
Office of Inspector General
Audit Report

**Controls Over Project
Management Oversight Program**
Federal Transit Administration

Report Number TR-1998-039
Date Issued: December 8, 1997





U.S. Department of
Transportation

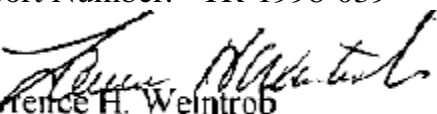
Office of the Secretary
of Transportation

Office of Inspector General

Memorandum

Subject: **ACTION:** Report on Controls Over Project
Management Oversight Program
Report Number. TR-1998-039

Date: December 8, 1997

From: 
Lawrence H. Weinrob
Assistant Inspector General for Auditing

Reply to
Attn of:

To: Federal Transit Administrator

Introduction

This is our final report on Federal Transit Administration's (FTA) controls over its Project Management Oversight (PMO) Program. This report reflects Office of Inspector General (OIG) consideration of information provided in FTA's May 29, 1997, reply to our draft report. It also reflects consideration of information and documentation subsequently provided OIG by FTA.

Results in Brief

We found FTA has appropriately revised its PMO Program guidance to require its PMO contractors to independently verify that grantees are adequately and effectively implementing Quality Assurance and Quality Control Programs. FTA's program guidance has also been modified to require PMO contractors to monitor project costs and schedules, and independently verify quality of construction data. We also identified four cases where FTA used PMO funds in a questionable manner. That is, neither for the direct oversight of the construction of a major capital project nor for management audit and compliance reviews of specific recipients of such funds. Furthermore, FTA set aside PMO funds in excess of planned requirements and obligations for Fiscal Years (FY) 1994 through 1996. These excess funds could have been used to provide additional capital, operating, and planning assistance to FTA grantees.

Eligible Uses of PMO Funds

The Federal Transit Act of 1992, as amended, sections 23(a) and 23(h)¹ provide authorization for FTA use of Project Management Oversight funds. In this report, the OIG refers to these funds as PMO funds. Section 23(a) states:

[FTA] . . . may use not to exceed 1/2 of 1 percent of the funds made available for any fiscal year to carry out sections 3, 9, or 18 of this Act, [typical FTA grants], or interstate transfer transit projects under section 103(e)(4) of title 23, U.S. Code, as in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under any such section. In addition to such amounts, [FTA] may as necessary use not more than 1/4 of 1 percent of the funds made available in any fiscal year to carry out a major project under section 3 to contract with any person to over see the construction of such major project.

As originally enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. No. 100-17), section 23(a) authorized FTA to contract for construction oversight of FTA funded major capital projects. This reflected Congressional concern over the government's ability to effectively manage the design and construction of major projects. Private sector architect and engineering firms were hired to provide PMO expertise on behalf of FTA.

Subsequently, as part of the Department of Transportation and Related Agencies Fiscal Year 1990 Appropriations (Pub. L. No. 101-164), Congress added a new subsection (h) to section 23. Subsection (h) stated that funds made available under 23(a) could also be used to "contract with any person to provide safety, procurement, management and financial compliance reviews, and audits of any recipient of funds" under this program.

The Senate Report (S. Rep. 101-121, pp. 103-104) explained that subsection (h) "expands [FTA's] authority to contract for project management oversight services," and that under current law "such reviews have focused narrowly on construction management, and broader reviews are needed to safeguard the Federal reviews investment in transit." It should be noted that, save for questions for the record posed by Senator Lautenberg during hearings on the Department's Fiscal Year 1992 appropriations, Congress has not focused, until very recently, on how PMO funds have been spent and whether these expenditures were appropriate. It is our view that section 23(h) funds may be used only for specified

¹ These provisions are now codified in 49 U.S.C. § 5327(c).

management compliance reviews and audits of grant recipients who receive PMO funds under section 23(a) to oversee construction of major capital projects.

Actual Use of PMO Funds

In our draft report, we identified 11 FTA PMO funded management initiatives. In our opinion, such use of these funds was highly questionable. We based our concern on documentation provided by FTA regarding the scope of these initiatives. These initiatives did not appear to require (1) oversight of a major construction project or (2) safety; procurement; management or financial compliance reviews; or audits of individual or specific FTA PMO grantees.

In its reply to our draft report, FTA agreed that the 11 initiatives were not for oversight of major construction projects, and therefore were not eligible for PMO funds under section 23(a). FTA asserted, however, that the initiatives were eligible for PMO funding under section 23(h). FTA stated in its reply that if an initiative is related to FTA's overall oversight or grant management programs, it is eligible for PMO funding even though not a compliance review or audit of a specific grantee.

In support of its position, FTA provided information and program documentation it had not previously made available. We then began a dialogue with FTA that resulted in, among other things, even more documentation and information presented to us by FTA. After reviewing the additional documentation, we now conclude that 7 of 11 "management initiatives" cited as "ineligible" could meet the eligibility criteria for PMO funding under an expansive interpretation of sections 23(a) and (h). That is, one which construes these initiatives broadly as permissible oversight which benefits all FTA recipient grantees under this program, rather than one specific grantee.

The remaining 4 initiatives, however, are more suspect. The question is whether the link between these contracts to provide FTA with management oversight services that benefit all or most of its grantees in general, is sufficient and fulfills the intent of section 23 to provide funds to specific grantees for a limited number of purposes. We take the position that, in the case of the remaining 4 projects in question, this link is remote and incidental, at best, and in potential conflict with the underlying purposes of section 23. In our view, that purpose is to protect Federal expenditures by ensuring proper oversight of the construction project and the efficient management and use of these funds by the project recipient grantees. The guidance offered in a April 2, 1993, internal FTA memo regarding eligibility of projects under section 23(h) is instructive:

Section 523(h) was intended to expand the PMO-type authority to authorize additional safety, procurement, management, and financial compliance reviews, and audits. **Thus, any project intended to be funded out of this resource must relate directly to a safety, procurement, management, or financial compliance review of a specific recipient(s) or project(s).** Generalized research, demonstration and training activities are not eligible. It would also appear inappropriate, at this time, to include broad industry program, or policy evaluation projects. **[emphasis added]**

Our opinion is based on a thorough review of all documentation provided by FTA, and objective consideration of all discussions with FTA through a continuing dialogue. FTA does not agree with our position. It is FTA's view that any project requiring FTA oversight, regardless of whether or not the project is a compliance review or audit, is eligible for section 23(h) funding. We disagree with this broad interpretation and concur in the opinion, as expressed in an earlier FTA document, as highlighted above: that the project must relate directly to a safety, procurement, management, or financial compliance review of a specific recipient or project.

Specific Projects

In our opinion the following projects, financed with PMO funds, are management initiatives with links too indirect as to the specific projects or grantees for which section 23 is intended. As such, we have serious concerns over their eligibility:

1. National Transit (Section 15) Data Base - \$2,003,000. Essentially, this initiative uses a contractor to collect and record required information from all FTA grantees. It is a grant management function that FTA has chosen to accomplish through contracting. FTA receives appropriated funds to manage its overall grant programs and should not have to resort to using grant funds for this purpose.
2. Turn Key Demonstration Oversight - \$2,300,000. Turnkey System Projects are demonstrations designed to help mass transportation meet the total urban transportation needs at a minimum cost. The purpose of this expenditure is to provide FTA with guidelines for evaluating the costs and benefits of turnkey operations. Since these are demonstration projects which receive funding explicitly through appropriations for research, development, and demonstration, FTA oversight of these projects should also be funded in that account, not through the PMO program.

3. Drug and Alcohol Management Information System - \$1,211,000. FTA tasked the Volpe Center to collect, maintain, and analyze the annual reports of grant recipients to summarize the results of required Drug and Alcohol Test Programs, and produce an annual report to the Secretary. This is an overall FTA management responsibility not related to specific grantee oversight as reflected in sections 23(a) and (h). Hence, this management initiative may fall outside the scope of eligible PMO funding.
4. Electronic Grant Making and Management Oversight - \$996,000. This initiative was a one-time capital investment to have a contractor install a computerized system for FTA to facilitate routine grant management. It is not related to any specific grantees, compliance reviews, or specific grantee oversight. It may, therefore, be ineligible for PMO funding.

Conclusion

Notwithstanding the fact that OIG draft reports are not intended to be released outside of the Department, Department of Transportation's Congressional Appropriations Committees received a copy of our draft report on the use of section 23 funds.²

In the House Report (No. 105-188) accompanying the Fiscal Year 1998 Appropriations for the Department, the Committee on Appropriations cited the Inspector General's draft report regarding the eligibility of these management initiatives for PMO funding. The report further stated that these projects are more appropriately funded through FTA's national research and planning or administrative expenses accounts. The Committee limited FTA's FY 1998 PMO funds to \$15 million, plus unobligated balances carried forward from previous years. Finally, the Committee directed that "the FTA submit with its annual budget submission a detailed program plan by activity and detailed justification of its oversight program, similar to the format of FHWA's intelligent transportation systems justifications."

The actions taken by the Committee will help ensure that PMO funds are used in accordance with Congressional intent. Therefore, no further response to this report is required from FTA. However, we would recommend that, during any future reauthorization of the Federal Transit Act, FTA seeks clarification from Congress on the types of programs it considers eligible for section 23 funding. It would be prudent for all parties to have more guidance on the relationship between project management oversight grants, as provided through section 23(a), and the management and financial compliance reviews, as authorized by section 23(h).

² As are all OIG draft reports, this draft was clearly marked not to be released outside of the Department.

If you have any questions, or would like to discuss this report further, please contact me at (202) 366-1992.

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