews, particularly for procurement actions, which have been identified as a nationwide vulnerability. However, they noted that staff reductions in recent years have precluded their doing so.

Because of staff shortages, the region has used contractors hired by FTA to perform triennial reviews. Contractors performed 7 of the region's 27 reviews in fiscal year 1990 and 9 of the 24 reviews in fiscal year 1991. Although the contractors spend more time on their reviews than FTA—typically 4 days as opposed to 1 day—they use the same criteria and guidance for conducting the reviews. As a result, the scope of the contractor-performed triennial reviews is too narrow to provide a full review and evaluation of grantees' compliance with statutory and administrative requirements.

Single Audit Coverage Is Not Comprehensive for Grant Oversight

FTA requires its grant recipients annually to submit copies of single audits conducted by independent accounting firms. Under the Single Audit Act of 1984, all state and local entities that receive \$25,000 or more in federal funds are required to have an audit of their use of these funds. Single audits include, among other things, an assessment of internal controls to provide reasonable assurance that a grantee is adequately managing federal funds. However, the audits review only a sample of a grantee's federally funded projects, and if a grantee is receiving funds from several federal agencies, an FTA project may not be selected for review.

Region V officials told us that they do not consider single audits useful for grant oversight purposes because the audits are general, lack depth, and rarely disclose serious compliance, financial, or operational problems at grantees. According to Region V officials, because the audits tend to be limited to financial assessments of grantees' internal controls, they have not been reliable at uncovering instances of noncompliance with administrative and legal requirements. Furthermore, because the audits are not grant-specific, they do not ensure that grantees properly charge expenditures to grants. For example, regional officials cited a single audit

of the Gary Public Transportation Corporation, Gary, Indiana, which did not disclose questionable costs associated with two completed grants. Region V subsequently questioned more than \$460,000 as a result of grant-specific audits commissioned by the grantee. As of August 1991, the region was pursuing recovery of the funds.

Our review of single audits for selected grantees showed that in many cases the audits did not disclose instances of noncompliance that were later reported by the OIG.⁵ For example, audits for CTA did not report unallowable overhead costs, improper treatment of trade-in proceeds for rebuilt bus parts, inappropriate costs for rebuilding spare bus parts, early retirement of buses, or ineligible costs associated with the purchase of extended warranty and/or service agreements. Also, single audits did not report the magnitude of procurement function weaknesses at CTA in 1987 and 1988 or weaknesses in project planning and implementation and quality control capabilities at the Greater Cleveland Regional Transit Authority, Cleveland, Ohio.

Region V Relies on Single Audits to Close Grants

Region V officials told us that they rarely perform grant-specific close-out audits. Rather, they rely on single audits, despite their acknowledged shortcomings, to verify the appropriateness of costs when grantees complete or terminate a project. As we noted above, single audits review only a sample of projects, so that if a grantee is receiving funds from several federal agencies, an FTA project may not be selected for review. Therefore, Region V's approach may not ensure that federal funds have been used for their intended purposes on the 800 grants closed by the region over the past 3 years.

In addition, a regional official maintained that the Single Audit Act precludes FTA from conducting separate audits when projects are completed or terminated. This is not the case. The Office of Management and Budget's (OMB) Circular A-128 allows federal agencies to conduct additional audits if they are deemed necessary to carry out an agency's responsibilities. The circular stresses that other audits should be planned to avoid duplicating single audits but does not restrict such audits.

DOT, in comments on a draft of this report, stated that FTA has begun to review the adequacy of single audits for its oversight purposes. As part of that effort, audit records are being reviewed to determine which, if any,

⁵We reviewed selected single audit reports on CTA; the Capital Area Transportation Authority in Lansing, Michigan; the Greater Cleveland Regional Transit Authority, Cleveland, Ohio; and the Metropolitan Transit Commission, Minneapolis, Minnesota.

grantees' audits do not include samples of FTA grants. According to DOT, improvements in the execution of audit plans and increased guidance on FTA requirements in OMB's compliance supplement to Circular A-128 may be necessary to fully realize the oversight potential of the single audits.

Other Monitoring Tools Do Not Fill Oversight Gaps

Region V makes only limited use of other FTA monitoring tools, such as site visits, quarterly progress and financial reports, and reviews of contracting activities. Regional officials cite staff shortages as responsible for the region's limited use of these tools.

Site visits—The region performed few site visits other than those associated with triennial reviews and PMO contractor activities. Site visits are useful to evaluate grantees' effectiveness in implementing projects, but Region V only visited most grantees once every 3 years during triennial reviews. Other types of visits, such as quarterly progress reviews, were held at only two or three selected grantees, but not at CTA, the largest grantee.

Quarterly progress and financial reports—FTA grantees must submit quarterly progress and financial reports. Quarterly reports include project milestones, obligations, and other grant-specific information. These reports should be particularly useful in detecting such problems as cost overruns and project delays before funds are misspent. Regional officials told us that quarterly reports provide useful information when grantees have only a few projects, but reports from larger grantees include so many projects and are so voluminous that they are only spot-checked for known problems. For example, CTA's report for April to June 1990 filled two binders and included reports on over 40 grants and dozens of projects, many of which would not have been reviewed, according to regional officials.

Reviews of contracting activities—All of the region's large grantees, according to officials, have certified that they will manage contract activities according to FTA requirements and guidelines. Once the grantee has so certified, FTA approval is needed only for noncompetitive contracts that are over \$1 million or for the acquisition of 14 or more buses. Grantees determine whether contracts meet these criteria. According to a Region V official, grantees have submitted only a handful of contracts for review over the past several years. Region V officials did not know whether grantees had submitted for approval all contracts meeting the criteria.

Furthermore, contracting practices and procedures at Region V grantees have had limited FTA monitoring. According to the Director, Office of Procurement and Third Party Contract Review, the region has identified grantee procurement system deficiencies as a regionwide vulnerability, but FTA headquarters has never conducted a comprehensive procurement review of a Region V grantee because of resource constraints. Regional officials confirmed this statement but added that the Greater Cleveland Regional Transit Authority and CTA had received limited reviews that were helpful in identifying procurement problems. Region V officials also told us that they would like to see more emphasis placed on reviewing grantee procurement systems and they were hopeful that FTA headquarters would allow them to use contractors for such reviews. Subsequently, in commenting on a draft of this report, DOT stated that FTA plans to undertake a formal procurement system review of CTA in early 1992.

Region V May Be Missing Opportunities to Improve Monitoring

Region V has expanded its use of contractors to monitor grantees' activities but has not taken advantage of other opportunities to provide assurances that grantees properly use federal funds. Specifically, the region does not coordinate its monitoring activities with those of state and local agencies that monitor grantees and does not receive and/or use studies conducted by grantees.

State and local agencies provide substantial funds to Region V grantees and share FTA's interest in ensuring that grantees use these funds properly. For example, FTA, the state of Illinois, and the Regional Transit Authority have provided significant investments—\$1.6 billion, almost \$300 million, and almost \$140 million, respectively—for CTA capital improvements. All three entities—Region V, Illinois, and the Regional Transit Authority—conduct monitoring activities that resemble each other in some respects and differ in others. For example, all three agencies require periodic progress reports and perform financial and/or technical oversight to varying degrees. Furthermore, Illinois and the Regional Transit Authority require close-out audits when grants are completed. One significant difference is that FTA delegates more contract authority to grantees than does Illinois. Illinois reviews contracts over \$10,000 and changes to contracts, whereas FTA reviews only noncompetitive contracts over \$1 million and generally does not review contract changes.

An official told us that Region V has little involvement with the oversight activities of state and local organizations. For instance, an Illinois review of a contract change showed that one grantee had experienced an

unnecessary 7-month delay that increased certain construction costs. Under Illinois' requirements, costs resulting from unnecessary delays are ineligible for financial support, and the state disallowed \$32,000—its portion of \$211,000 in such costs. The state forwarded this information to Region V as a courtesy. According to the region's Director of Program Management, FTA has no provisions to disallow or recover such costs, since it does not review contract changes.

Finally, Region V did not obtain important management studies performed at CTA. For instance, FTA did not know about CTA's special investigation of a vendor in 1984 or the subsequent consultant study of the procurement function in 1988. These reports could have helped FTA to identify significant procurement weaknesses at CTA much earlier.

Conclusions

Region V must exercise more proactive oversight to help ensure that mass transit funds are used effectively, efficiently, and prudently. Because triennial reviews are superficial and quarterly reports and other oversight mechanisms are used ineffectively, Region V has not adequately monitored grantees' management capabilities. Region V officials said that they do not have enough staff to carry out their responsibilities. However, the region may be missing opportunities to augment its monitoring capabilities by not coordinating its monitoring activities with those of state agencies or using information available from the grantees themselves.

Recommendations

To provide more effective grant management and oversight and to minimize the vulnerability of Region V's grants to fraud, waste, and mismanagement, we recommend that the FTA Administrator direct the Region V Manager to take the following actions:

- Require that triennial reviews evaluate, analyze, and test grantees' compliance with federal requirements.
- Use quarterly progress and financial reports to identify cost, schedule, and performance problems.
- Implement procedures to coordinate federal with state and local monitoring activities and explore the possibility of sharing resources to oversee grantee procurement systems, contracting procedures, and other management systems.
- Reassess Region V's practice of relying primarily on single audits to verify the appropriateness of costs when closing completed grants.

Agency Comments and Our Evaluation

DOT disputed the need for our recommendations, maintained that FTA was already implementing the recommended actions, or described alternative actions that FTA would take. Our recommendations are directed at providing more effective oversight in Region V and minimizing the risk of fraud, waste, and mismanagement of grants to the region. DOT's responses will not ensure that the problems we found in Region V are adequately addressed and corrected.

Specifically, DOT stated that the statutory framework establishing the triennial review "contemplates that annual audits . . . provide the basis for [triennial review] determinations" and that FTA's "existing triennial review process, coupled with an effective annual audit program, is generally adequate to meet the statutory intent." We disagree. The section of the law to which DOT refers establishes discrete requirements for both an annual audit and a triennial review of grant recipients. In fact, the law states that triennial reviews are to be conducted "in addition to the reviews and audits" that the law also requires "at least on an annual basis. . . ." Conducting the triennial reviews that DOT describes—and Region V currently implements—would not provide the full review and evaluation of a grantee's performance required by law.

DOT states that our recommendation for using quarterly progress and financial reports coincides with existing departmental policies and procedures. However, Region V has not fully utilized these reports to oversee grantees' activities, and our recommendation is intended to require the region's effective use of these monitoring tools.

Although DOT agreed that regions should use all available sources of information to monitor grantees' activities, DOT does not believe that direct coordination between FTA staff and other oversight entities is an efficient or effective means of getting information. Rather, DOT stated, the OIG will be asked to ensure that coordination mechanisms are in place so that products of relevant oversight entities are incorporated into the single audit process. We agree that coordinating audit findings for the single audit has merit. We also believe that Region V should obtain copies of all relevant reports so that it can use the details of the audits, including the names of the grantees reviewed, the issues audited, and the resolutions of the audits, to better focus the region's own oversight activities.

Finally, DOT did not concur with our recommendation that Region V reassess its practice of relying primarily on single audits to verify the appropriateness of costs when closing completed grants. DOT stated that it

Chapter 3
Region V's Monitoring Does Not Adequately
Ensure Grantee Compliance

will take appropriate action to improve quality control over the audits to ensure that they meet OMB requirements. We agree with DOT that better execution of audit plans and additional guidance on FTA requirements in OMB's compliance supplement to Circular A-128 may increase the adequacy of the audits for oversight purposes. When a grant is closed, a detailed review may be needed to ensure that all work has been completed, all products have been delivered, and all funds have been used appropriately. A timely and full reconciliation of a grant is important because FTA may be owed reimbursement for a portion of a grant for which work has not been completed, regardless of whether financial records indicate that the funds have been spent. The full text of DOT's comments and our responses appear in appendix IV.

Grantee Certifications and Assurances

FTA requires numerous grantee certifications and assurances of compliance with federal requirements. FTA categorizes these submissions into three groups: one-time, annual, and grant-specific. One-time submissions include a number of basic project assurances that are submitted once and remain on file with FTA, needing only to be updated as necessary. Grantees must also submit various planning and operating statistics each fiscal year. Additional submissions are required with each grant application. FTA must have on file current submissions meeting each applicable requirement before a grantee can receive funds.

One-Time Submissions

FTA requires one-time submissions, such as the following:

- an Opinion of Counsel that establishes the applicant's eligibility to apply for, contract for, and execute a grant;
- a list of labor unions to indicate that fair and equitable arrangements have been made to protect employee interests;
- civil rights assurances to demonstrate that hiring, contracting, and other federally assisted activities are not discriminatory or exclusionary, together with a plan to maximize the participation of minority- and women-owned business enterprises;
- standard assurances to comply with laws and administrative requirements common to all federal grant programs, such as requirements of the National Environmental Policy Act of 1969, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and Flood Disaster Protection Act of 1973, as amended.

For section 9 funds, grantees certify, among other things,

- their legal, financial, and technical capacity to complete the project and protect federal funds;
- their ability to provide satisfactory continuing control and maintenance of FTA funds and property;
- their agreement to maintain a uniform system of accounts, records, and reporting;
- their commitment to acquire or invest in rolling stock in conformance with FTA guidelines, including FTA's 20-percent spare bus policy; and
- their commitment to have procurement systems that comply with federal procurement regulations. (Grantees that have not certified this commitment must submit information on noncompetitive awards and procurements exceeding \$100,000 for FTA's preaward review, while those that have certified need submit only contracts exceeding \$1 million.)

Annual Submissions

FTA requires grantees to provide a number of submissions for each fiscal year in which they receive federal funds. The required information may include (1) plans relating to transportation improvement programs, including private sector involvement; (2) plans and updates to meet civil rights requirements and disadvantaged business participation goals; and (3) reports on factors affecting transit operations, such as ridership and revenues (required of section 9 grantees).

Grant-Specific Submissions

In addition to the required one-time and annual submissions, grantees must provide information with each grant application. Grant-specific submissions include (1) a statement of continued validity of one-time submissions to be kept in the grantee's file, (2) a transmittal letter identifying the commitment of local funds, (3) a program outlining projects and budgets, (4) details on expenditures, and (5) a state certification ensuring compliance with provisions for notifying state organizations of proposed transit projects and state review of proposals.

Previous GAO Reports on FTA

Mass Transit Grants: Noncompliance and Misspent Funds by Two Grantees in UMTA's New York Region (GAO/RCED-92-38, Jan. 23, 1992).

We reported that the New York City Transit Authority and the Long Island Railroad did not have adequate management systems to ensure compliance with federal requirements and that the region did not effectively detect and correct the grantees' deficiencies. We further reported that, as a result, federal transit funds to the region were vulnerable to fraud, waste, and mismanagement. We concluded that until the region takes a proactive oversight stance—moves quickly and aggressively to bring grantees into compliance with federal requirements—funds would continue to be misspent. We made several recommendations to improve grant management oversight by the region and to ensure the proper use of federal transit funds by grantees.

Mass Transit Grants: Improved Management Could Reduce Misuse of Funds in UMTA's Region IX (GAO/RCED-92-7, Nov. 15, 1991).

We reported that over half of the grant recipients in FTA's San Francisco region did not have adequate management controls to ensure compliance with federal grant requirements and safeguard funds. We further reported that Region IX did not effectively use FTA's monitoring tools and enforcement authorities to correct existing problems and prevent future abuses. We concluded that the region must target its oversight efforts to ensure the adequacy of grantees' management systems and the quick detection and correction of deficiencies. Without such actions, we further concluded, the region's grants would remain vulnerable to fraud, waste, and mismanagement. We made recommendations to improve the reliability of grantee compliance assurances and to minimize the vulnerability of the region's grants.

Mass Transit Grants: Scarce Federal Funds Misused in UMTA's Philadelphia Region (GAO/RCED-91-107, June 13, 1991).

We reported that transit grants in FTA's Philadelphia region were vulnerable to fraud, waste, and mismanagement because grantees did not have adequate financial and other management systems to ensure compliance with federal requirements and properly use funds. We further reported that the region's monitoring had not successfully detected and corrected grantee noncompliance. The report made several recommendations to strengthen the region's oversight and minimize the risk that federal transit funds would be inappropriately spent.

Mass Transit Grants: UMTA Needs to Increase Safety Focus at Local Transit Authority (GAO/RCED-90-41, Dec. 1, 1989).

We reported that the Southeastern Pennsylvania Transportation Authority (SEPTA) had experienced an increase in bus, trolley, and streetcar accidents and injuries. We also found that FTA had not assessed SEPTA's safety conditions and did not consider safety in approving federal funds for SEPTA projects. We also reported that we were unable to determine the specific factors that FTA's Administrator had considered in awarding discretionary grants to SEPTA because the bases for the decisions were not documented. We recommended that FTA obtain complete and accurate information on SEPTA accidents and injuries to use during triennial reviews in evaluating SEPTA's safety conditions, among other things, and in selecting and approving projects for funding. In addition, we recommended that FTA document its discretionary funding decisions.

Mass Transit Grants: UMTA Needs to Improve Procurement Monitoring at Local Transit Authority (GAO/RCED-89-94, Mar. 31, 1989).

We reported that SEPTA had major procurement system problems, which FTA had not detected. Our report disclosed that FTA's triennial review of SEPTA did not include a detailed procurement assessment yet indicated that SEPTA had complied with applicable requirements. Furthermore, single audits performed by public accounting firms did not evaluate SEPTA's compliance with federal procurement requirements. Concluding that FTA's monitoring procedures were inadequate to detect such weaknesses at SEPTA, we made several recommendations to better focus FTA's monitoring to detect procurement deficiencies.

20 Years of Federal Mass Transit Assistance: How Has Mass Transit Changed? (GAO/RCED-85-61, Sept. 18, 1985).

We examined mass transit's role in helping to mitigate various social, economic, and environmental problems confronting urban areas. We found that (1) federal funds had helped reverse transit's service and ridership declines, (2) ridership gains nationwide had not increased transit's share of the commuting market, and (3) service costs had grown rapidly. We concluded that mass transit helped address a number of urban problems of congressional concern, such as traffic congestion, air pollution, energy consumption, and lack of appropriate transportation for low-income, elderly, and handicapped persons.

UMTA Needs Better Assurance That Grantees Comply With Selected Federal Requirements (GAO/RCED-85-26, Feb. 19, 1985).

We reported that FTA needed better assurances of grantee compliance with federal requirements. We also supported FTA's use of the triennial reviews mandated by the Surface Transportation Assistance Act of 1982. During our work, FTA could not provide us with information on the focus of the reviews or explain how they would be conducted. Nevertheless, we believed that triennial reviews, if properly implemented, would afford FTA an opportunity to supplement its existing oversight mechanisms for ensuring grantees' compliance with federal requirements. We recommended that FTA (1) require triennial reviews to emphasize compliance with regulations not routinely covered by OIG and independent audits, (2) disseminate legal rulings on FTA's regulations to increase grantees' understanding of and compliance with the requirements, and (3) establish guidelines for appropriate enforcement action when noncompliance has been identified.

Office of Inspector General Reports for Region V—October 1987 Through September 1991

Subject	Federal funds wasted, misspent, or mismanaged	Grantees
Purchase and control of spare parts (R5-UM-8-179)	\$20,181,671	Chicago Transit Authority, Chicago, Illinois Grand Rapids Area Transit Authority, Grand Rapids, Michigan Greater Cleveland Regional Transit Authority, Cleveland, Ohio Metropolitan Transit Commission, Minneapolis, Minnesota Milwaukee County Transit System, Milwaukee, Wisconsin PACE, Suburban Bus Division, Regional Transportation Authority, Arlington Heights, Illinois 1 other not identified
Capital services cost allocation (R5-UM-0-084)	10,641,515	Chicago Transit Authority, Chicago, Illinois
Materials handling costs (R5-UM-0-018)	4,500,000	Chicago Transit Authority, Chicago, Illinois
Bus retirement and contingency fleet management (R5-UM-9-110)	4,223,785	Chicago Transit Authority, Chicago, Illinois Greater Cleveland Regional Transit Authority, Cleveland, Ohio Indianapolis Public Transportation Corporation, Indianapolis, Indiana Metropolitan Transit Commission, Minneapolis, Minnesota PACE, Suburban Bus Division, Regional Transportation Authority, Arlington Heights, Illinois Southwest Ohio Regional Transit Authority, Cincinnati, Ohio
Transit agency in bankruptcy (R5-UM-0-006)	2,679,768 ^a	Northern Indiana Commuter Transportation District, Dune Park, Indiana

(continued)

**Appendix III
Office of Inspector General Reports for
Region V—October 1987 Through
September 1991**

Subject	Federal funds wasted, misspent, or mismanaged	Grantees
Peak vehicle requirements (R4-UM-9-124)	15,655,936	Capital Area Transportation Authority, Lansing, Michigan Chicago Transit Authority, Chicago, Illinois Fort Wayne Public Transportation Corporation, Fort Wayne, Indiana Greater Cleveland Regional Transit Authority, Cleveland, Ohio Madison Metro Transit System, Madison, Wisconsin Mass Transportation Authority, Flint, Michigan Metropolitan Transit Commission, Minneapolis, Minnesota PACE, Suburban Bus Division, Regional Transportation Authority, Arlington Heights, Illinois Southwest Ohio Regional Transit Authority, Cincinnati, Ohio Transit Authority of Northern Kentucky, Fort Wright, Kentucky
Extended warranty and service agreements (R5-UM-1-055)	313,200	Ann Arbor Transportation Authority, Ann Arbor, Michigan Chicago Transit Authority, Chicago, Illinois Madison Metro Transit System, Madison, Wisconsin Metra, Suburban Rail Division, Regional Transportation Authority, Chicago, Illinois PACE, Suburban Bus Division, Regional Transportation Authority, Arlington Heights, Illinois
Bus maintenance and storage facilities (R5-UM-0-071)		^c Metro Regional Transit Authority, Akron, Ohio Metropolitan Transit Commission Minneapolis, Minnesota Rockford Mass Transit District, Rockford, Illinois 12 others not identified
Progress payments made to contractors (R5-UM-0-002)		^b City of Chicago, Chicago, Illinois Greater Cleveland Regional Transit Authority, Cleveland, Ohio Metra, Suburban Rail Division, Regional Transportation Authority, Chicago, Illinois Milwaukee County Transit System, Milwaukee, Wisconsin

(continued)

**Appendix III
Office of Inspector General Reports for
Region V—October 1987 Through
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Subject	Federal funds wasted, misspent, or mismanaged	Grantees
Federally funded vehicles (R5-UM-0-001)		^b Minnesota Department of Transportation, St. Paul, Minnesota
Alternative mass transit modes (R5-UM-8-077)		^b Regional Transportation Authority, Chicago, Illinois
Southwest Rapid Transit Project (R5-UM-8-048)		^c City of Chicago, Chicago, Illinois
Block Grant Program (R5-UM-8-046))		^b Capital Area Transportation Authority, Lansing, Michigan Rockford Mass Transit District, Rockford, Illinois Twin Cities Area Transportation Authority, Benton Harbor, Michigan
Leased property and equipment (R5-UM-1-075)	5,990	Madison Metro Transit System, Madison, Wisconsin 3 others not identified

^aThe OIG did not recommend that FTA recover these costs. Rather, the OIG recommended that FTA protect this amount because of the bankruptcy action.

^bReport recommendations addressed procedural issue(s) and did not recommend recovery of funds.

^cNo corrective actions recommended.

Comments From the Department of Transportation and Our Responses

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department of
Transportation

Assistant Secretary
for Administration

400 Seventh St., S.W.
Washington, D.C. 20590

December 13, 1991

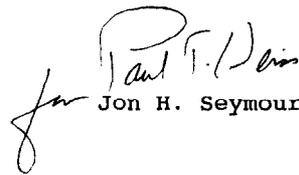
Mr. Kenneth M. Mead
Director, Transportation Issues
Resources, Community, and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Mead:

Enclosed are two copies of the Department of Transportation's comments concerning the U.S. General Accounting Office draft report entitled "Mass Transit Grants: Risk of Misspent and Ineffectively Used Funds in UMTA's Chicago Region."

Thank you for the opportunity to review this report. If you have any questions concerning our reply, please call Martin Gertel on 366-5145.

Sincerely,


Jon H. Seymour

Enclosures

DEPARTMENT OF TRANSPORTATION (DOT) REPLY

TO

GENERAL ACCOUNTING OFFICE (GAO) DRAFT REPORT

ON

MASS TRANSIT GRANTS:

"Risk of Misspent and Ineffectively Used Funds
in UMTA's Chicago Region."

GAO/RCED-92-53

SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

The GAO draft asserts that inadequate grantee controls and ineffective regional oversight have left Region V's grants vulnerable to fraud, waste, abuse and mismanagement. The GAO found that the Department of Transportation's Office of Inspector General (OIG) and others have disclosed issues regarding grantees' management systems and noncompliance with Federal grant requirements. The draft indicates that the Urban Mass Transportation Administration's (UMTA) project management oversight contractor (PMO) identified weaknesses at both the Chicago Transit Authority (CTA) and Metra, the Chicago suburban railway.

The draft states that Region V's monitoring activity lacks the scope, depth, and timeliness to reasonably ensure the proper use of funds. It asserts that triennial reviews are the region's most important monitoring tool but they are limited in scope by UMTA headquarters. The GAO maintains that UMTA continues to administer narrowly scoped triennial reviews despite GAO's previous urging to expand the scope. The GAO draft finds that the statutorily mandated single annual audits of UMTA programs are not adequate to disclose grantee noncompliance or management weaknesses and should not be relied upon to verify the appropriateness of costs for closing completed grants. Finally, the GAO draft states that the region does not coordinate its oversight activities with state and local oversight entities and as a result may be missing opportunities to improve monitoring.

The draft recommends that the UMTA Administrator improve Region V's grant oversight and better safeguard the region's Federal transit funds by: (1) ensuring that grantees have management control systems that adequately account for and protect Federal funds; (2) requiring triennial reviews to evaluate, analyze and test compliance with Federal requirements; (3) using quarterly progress and financial reports to identify cost, schedule, and performance problems; (4) implementing

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procedures to coordinate monitoring activities with state and local entities; and (5) reassessing the region's position of relying primarily on single annual audits for grant closeouts.

SUMMARY OF THE DEPARTMENT OF TRANSPORTATION POSITION

The Department shares with GAO the objective of ensuring compliance with Federal requirements and proper use of funds. The UMTA, in cooperation with GAO and OIG, has embarked upon an intensive effort over the past two years to identify and address areas of its program management and oversight activities that need strengthening. The Department has successfully sought increased statutory, fiscal, and personnel resources to undertake necessary actions to ensure that Federal requirements are met and that programs operate efficiently and effectively. The Department does, however, have a number of concerns with the draft report.

The Department shares GAO's concern over management at the CTA, and other grantees, as well as issues raised by GAO regarding the reliability of audits of UMTA programs. However, it must be emphasized that UMTA was cognizant of and taking action on the management issues identified at CTA, Metra and other Region V grantees during the timeframe in question. The draft could also convey a more comprehensive appreciation of statutory mandates, applicable executive orders, and governmentwide rules and regulations that shape UMTA's grants management and oversight policies. Further, the draft could recognize that audit findings as identified in the draft represent the product of a functional oversight system, particularly since the audits identified in the draft have corrective action underway or completed. Finally, the Department shares GAO's concern over the reliance which can be placed on annual audits of UMTA programs. In this regard, the draft report does not mention the critical relation of annual audits to triennial reviews which together form the statutory oversight framework of the UMTA Section 9 program.

See comment 1.

DETAILS OF THE DEPARTMENT OF TRANSPORTATION POSITION

UMTA Oversight Fulfills Statutory Requirements

The GAO draft finds that the grantees reviewed did not have adequate systems to ensure compliance with Federal requirements. The draft presents as evidence of that finding the results of the grantees' internal and external oversight activities in uncovering actual and potential problems, as well as the findings of UMTA's own PMO contractor.

It is the Department's position that grantee oversight activities are an integral part of an adequate system of controls at the grantee level. Grantee oversight activities are expected to identify real and potential problems before they become

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unmanageable. Contrary to the draft's conclusions, the GAO findings support UMTA's position that grantee oversight systems in Region V are generally adequate to identify deficiencies and generate corrective measures. The fact that the problems are significant and may take several years to fully resolve does not negate this basic proposition. The internal procurement systems reviews conducted by the CTA, cited by GAO, are good examples of existing oversight systems detecting problems. Both UMTA and CTA recognize that there are areas that need to be improved in CTA operations. It should not be implied, however, that these issues would not arise under alternative oversight systems. In addition, the GAO draft shows that these problems are being addressed. The CTA has performed several analyses and made extensive organizational changes in an effort to improve its procurement and capital program processes.

See comment 2.

Now on p. 11.

The draft report incorrectly suggests on page 9 that UMTA has pursued an independent policy in recent years that delegates or otherwise transfers significant Federal management responsibilities to grantees. Rather, UMTA has retained full responsibility for Federal oversight while complying with statutory requirements which establish the policy and administrative framework within which the UMTA program operates. These include: the UMT Act; principles of Federalism contained in Executive Order 12612; and governmentwide directives concerning administration of grants such as Office of Management and Budget Circular A-102; and the Department of Transportation implementing regulation (49 CFR Part 18).

See comment 3.

Under this statutory framework, it is the grantee's responsibility to ensure that Federal funds are properly utilized and adequate local oversight is provided to identify and correct deficiencies. It is the Department's role, working through UMTA and the OIG, to provide oversight to ensure that those grantee control mechanisms are in place and working effectively, and not to be either the manager or internal auditor of any grantee. Further, the GAO report should take into account the statutory mandate of Section 9 of the UMT Act which requires UMTA to accept grantee certifications of compliance with Federal requirements at the grant award stage. It should also reflect the statutory requirements calling for annual audits of each grantee to be conducted under standards issued by the GAO under Section 9(g)(1) of the Act together with triennial reviews conducted by UMTA under Section 9(g)(2) of the Act.

See comment 4.

See comment 5.

A. The GAO Audit Standards May Need Refinement

Section 9(g)(1) of the UMT Act provides:

The Secretary shall, at least on an annual basis, conduct, or require the recipient to have independently

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conducted, reviews and audits as may be deemed necessary or appropriate by the Secretary to determine whether --

(A) the recipient has carried out its activities submitted in accordance with subsection (e)(2) in a timely and effective manner and has a continuing capacity to carry out those activities in a timely and effective manner; and

(B) the recipient has carried out those activities and its certifications and has used its Federal funds in a manner which is consistent with the applicable requirements of this Act and other applicable laws. Audits of the use of Federal funds shall be conducted in accordance with the auditing procedures of the General Accounting Office. (Underscoring supplied)

The Single Audit Act restricts the Secretary's ability to require grantees to conduct audits mandated by Section 9(g)(1). Grantee audits are now controlled by the Single Audit Act and Office of Management and Budget (OMB) guidelines under OMB Circular A-128. The Single Audit Act did not release the Department from any other requirement of the section. Further, GAO establishes auditing procedures it believes are adequate to meet the requirements of Sections 9(g)(1)(A) and (B) of the Act. Thus, should the A-128 audit prove ineffective for these statutory purposes, the Department is required to arrange for the audits and may not direct grantees to do so. Similarly, GAO is both authorized and mandated by Section 9(g)(1) of the Act to issue auditing procedures that meet the requirements of Sections 9(g)(1)(A) and (B). The information in the draft reinforces conclusions drawn from UMTA's own review suggesting that GAO procedures for auditing UMTA programs may need refinement.

See comment 6.

B. Single Audits Evaluate Internal Controls

The Department cannot agree with GAO's assertion that Region V should not rely on single annual audits to verify the appropriateness of costs when grantees complete or terminate a project because these audits are not grant specific. The draft noted that the possibility exists that no UMTA grant will be selected for audit at grantees where funds are received under more than one Federal program. The single annual audits include an assessment of internal controls to provide reasonable assurance that a grantee is adequately managing Federal funds. In accordance with the Single Audit Act, the OIG does not routinely perform audits of individual grants. However, the OIG does review single audit reports to identify problems requiring additional audit review, and UMTA can request OIG reviews of known or suspected problems at one or more grantees.

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The intent of the Single Audit Act is to reduce duplication of audit effort and the audit burden imposed by auditing individual grants, by placing more reliance on grantees' systems of internal accounting and administrative control systems. Single audits review internal controls and compliance over a one-year period. If the internal control systems are effective, extensive detailed testing of individual grants is not required. The financial management requirements of the common rule, 49 CFR 18, may be expected to apply to all Federal grant programs with the agency being audited. Thus, regardless of which Federal grants are sampled, audit findings can be relied upon to determine whether financial controls over a grantee's UMTA grants are adequate.

The UMTA relies upon cognizant Federal audit agencies, operating within OMB Circular A-128, and guided by the OIG, to be aware of, and to take into account, state and local oversight activities. The GAO notes that the single annual audits it reviewed did not comply with the requirement of Circular A-128 to disclose instances of noncompliance reported by the OIG. However, the OIG does a desk review of all single audit reports to ensure that the reports comply with the Single Audit Act and OMB Circular A-128. The OIG does quality control reviews of the independent auditors workpapers supporting the single audit reports to ensure the work was properly performed.

To further ensure the adequacy of single audits for grant oversight, UMTA has undertaken a review of single annual audits in cooperation with the major certified public accounting firms serving grantees, to determine whether those audits satisfy the requirements of section 9(g)(1) of the UMTA Act to provide the basic support for the Section 9(g)(2) triennial reviews. As part of that effort, audit records are being reviewed to determine which if any grantees' annual audits do not, in fact, include samples of UMTA grants. Preliminary results indicate that the annual audit plans would result in adequate assurances of compliance in the majority of areas covered by the grantees' certifications. Improvements in execution of audit plans at some locations, as well as increased guidance on UMTA requirements in the Office of Management and Budget Supplement, may be necessary to fully realize this potential.

C. Triennial Reviews Fulfill Statutory Intent

Although the GAO draft asserts that the triennial review is UMTA's most important oversight tool, UMTA does not agree. Rather, the triennial review is one of a number of tools UMTA employs to carryout its Federal oversight responsibilities. The UMTA employs the triennial review report to cumulate the

See comment 7.

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products of other oversight activities into a comprehensive report, not as an independent detailed analysis of grantee compliance. Further, as a matter of law the triennial review was only intended to cover the Section 9 program and does not include, for example, the Section 3 discretionary capital grant program and others.

The GAO draft reiterates the longstanding point of contention between UMTA's view and the views of OIG and GAO regarding the proper role of the triennial review in the larger scheme of UMTA program management and oversight activities. The limited acknowledgment of this difference of opinion in the GAO draft could be expanded to convey an adequate sense of UMTA's position. Specifically, UMTA has maintained that triennial reviews were never intended to duplicate audit functions more properly performed by trained auditors in accordance with generally accepted government auditing standards. The OIG has responsibility within the Department for audit coverage of UMTA programs and grantees' internal and financial controls. The UMTA Order 9010.1A, articulates the Department's perspective regarding the role of UMTA's triennial review process:

It is not the intent of the triennial review to duplicate or to replace the single annual audit or other UMTA compliance reviews. Information gathered as part of the single annual audit and other UMTA compliance reviews may be used as a point of departure for increased scrutiny of specific requirements or certification during the triennial review.

See comment 8.

Region V Oversight System Detects Deficiencies

The draft report is factually incorrect concerning UMTA's detection of grantee system deficiencies and UMTA's actions directed at requiring corrective action by its grantees. Extensive correspondence between UMTA, CTA, Metra, the Greater Cleveland Regional Transit Authority (GCRTA) and other Region V grantees indicate that UMTA was aware of the problems cited in the GAO draft report, and had taken appropriate and timely action to resolve these situations. Moreover, the GAO draft report shows that UMTA's PMO contractor also disclosed concerns in grantee operations and made recommendations through UMTA for improvement. Additionally, on page 31, the draft report states "that a regional official maintained that the Single Audit Act precludes UMTA from conducting separate audits when projects are completed or terminated." This does not accurately reflect UMTA's position. Region V staff have on several occasions required additional audits of projects when it was deemed necessary. One example would be the UMTA initiated audit of the People Mover project in Detroit.

See comment 9.
Now on p. 27.

See comment 10.

UMTA Identified Problems at the CTA

The UMTA has been aware of and taken action on the problems at CTA for some time. Further, it should be emphasized that PMO contractors, including those reporting on CTA and Metra, work for UMTA and are part of UMTA's program management and oversight system.

A. Capital Program Management

The draft references a report from UMTA's PMO which cites an \$800 million balance in CTA's capital improvement program as a serious deficiency. However, this is not an accurate gauge of CTA's management of Federal funds. Obligation of Federal grant receipts is a more accurate indicator of CTA's management of Federal funds. The draft on page 9 states that CTA has total UMTA grant receipts of \$1.5 billion and undisbursed funds totalling \$625 million or 34 percent of its total receipts. In fact, CTA has obligated under contract \$1.38 billion or 89 percent of its total UMTA grant receipts, leaving \$235 million or 11 percent unobligated. Further, in accordance with Treasury Circular 1075, all UMTA grant money remains in the U.S. Treasury, even after obligation under contract, until it is required to meet cash disbursement needs.

B. Project Management Problems

Region V correspondence files available to GAO reflect that on January 9, 1981, UMTA's Region V staff sent a letter to CTA raising concerns about CTA's technical capacity to carry out UMTA funded projects. In the years since 1981, there have been many other examples of letters between UMTA and the CTA, as well as numerous discussions between the staffs of the two agencies on both program and project related issues. These letters and discussions focused on project delays, force account activities, obligation, encumbrance and expenditure funding levels and demonstrate continuous oversight and technical assistance in working with the grantee to effect necessary improvement.

The UMTA's February 1990 assignment of a PMO to assist UMTA with Federally funded CTA capital programs is only the most recent example of UMTA's continued oversight activity. In an effort to update and confirm UMTA's understanding of the situation, one of the first tasks UMTA requested was to analyze CTA's technical management capability and capacity to implement its capital programs. In August 1991, the PMO issued its report. The CTA generally agreed with the recommendations in the report and indicated that it would prepare a Project Management Plan within two years. The UMTA

Now on p. 11.

See comment 11.

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See comment 12.

notified CTA by letter dated August 29, 1991, that the plan must be produced within 120 days or CTA funding could be impacted.

C. Procurement Problems

In September 1986, UMTA noted during its site visit for its first triennial review of the CTA that the CTA procurement process contained several problem areas. Since the review, UMTA has raised concerns on a number of CTA procurements. For example, in June 1987, UMTA denied CTA's request to award a single bid contract for the purchase of up to 500 buses. In 1989, as part of UMTA's second triennial review of the CTA, several additional areas of concern regarding CTA's procurement process were recorded. These concerns were detailed in a letter sent to the CTA on September 7, 1989.

On September 17, 1991 CTA was informed that UMTA would be undertaking a formal procurement system review of the CTA. The letter requested that detailed information be furnished to UMTA within 30 days. This information has been received by UMTA and the procurement review will be conducted in early 1992.

See comment 13.

D. Inventory Control Problems

The GAO report states on pages 15 and 21 that the CTA did not track 20 percent of the \$63 million bus and railcar parts inventory in its property management system. The report does not identify whether there is any Federal interest in these inventories. Further, OIG report number R5-UM-5-052, issued in FY 1985, identified the lack of accountability over some non-expendable personal property at the CTA. As a result of that report, the CTA has initiated and implemented an asset verification program. The CTA is currently pursuing the implementation of an automated perpetual inventory system which will alleviate the deficiency in accounting control and increase the efficiency of the overall inventory process. As of March 1, 1990, the CTA had completed the verification and reconciliation to the general ledger of 99.70 percent of all equipment purchased since the inception of the capital improvement program in 1972. The CTA has provided Region V with periodic updates of this ongoing process and made available supporting documentation.

Now on pp. 16, 20.

See comment 14.

E. Questionable Overhead Costs

On pages 22 and 23, the GAO draft indicates that the Defense Contract Audit Agency (DCAA) reported to UMTA that the CTA had used questionable overhead formulas from 1974-1979. The GAO draft incorrectly maintains that UMTA did not pursue the findings or require the CTA to correct the areas of concern

Now on p. 21.

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in its financial system. Although these are longstanding issues, UMTA has worked with the grantee throughout the period in seeking resolution. During FY 1990, the OIG issued reports on: (1) Materials Handling Costs Allocated by the CTA (R5-UM-0-018); and (2) Central Services Costs at the CTA (R5-UM-0-084). Since the issuance of the OIG reports, UMTA accepted a proposal from the CTA which would commission an independent accounting firm to conduct a review of the CTA's methodology for allocating charges to its capital grants program. While Region V agreed with the CTA's proposal, CTA was informed that UMTA, in cooperation with the OIG, reserves the right to either accept or reject any consultant recommendations. We also informed the CTA that if the consultant's work does not adequately resolve past audit findings, UMTA would pursue all available means to collect any disallowed costs.

See comment 15.

UMTA Identified Problems at Metra

As early as 1987, UMTA recognized that Metra needed improvements in areas such as grant administration, project scheduling, grant closeout, change orders, equipment record keeping and procurement.

A. Adequate Systems to Control Construction Costs

On page 18, the GAO draft states that, "Region V started using a PMO contractor at Metra in February 1989. The contractor soon discovered that Metra did not have adequate systems to control construction costs on major capital projects." However, Region V has had concerns regarding Metra's ability to control costs and complete projects as scheduled long before the PMO contractor started work in 1989. In a letter dated December 4, 1987, Region V noted its concern to Metra regarding the escalating costs to complete many of Metra's major rehabilitation projects (including the Western Avenue Yard and the Chicago and Northwestern Terminal Projects). In addition, Metra was notified that future engineering estimates had to be based upon value engineering.

With oversight from UMTA and its PMO contractor, Metra is in the process of developing a system to effectively control costs for major Metra projects. Region V staff believe that recent work by Metra to contain costs on the Chicago Passenger and Northwestern Terminal project show that they are heading in the right direction.

Now on p. 18.

B. Project Management Plan

The UMTA required Metra to develop a Project Management Plan for the Chicago and Northwestern Terminal project. Metra delivered an acceptable Project Management Plan to UMTA in

See comment 16.

See comment 16.

April 1991. Metra is also preparing a generic Project Management Plan which will be used for other major capital improvement projects. Metra will provide UMTA with a draft plan for review and comment.

Now on p. 19.

C. Chicago and Northwestern Terminal Project

The GAO draft cites on page 19 the Chicago and Northwestern Terminal Project, where estimated costs had risen from \$47 million to \$161.5 million, as an example of the concerns related to Metra's management. However, it also illustrates the effectiveness of UMTA oversight. The report's discussion of the matter should convey the following information. In May 1990, Metra opened bids with the low bid at \$99.7 million. Concerned with the cost increases, in August 1990, UMTA informed Metra that it could either redesign the project or accept a funding cap on the project based on UMTA's assessment of the cost to rehabilitate the project. Metra elected to redesign the project and to restudy cost containment measures. Bids were opened based on the redesign in July 1991 with the low bid at \$72.6 million. The Department's close monitoring of project costs resulted in a reduction of \$88.9 million from the estimate cited by GAO. This is a clear illustration of UMTA oversight yielding significant cost savings as well as an improved facility with a longer useful life.

See comment 17.

UMTA Enforcement Efforts are Appropriate

It is UMTA's policy to work with state and local governments with whom it has continuing relationships to bring about necessary corrections to operational issues through measured application of available enforcement tools. The ultimate sanction of withholding Federal financial assistance is reserved only for the most serious or intractable problems. The UMTA's grantees are public entities managed by public officials who are presumed as a matter of law to be discharging their obligations lawfully and in good faith. The UMTA's policy is premised upon the legal standard that state and local officials act in good faith in exercising their official duties and attempting to comply with applicable law and regulation (see U.S. vs. Chemical Foundation, 272 U.S. 1, 14 (1926)). Information available to the GAO, such as UMTA's role in redesign of the Chicago & Northwestern Terminal Project, and the GCRTA procurement review support the Department's position.

The UMTA conducted a detailed procurement system review at the GCRTA in September 1983. A draft report was issued by UMTA in April 1984. After exchanging correspondence, a second certification review was conducted by UMTA in November 1985 and a report was issued in March 1986. This report identified ten issues which GCRTA was required to correct. After reviewing

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additional information submitted by the GCRTA, UMTA informed GCRTA in February 1987 of its determination that GCRTA was no longer in compliance with UMTA procurement guidelines. On that basis, UMTA required GCRTA to submit to UMTA for pre-award review all UMTA-funded contracts of more than \$10,000, including operating assistance contracts.

The UMTA further apprised GCRTA that UMTA would perform a review sometime after June 1987 to determine compliance. That review was completed in September 1989. The UMTA found the GCRTA had made significant changes which resulted in an improved procurement system. The special pre-award review restrictions were removed and GCRTA was permitted to submit a self-certification in accordance with UMTA Circular 4220.1B

See comment 18.

Use of State and Local Monitoring Results in UMTA Oversight

The GAO recommends that UMTA receive copies of internal management reports prepared by grantees as a routine oversight activity. The Department agrees that all available sources of information should be employed to enhance regional oversight or to identify grantee management issues or misspent funds. However, the Department does not believe that direct coordination between UMTA staff and the myriad of state and local audit and other oversight entities conducting such reviews is an efficient or effective means of gathering and assimilating this information. Rather, we believe that the preferred method is to work with the OIG, as the cognizant audit agency, to ensure that UMTA is receiving adequate information from all sources having a bearing on audit oversight.

In specific cases, UMTA Region V works closely with local, regional and state agencies. For example, the Illinois Department of Transportation (IDOT) has coordinated their project management review activities with UMTA. This coordination has included meetings and correspondence pertaining to requests for additional support documentation and determinations on ineligible costs. As another example, during the past year, UMTA Region V staff have had several meetings with RTA officials regarding closer coordination of project management functions. The RTA has requested and received input from Region V staff regarding their proposal to hire a contractor to provide project management oversight services to the RTA. Region V staff plans to continue this close coordination effort with the RTA.

Now on p. 30.

Page 34 of the GAO draft states that "[a]ccording to the region's Director, Program Management, UMTA has no provisions to disallow or recover such costs since it does not review contract changes." This is not correct. Specifically, UMTA grantees are generally not required to submit change orders for UMTA concurrence. However, if UMTA becomes aware of a grantee seeking funds for unallowable costs, UMTA denies payment, or in the case of funds

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having been improperly drawn, recovers the funds with interest, as appropriate. Furthermore, UMTA can require support documentation from grantees for all change orders for further UMTA review under Circular 4220.1B. As an example, Region V has alerted the City of Chicago that it will look at all change orders related to the Southwest Transit Project. This determination was made based on information provided to UMTA by the Illinois Department of Transportation.

Lastly, UMTA Region V participates in another enforcement mechanism which was made known to GAO and should be reflected in the report. In November 1989, UMTA convened a meeting with all agencies involved in the Interstate Transfer Program in Chicago. The purpose of the meeting was to discuss the status and interrelationships of the various projects being funded under this complex program. This meeting brought together representatives of the CTA, RTA, the City of Chicago and IDOT. Additional meetings were held in June 1990 and April 1991 and further meetings will be held in the future. These meetings have been very beneficial in surfacing issues that require top management attention at the local agencies.

Federal Managers' Financial Integrity Act (FMFIA) Reporting

The GAO used the Department's prior reporting of UMTA grant management as a material weakness under the former Departmental reporting standards within the parameters of FMFIA requirements as background to the draft report. However, the report does not relate any of the Region V reports in Appendix IV as the basis for the Department's FMFIA reporting. In the absence of such relevance, the paragraph should be deleted.

While there have been past instances which fell within the reporting parameters of the FMFIA requirements, we believe that these were the exception rather than the rule and that taken in perspective of UMTA's \$3 billion per year program, UMTA's grant management system is essentially sound. The Department recognizes that to achieve optimal oversight performance UMTA will require additional resources dedicated to grant management and has identified its plan for accomplishing this objective in its FMFIA report.

The GAO draft report should clarify that the Department's reporting under the FMFIA indicates that the Department has already recognized the potential for concern and has identified an action plan for improving the situation. Finally, the FMFIA report to the President indicates concern based on "greater risk" of problems occurring in grant management and oversight and is not a report of fraud, waste, abuse or mismanagement.

See comment 19.

Now app. III.

See comment 20.

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Data Verification

The Department notes the continued reliance in the GAO draft report on audit results previously reported by the OIG and other outside audit agencies in lieu of independent audit work or any testing of the work relied upon. The perceived absence of data verification is the basis for the OIG and GAO findings that UMTA's grant management oversight is materially weak. The statement in the draft GAO report that verification of OIG and single annual audit work was not GAO's purpose does not appear to satisfy the generally accepted auditing standards which require such verification.

The Department believes that it would be most useful for the GAO to provide information regarding the current status of UMTA's efforts to improve grants management and oversight activities rather than reiterating findings made on earlier conditions. Further, the report does not provide any detailed information concerning the ultimate disposition of the audit findings it cites through the audit resolution process except for the total dollar value of collections. While the Department is pleased that GAO recognizes that UMTA recovered 96 percent of the OIG recommended amounts, the report could provide more up-to-date information regarding the audit's ultimate disposition. In many instances UMTA and its grant recipients have voiced substantial disagreement with the audit findings GAO relied upon in this effort.

See comment 21.

Other Matters

The UMTA has received a copy of the comments submitted to GAO by the CTA. We would recommend that those comments also be published as an appendix to the final report along with our own.

See comment 22.

RESPONSE TO GAO RECOMMENDATIONS

The GAO report makes the following recommendations to the UMTA Administrator to minimize the vulnerability of mass transit grants to waste, fraud, and mismanagement:

RECOMMENDATION: Direct the Region V Manager to ensure that CTA, Metra, and other grantees with identified problems have management systems that adequately account for and protect Federal funds. To achieve this, UMTA could verify the grantees' systems itself, or require that grantees use independent firms to verify their systems to be eligible for additional grants and/or withhold funds on existing grants until they do so.

RESPONSE: This recommendation is consistent with the statutory framework established under Section 9 of the UMT Act and UMTA's program management and oversight program plans.

See comment 23.

Appendix IV
Comments From the Department of
Transportation and Our Responses

RECOMMENDATION: Require that triennial reviews evaluate, analyze, and test grantees' compliance with Federal requirements.

See comment 19.

RESPONSE: The Department believes that the statutory framework established under Section 9 of the UMT Act contemplates that annual audits conducted under procedures issued by GAO provide the basis for such determinations. The Department further believes that the existing triennial review process, coupled with an effective annual audit program, is generally adequate to meet the statutory intent.

RECOMMENDATION: Use quarterly progress and financial reports to identify cost, schedule, and performance problems.

See comment 19.

RESPONSE: This recommendation coincides with existing Departmental policies and procedures.

RECOMMENDATION: Implement procedures to coordinate monitoring activities with state and local entities and explore the possibility of sharing resources to oversee grantee procurement systems, contracting procedures, and other management systems.

See comment 19.

RESPONSE: The Department agrees that all available sources of information should be employed to enhance regional oversight or to identify grantee management issues or misspent funds. However, the Department does not believe that direct coordination between UMTA staff and the myriad of state and local audit and other oversight entities conducting such reviews is an efficient or effective means of gathering and assimilating this information. Rather, we believe that the preferred method is to work with the OIG, as the cognizant audit agency, to ensure that UMTA is receiving adequate information from all sources having a bearing on audit oversight. The OIG will be asked to ensure that necessary coordination mechanisms are in place so that the products of all relevant oversight agencies are incorporated into the A-128 single audit process, which in turn will be used in accordance with existing practice in UMTA oversight activities.

RECOMMENDATION: Reassess its position of relying primarily on single annual audits to verify appropriateness of costs when closing completed grants.

See comment 19.

RESPONSE: The Department does not concur with this recommendation. Instead, the Department will take appropriate action to improve quality control over single annual audits to ensure that they meet the requirements of OMB Circular A-128.

The following are GAO's comments on the Department of Transportation's (DOT) letter dated December 13, 1991. Please note that the Federal Transit Administration (FTA) was then known as the Urban Mass Transportation Administration (UMTA) and the Federal Transit Act of 1991 was then known as the Urban Mass Transportation Act of 1964, as amended. For coherence with our report, we have referred to the agency as FTA throughout these comments, even though the DOT letter to which we are responding refers to the agency as UMTA. We have also referred to the act as the Federal Transit Act where the DOT letter refers to the Urban Mass Transportation Act. In direct quotations from the DOT letter or other documents, the abbreviation FTA appears in brackets in place of the abbreviation UMTA, and the Federal Transit Act appears in brackets in place of the Urban Mass Transportation Act.

GAO Comments

1. See responses to DOT's detailed comments below.

2. Although DOT contends that FTA's oversight fulfills statutory requirements, DOT's comments appear to support the sufficiency of self-monitoring by grantees. DOT states that grantee systems for self-monitoring in Region V are generally adequate to identify deficiencies and generate corrective measures. We disagree. A grantee's own oversight activities are valuable tools for identifying problems after they have occurred. However, they are not a substitute for internal management controls that, if properly designed and implemented, preclude problems from occurring in the first place.

DOT further asserts that the problems that occurred under CTA's self-monitoring might also have occurred under alternative oversight systems. It is precisely this laissez-faire agency attitude—reflected in Region V's limited and superficial grant oversight—that places the region's transit funds at risk of fraud, waste, abuse, and mismanagement.

3. We disagree. The section of the draft report to which DOT refers is based directly on information provided by DOT in written comments on two recently issued GAO reports. In letters dated September 11, 1991, and November 7, 1991, DOT stated that FTA's oversight approach is based on guidance in an October 1987 Executive Order on federalism. According to DOT, the Executive Order supported maximum reliance on grant recipients with minimum intrusion by the Department. FTA's delegation of responsibility to the grantees was also articulated in a September 1987 letter, in which the FTA Deputy Administrator described changes in FTA

grant management guidelines as continuing “. . . the shift in management emphasis from prior review by [FTA], toward fuller grantee responsibility. . . .”

4. The draft report did not state, as DOT infers, that FTA should act as manager or internal auditor for grantees.

5. DOT states that GAO ought to take into account “the statutory mandate of Section 9 of the [Federal Transit Act of 1991] which requires [FTA] to accept grantee certifications of compliance with Federal requirements at the grant award stage.” We could not find such a mandate in the statute. The wording of section 9 prohibits the making of grants until the Secretary has accepted a certification from the grantee. Specifically, the law states, “no grant shall be made under this section to any recipient in any fiscal year unless the Secretary has accepted a certification for such fiscal year submitted by such person pursuant to this subsection.”

Rather than requiring acceptance of grantee certifications, as DOT suggests, this language would clearly appear to authorize the Secretary of Transportation to refuse to accept a certification.

6. The draft report discussed Region V’s use of single audits as an oversight tool. In contrast, DOT’s comments focus on the standards for conducting the audits.

DOT is incorrect in stating that GAO establishes audit procedures to meet the requirements of sections 9(g)(1)(A) and (B) of the Federal Transit Act. GAO does not establish audit procedures for any individual federal program. Rather, the Comptroller General has issued standards for audits of government organizations, programs, activities, and functions that pertain to the auditor’s professional qualifications, the quality of audit effort, and the characteristics of meaningful audit reports.

The standards specifically note that government officials who authorize or arrange a government audit are responsible for providing audit coverage that is broad enough to help fulfill the reasonable needs of potential users of the audit report. In the case of FTA, that responsibility rests with the Secretary of Transportation, who is charged in section 9(g)(1) of the act with determining the extent of auditing that is necessary and appropriate. (GAO has an assignment under way assessing agencies’ implementation of the Single Audit Act.)

DOT also states that the Single Audit Act restricts its ability to require grantees to conduct audits required by section 9(g)(1) of the Federal Transit Act. Our draft report did not suggest that grantees conduct additional audits. However, neither the Single Audit Act nor OMB Circular A-128 restricts DOT's conduct of detailed audits or reviews. On the contrary, the implementing guidelines specifically allow federal agencies to conduct additional audits if such audits are deemed necessary to carry out the agencies' responsibilities. We believe that this is an important oversight option, particularly for monitoring a grantee that receives a relatively small portion of its total federal funding from FTA.

7. Among the objectives of a single audit are determining and reporting whether the entity (1) has internal control systems to provide reasonable assurance that the entity is managing federal financial assistance programs in compliance with applicable laws and regulations and (2) has complied with the laws and regulations that may have a material effect upon each major federal financial assistance program. Whether FTA funds are tested in a single audit depends on whether the funds are great enough relative to other federal programs to be considered a "major program," as defined in the Single Audit Act. The nature of any audit tests performed to meet the second audit objective is determined largely by the "Compliance Supplement" for that program, which is prepared by the agency administering the program (the supplement itself is distributed by OMB). The audit procedures suggested in the compliance supplement for the FTA program are not, in our opinion, adequate to determine whether a grant has been closed out properly.

We agree with DOT that better execution of audit plans and increased guidance on FTA requirements in the compliance supplement for the FTA program may increase the usefulness of the audits for grant monitoring purposes. However, when a grant is closed, a detailed review may be needed to ensure that all work has been completed, all products have been delivered, and all funds have been used appropriately. A timely and full reconciliation of a grant is important because a reimbursement may be due to FTA for a portion of the grant for which work has not been completed, regardless of whether financial records indicate that the funds have been spent.

8. DOT states that FTA uses the triennial review to cumulate the products of other oversight activities. This relegates the review to an after-the-fact compilation of the results of grantee noncompliance and mismanagement rather than treating it as a tool to identify grantee control weaknesses

before problems occur. Moreover, FTA's triennial reviews do not provide the agency with the information necessary to perform ". . . a full review and evaluation of the performance of a [grant] recipient in carrying out the recipient's program, with specific reference to compliance with statutory and administrative requirements. . ." as required by law. Such a review and evaluation could afford FTA the opportunity to identify and correct grantee management deficiencies before funds have been misused.

9. DOT contends that we are factually incorrect concerning FTA's detection of grantees' system deficiencies and FTA's actions to require grantees to correct deficiencies. The problems discussed in this report are serious and long-standing and have resulted in the mismanagement of millions of dollars of federal transit grants. Although FTA has been aware of some of these problems for a long time, we disagree with DOT's contention that FTA took appropriate and timely action to resolve the problems. The extensive correspondence over a 10-year period that DOT cites did not correct the problems and, therefore, cannot be construed as appropriate and timely oversight.

10. The section of the draft report to which DOT refers discussed Region V's reliance on single audits to close out grants when projects had been completed or terminated. DOT states that Region V has on several occasions required additional audits of projects when it has deemed such audits necessary. However, the additional audit that DOT cites as an example was not conducted for the purpose of closing out a completed or terminated grant. In fact, the example (which FTA officials characterize as a limited review rather than an audit) was completed by 1987, yet the grant for the project is still open.

11. DOT contends that the \$800-million balance in CTA's capital improvement program, which the PMO identified as a serious deficiency, is not an accurate gauge of CTA's management of federal funds. The unspent balance in CTA's capital improvement program was only one of several problems discussed in the report that raise questions about CTA's management capabilities. In the next section of its comments—Project Management Problems—DOT notes FTA's concerns over a 10-year period with CTA's management, including concerns about CTA's technical capacity to carry out federally funded projects, project delays, encumbrance and expenditure funding levels, and other management problems.

12. DOT states that since 1981 numerous letters were sent and discussions took place between FTA and CTA, which demonstrate FTA's oversight of CTA.

According to DOT, to “update and confirm [FTA’s] understanding of the situation” at CTA, in February 1990 FTA assigned a PMO to “analyze CTA’s technical management capability and capacity to implement its capital programs.” We are concerned that DOT regards FTA’s oversight actions at CTA as adequate. FTA has allowed CTA’s serious management deficiencies and the accompanying waste and mismanagement of funds to continue for 10 years. As we noted earlier, FTA’s actions cannot be regarded as either timely or appropriate because they did not compel CTA to correct its management problems and to implement adequate internal controls over federal transit grants.

In addition, when the PMO reported continuing problems in August 1991, CTA did not promise immediate corrective actions. Instead, CTA indicated that it would prepare a Project Management Plan to address its problems within 2 years. DOT states that FTA notified CTA that its funding could be impacted if the plan was not produced within 120 days.

13. DOT notes that FTA will conduct a procurement system review at CTA. Although we did not examine specific CTA procurements, the dollar value of CTA contracts and CTA’s history of procurement problems indicate that such a review is needed.

14. In commenting on the draft report, both DOT and CTA note that the inventory referred to may not be federally funded. However, CTA specifically describes the inventory as operating inventory. Because CTA pools operating funds from all sources, including federal transit funds, a federal interest would exist in all operating inventory, according to Region V officials and in our judgement.

DOT notes that CTA is currently implementing an automated inventory control system to alleviate property accountability deficiencies, which the OIG identified in 1985. Neither CTA nor FTA can say with certainty whether, since that time, a substantial portion of CTA’s inventory was actually received, used as intended, misplaced, lost, or stolen. Seven years exceeds a reasonable length of time to address such a significant management control weakness.

15. In the early 1980s, the Defense Contract Audit Agency reported to FTA that CTA had used questionable overhead formulas from 1974 to 1979. DOT contends that the draft report incorrectly maintained that FTA did not pursue the findings or require CTA to correct its financial system. For over a decade and with FTA’s knowledge, CTA has used overhead formulas that,

according to the OIG, resulted in overpayments of federal transit funds, and FTA has not compelled CTA to take corrective actions. According to December 1989 and July 1990 OIG reports, the questionable formulas have resulted in overpayments of more than \$15 million to CTA, and payment of the prohibited charges will continue to accrue until the formulas are revised. FTA's efforts to pursue and correct this problem can, at best, be described as inadequate, slow, and ineffective.

16. DOT again refers to FTA correspondence that did not result in correction of the problem. Although we agree that notification letters and other correspondence may be viable enforcement options, they cannot be regarded as adequate measures unless problems are corrected in response to them. As DOT asserts, Metra is only now developing a system to control its costs. If the earlier correspondence had been effective, such a system would already be in place.

17. We do not agree with DOT's assertion that this example illustrates effective FTA oversight. The project to which DOT refers has been under consideration since at least 1980. As our draft report stated, the PMO contractor identified the alarming estimated cost overruns in July 1990. According to DOT, FTA subsequently notified Metra that it could either redesign the project or accept a funding cap. We revised the report to include the information that DOT provided on the contract bid.

18. DOT raises two points to justify FTA's handling of the resolution of instances of grantee misuse of funds. First, DOT points to FTA's ongoing relationships with state and local government. However, this justification does not consider FTA's enforcement responsibilities. FTA's continuing relationship with its grantees does not relieve FTA of the obligation to take appropriate action to ensure that money is spent in accordance with statutory and regulatory requirements. The result of FTA's present enforcement policy has been long-term misuse of funds.

Second, DOT states that grantees are entitled to a presumption that they are acting in good faith, attempting to comply with applicable laws and regulations. We did not suggest that local officials were acting in bad faith, only that FTA had not taken appropriate action to correct problems. Our report focuses on the many long-standing management problems at CTA, which FTA and the transit authority have been slow to address. The persistence of these problems has led to continued misuse of federal funds.

Moreover, DOT misstates the law when it asserts that *U.S. v. Chemical Foundation*, 272 U.S. 1 (1926) is relevant to executive branch oversight or stands for the proposition that “grantees are public entities managed by public officials who are presumed as a matter of law to be discharging their obligations lawfully and in good faith.” This case sets forth standards of judicial review and as such does not address the proper role of executive agency oversight. The court said that in the absence of clear evidence to the contrary, courts presume that government employees have properly discharged their official duties. The Supreme Court noted that two lower courts had, in fact, already reviewed and approved the propriety of agency employee actions.¹ The Supreme Court’s statement about judicial presumption of proper discharge of duties was not the holding of the case.

19. Our response appears at the end of chapter 3.

20. DOT’s identification of FTA’s grant management oversight as a material weakness in its Federal Managers’ Financial Integrity Act (FMFIA) reports to the President and the Congress is appropriate and relevant background information for this report. Our draft report clearly stated that DOT had identified the weakness in FMFIA reports for fiscal years 1989 and 1990 and developed an action plan to correct the weakness. We agree with DOT that the FMFIA reports identify areas of risk and are not reports on specific fraud, waste, abuse, or mismanagement. However, when the material weakness involves oversight of federal funds, as is the case with FTA, a risk exists that fraud, waste, abuse, or mismanagement can occur. On December 31, 1991—after it had provided comments on our draft report—DOT again cited FTA’s grant management oversight as materially weak in its FMFIA report for fiscal year 1991. We revised this report to include information in DOT’s latest FMFIA report.

21. Our work was conducted in accordance with generally accepted government auditing standards. We used the reports of the OIG and other entities to identify weaknesses in grantees’ internal controls and FTA’s oversight. Our work focused on actions taken by Region V to ensure grantees’ compliance and corrective actions. The draft report included FTA’s and CTA’s positions on CTA’s use of questionable cost allocation formulas and FTA’s position on peak-period bus requirements—the subjects of the only OIG reports discussed in any detail in our report.

¹Findings of fact concurred in by two lower courts will not be disturbed unless clearly erroneous Under this rule the findings must be accepted.” *U.S. v. Chemical Foundation*, 272 U.S. 1, 14 (1926) (citation omitted).

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22. The full text of CTA's comments appears in appendix V.

23. Our response is provided at the end of chapter 2.

Comments From the Chicago Transit Authority and Our Responses



Chicago Transit Authority

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(312) 664-7200

Alfred H. Savage
Executive Director

November 26, 1991

Mr. Kenneth M. Mead
Director, Transportation Issues
United States General Accounting Office
Washington, D.C. 20548

Reference: Draft Audit Report "Mass Transit Grants:
Risk of Misspent and Ineffectively Used Funds in UMTA's
Chicago Region (GAO/RCED-92-53)

Dear Mr. Mead:

Thank you for giving us the opportunity to review and comment on the draft report referenced above. We have organized our response by category to facilitate this process. Our concerns can be categorized under four (4) headings:

A. Misleading or incomplete findings.

1. Adjoining sentences such as "...recommended the recovery of over \$40 million misspent by Region V grantees. At CTA, the region's largest grantee ..." (from lines 44-45) may mislead the reader into believing that \$40 million, or a major portion thereof, has been "misspent" by CTA. The fact that far less than \$40 million is attributable to CTA is not identifiable in the report at all, and the fact that the \$40 million has been substantially resolved does not appear until some paragraphs later.
2. One vendor relationship, and a report thereon commissioned by CTA, is represented as "continual acceptance of shoddy work products... bid-rigging...collusion...and...theft", and it is implied that the FBI has substantiated the claim. Immediately after, the report discusses another CTA commissioned report which identified problems in the procurement area which CTA subsequently took steps to solve. This latter example is presented as proof of mismanagement, however, rather than of progress. In fact the next sentence begins: "Exacerbating these procurement problems.....".

While the report does include the information that CTA has taken steps to cure previous problems, this fact is given very little visibility. We believe that all facts should be presented as objectively as possible, including the many steps CTA has taken to improve procurement.

Now on p. 3.

See comment 1.

See comment 2.

See comment 3.

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3. The references to capital program deficiencies and procurement weakness resulting in backlogs are not complete. The report cites an \$800 million backlog; it should be explained that a substantial part of the "available contracting dollars" or "outstanding grants" is composed of contracts in process. \$400 million of CTA's unexpended amount consisted of large rolling stock contracts now in construction or encumbered labor.

Further, the agency has virtually moved mountains in the last eighteen months in order to streamline and improve capital program management. In one year, CTA reduced unobligated federal grants from over \$400 million to less than \$200 million.

4. We object to the phrases "... CTA's serious management problems..." (at line 52), "significant and long-standing management weaknesses" (on page 15), "management deficiencies that leave federal transit grants to CTA vulnerable to fraud, waste, and abuse..." (on page 22) along with other similar references. The phrases beg the question on unresolved issues included within the substance of the report.

B. Use of Prior Audit Material.

1. References to "single annual audits" are confusing. At line 118, it is stated "...they were not adequate to disclose grantee noncompliance or management weaknesses." We suggest that the single audit was designed by the federal government to accomplish exactly those things. We are also confused about the references as to use of the audit. We know of no instance where an agency has requested that the single audit be used in place of a close-out audit, and in fact Region V very properly accepts the CTA single audit each year pending close-out audit.
2. We noted your statement on page 13, "We concluded it was acceptable to use the OIG's information without further verification...". We believe, however, that you should have included complete information on the input from Region V or the grantee which was part of those reports. The report includes the information that action is underway in regard to many of the OIG findings, but well after the findings are described in injurious terms.
3. The Triennial Review is described in the same way. Reference is made to the findings in detrimental terms, and the information is not provided that the most important of those findings were immediately and thoroughly addressed.

C. Lack of Documentation

1. On page 13, the report says "We also contacted other agencies ...to determine whether they had detected grant management problems." The implication is left that such problems were detected. Similarly, on page 14, the report references "allegations from private citizens concerning a variety of questionable practices at CTA..." and "general observations (from the FBI and RTA OIG) that helped us identify potential problem areas." We would like the opportunity to respond to these referenced charges.

See comment 4.
Now on p. 3.

Now on p. 16.
Now on p. 21.

See comment 5.

Now on p. 5.

See comment 6.

Now on p. 14.

See comment 7.

See comment 8.

Now on p. 14.

Now on p. 14.

See comment 9.

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2. The report references CTA's inventory system and problems with UMTA-funded parts a number of times. While we are unsure of what specific matters are referenced, we believe that the problem referred to as "...20% of the \$63 million bus and railcar parts inventory..." relates to the portion of CTA's operating inventory which is located at garages and terminals, and which is not carried as part of the perpetual inventory system. Although this inventory is not UMTA-funded, CTA maintains firm physical control over it. We are performing a cost/benefit analysis at the present time to determine whether the costs of imposing accounting control over this material (via a perpetual inventory) are exceeded by the benefits derived.

See comment 10.

D. Factual Errors

1. UMTA has provided \$1.7 billion in grants, not \$1.9 billion (line 136), \$1.5 billion (page 9), or \$1.6 billion (page 33).
2. The backlog is quoted as \$800 million at line 51 and as \$625 million on page 9.
3. Contrary to your statement at lines 143 and 144, "...the region has not coordinated its oversight activities with ... state and local organizations...", we have had a number of group meetings which included both federal and state or federal and RTA grantors, and have solved a number of common problems thereby.
4. The RTA is not the "Chicago Regional Transportation Authority".
5. Additional errors include references to the State of Illinois "suspending" \$500 million in bond authority until the CTA backlog is reduced. The authority was contingent upon the region meeting a backlog requirement, a goal which was achieved in February of this year through CTA meeting and exceeding its share of the requirement. In fact, CTA was the first of the regional service boards to meet its goal.
6. Recent single audits have footnoted OIG findings on overhead costs (page 30). We make all findings available to our independent auditors, along with our responses and resolutions.

Now on pp. 5, 11, 29.

See comment 11.

Now on pp. 4, 11.

See comment 12.

Now on p. 5.

See comment 13.

See comment 14.

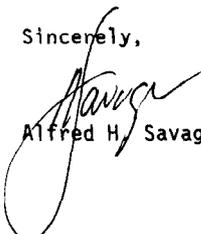
See comment 15.

Now on p. 27.

See comment 16.

We believe that the report could be rewritten with more clarity and objectivity, and we would appreciate having the opportunity to review such a rewritten report.

Sincerely,


Alfred H. Savage

The following are GAO's comments on the Chicago Transit Authority's letter dated November 26, 1991. Please note that the Federal Transit Administration (FTA) was then known as the Urban Mass Transportation Administration (UMTA). For coherence with our report, we have referred to the agency as FTA throughout these comments, even though the CTA letter to which we are responding refers to the agency as UMTA.

GAO Comments

1. The excerpts that CTA cites are from the two-paragraph RESULTS IN BRIEF summary of the draft report's findings. The phrases clearly attribute the misspent funds recommended for recovery to "Region V grantees." In the immediately preceding paragraph, the draft report stated that Region V has over 100 grantees.
2. The section of our draft report to which CTA refers details a history of procurement and inventory control problems. CTA believes that our presentation of information on the CTA procurement problems identified in two CTA-commissioned reports is misleading or provides incomplete findings. We disagree. The FBI believed that it had built a case against the vendor that was the subject of the 1984 CTA-commissioned report. The Chicago offices of the FBI and the U.S. Attorney concurred with our presentation of this information. CTA also states that it subsequently took steps to solve the procurement problems identified in the May 1988 CTA-commissioned report and maintains that we should present these actions as proof of progress, rather than as proof of mismanagement. Our draft report did not present CTA's actions as proof of mismanagement. However, these actions did not solve CTA's procurement problems. In an August 1990 memorandum, CTA identified procurement deficiencies as one problem inhibiting its prompt implementation of projects. In fact, CTA is currently implementing actions intended to improve vendor performance and reduce the cost of lost, misplaced, and/or unaccounted for inventory.
3. CTA notes that the draft report included information on the steps that CTA is currently taking to address its procurement problems but that we gave these actions very little visibility. Other actions CTA has taken over the past several years to address procurement problems were not successful. As the draft report stated, it is too early to evaluate the success of CTA's current actions.
4. The report has been revised to include information on CTA's efforts to reduce its backlog of capital grants.

5. With \$1.6 billion in active grants, CTA is one of the largest recipients of federal transit funds in the country. If CTA does not have adequate controls over its inventory, procurement, and other management systems, this substantial federal investment is at risk of fraud, waste, abuse, and mismanagement. Moreover, given the magnitude of CTA's funding, the extent of the authority's management problems, and the length of time the problems have gone uncorrected, the descriptive terms in the report are appropriate.

6. As we stated in our response to DOT's comments, among the objectives of a single audit are determining and reporting whether the entity (1) has internal control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations and (2) has complied with the laws and regulations that may have a material effect upon each major federal financial assistance program. Whether FTA funds are tested in a single audit depends on whether the funds are great enough relative to other federal programs to be considered a "major program," as defined in the Single Audit Act. The nature of any audit tests performed to meet the second audit objective is determined largely by the "Compliance Supplement" for that program, which is prepared by the agency administering the program (the supplement itself is distributed by OMB). The audit procedures suggested in the compliance supplement for the FTA program are not, in our opinion, adequate to determine whether a grant has been closed out properly.

CTA's statement to the contrary notwithstanding, FTA does use the single audit for closing grants and plans to continue to do so. Moreover, according to Region V's Directors of Program Management and Financial and Administration Management, CTA has not closed a grant since the early 1980s.

7. The draft report included information on the deficiencies and misspent funds identified by the OIG. Appendix III listed OIG reports on Region V grantees issued since October 1987, including the report subject; the amount identified as wasted, misspent, or mismanaged; and the grantees audited. The draft also included FTA's and CTA's positions on OIG reports on CTA's use of questionable cost allocation formulas and FTA's position on the OIG report on compliance with peak vehicle bus requirements—the only reports discussed in detail.

8. CTA contends that it immediately and thoroughly addressed the most important triennial review findings. When we began our work in July 1990, we found significant, long-standing procurement, capital program management, and inventory control problems. According to DOT, the procurement problems found in the 1986 and 1989 triennial reviews were sufficiently serious that FTA plans to conduct a formal procurement system review at CTA in early 1992. FTA has also required CTA to prepare a plan to address project management problems, and CTA is currently pursuing the implementation of a new inventory system to correct inventory accountability deficiencies.

9. The section of the report to which CTA refers describes the scope and methodology of our work to address the report's objectives. The work included discussions with private citizens concerning questionable practices at CTA. These individuals were referred to us by Representative Cardiss Collins.

10. Although we did not track specific inventory parts to their individual funding sources, the inventory is, as CTA states, operating inventory. CTA contends that this inventory is not FTA-funded. However, CTA pools operating funds from all sources, including funds received from FTA. According to Region V officials and in our judgement, a federal interest would exist in all CTA's operating inventory.

11. FTA's Grants Management Information System data, as of September 30, 1991, show that CTA has active grants totaling \$1.6 billion. We have revised the report to reflect this total.

12. Unspent grant balances (or, more accurately, unobligated balances) are not the same as undisbursed balances (funds not yet paid out). For example, if CTA enters a contract to purchase buses, it obligates an expenditure of funds, reducing its unspent grant balance immediately by the full amount of the contract. The undisbursed balances, however, would not be reduced until actual payments (outlays) were made under the terms of the contract. In our example, the full amount of the contract may be paid over several years as buses are delivered.

In April 1990, CTA had an unspent balance of \$800 million in capital improvement grants. As we noted in comment 4, we have revised this report to include information on CTA's efforts to reduce this backlog. The draft report also cited CTA's undisbursed grant balance. FTA data as of

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September 30, 1991, show CTA's undisbursed balance at \$525 million. We have revised this report to reflect these data.

13. The CTA meetings notwithstanding, FTA Region V does not routinely coordinate its oversight activities with those of state and local organizations.

14. This report has been revised to reflect this correction.

15. The Illinois bond authority was contingent upon CTA's and the other Chicago area transit providers' meeting certain state requirements, including a requirement that unobligated balances not exceed \$350 million. CTA states that the backlog reduction goal was achieved in February 1991. Later that year, the state approved release of bond authority for the Chicago area. We have revised this report to clarify this point.

16. The draft report incorrectly stated that single audits for CTA had not reported previously disclosed OIG findings. The report should have indicated that the findings were subsequently rather than previously disclosed by the OIG. We have revised this report to show that the single audits on CTA did not report certain unallowable, inappropriate, and ineligible costs that the OIG subsequently found to have been occurring during the period covered by the audits.

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