

**REPORT ON THE
CITY OF SAN FRANCISCO'S
USE OF FEDERAL TRANSIT FUNDS**

Federal Transit Administration

Report Number: AV-2008-071

Date Issued: August 20, 2008



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

The Inspector General

Office of Inspector General
Washington, DC 20590

August 20, 2008

The Honorable Tom A. Coburn, M.D.
United States Senate
Washington, DC 20510

Dear Senator Coburn:

This is in response to your January 2008 request that we examine the San Francisco city government's use of Federal transit funds appropriated for the city's municipal transit system (Muni). Specifically, you expressed concern that the city may have used Federal funds intended to support public transportation for improper purposes, such as lobbying activities. Federal regulations prohibit the use of Federal funds for such activities.

To address your concerns, we met with officials from the Federal Transit Administration's (FTA) San Francisco Regional Office; city government, including the mayor's office; and the San Francisco Municipal Transportation Agency, which operates Muni. We also met with officials from the certified public accounting firm that audits Muni's financial statements. To determine whether the city was using Federal transit grant funds for unauthorized purposes, such as lobbying, we examined, among other things, FTA policies and procedures related to application, approval, funding, and oversight of these funds; Muni's internal control system for administering them; and related expenditures and transactions.

In summary, we found no evidence that Federal transit funds were used for unauthorized purposes. In our review of Muni's accounting records, we found that Muni used funds from its operating budget, a non-Federal source of funds, to reimburse the mayor's office for activities and staff positions related to Muni's mission. We also found that both FTA and Muni have effective controls to ensure proper use of Federal transit funds. The results of our review are discussed below and further detailed in the enclosed briefing, which we provided to your staff on July 21, 2008.

Report Number AV-2008-071

Federal Funds Were Used for Appropriate, Muni-Related Purposes

Muni has two separate accounts for its capital and operating budgets.

- The capital budget contains the cost of projects covered by Federal grants. Projects eligible for FTA grant funds include the acquisition, construction, and maintenance of transit facilities and equipment. FTA grant funds cannot be used for normal operating assistance, such as salaries, except where activities are directly related to the performance of a grant.
- The operating budget includes departmental salaries, materials and supplies, and work orders (i.e., requests for services from other departments). Local or state funds are used to pay for expenditures in the operating budget. Sources of operating funds include sales of parking permits, collection of fines and fees, receipts from fare boxes and parking garages, sales of transit passes, collections from the city's general fund, and state sales taxes.

We found that Muni used funds from its operating budget for the following appropriate purposes:

- To reimburse the mayor's office more than \$200,000 for lobbying activities carried out on Muni's behalf for fiscal years 2006 and 2007.
- To pay salaries and estimated fringe benefits totaling approximately \$195,000 in fiscal year 2008 for positions in the mayor's office or other city departments; these positions were related to Muni's mission.

We randomly sampled 77 capital project expenditures with a total value of \$6.16 million and found all to be eligible capital project costs. These include procurement of standard hybrid-electric diesel buses, salaries for Muni project engineers, and retrofit of transit vehicles.

FTA's and Muni's Internal Controls Are Adequate To Ensure Proper Use of Federal Transit Funds

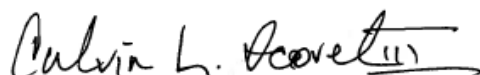
FTA relies on a variety of methods to oversee transit funds. These include triennial reviews,¹ financial management oversight reviews, annual risk assessments, grantee assurances, and single audits—audits conducted under Federal guidelines by independent auditors. Muni's 2007 triennial review and single audit found no evidence that Muni used Federal funds for lobbying.

¹ The triennial review is one of FTA's management tools for examining grantee performance and adherence to current FTA requirements and policies. The review currently examines 23 areas, such as legal, financial, technical, and lobbying.

In addition to properly separating its capital and operating expenses, Muni ensures that employees administering these budgets have adequate separation of duties for posting transactions and making payments.

Based on the results of our review, we are making no recommendations. We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. If I can answer any questions, please contact me at (202) 366-1959 or Theodore Alves, Deputy Inspector General, at (202) 366-6767.

Sincerely,

A handwritten signature in black ink that reads "Calvin L. Scovel III". The signature is written in a cursive style with a horizontal line at the end.

Calvin L. Scovel III
Inspector General

Enclosure

cc: FTA Administrator



Review of the City of San Francisco's Use of Federal Transit Funds

Office of Inspector General
Briefing for the Staff of Senator Tom Coburn
July 21, 2008





Congressional Request

- In a letter dated January 31, 2008, Senator Tom Coburn—Ranking Member of the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security—requested that we review the San Francisco city government’s use of Federal transit funds for the city’s bus and transit system, Muni.

- Specifically, Senator Coburn asked that we determine if the city had used those funds for unauthorized purposes, including directly paying for lobbying activities or replacing city transportation funds diverted for lobbying activities (see slide 13 for audit scope and methodology).

- Senator Coburn raised his concerns following a newspaper report that the mayor’s office was using transit funds for the city’s lobbying activities, among other things. Federal regulations prohibit the use of Federal funds for such activities.



Background

- The Federal Transit Administration (FTA) provides grants to the city for eligible transit capital projects.
 - Projects eligible for FTA grant funds include the acquisition, construction, and maintenance of facilities and equipment used in transit.
 - FTA generally provides 80 percent of a project cost, with state and local funds making up the difference.
 - FTA funds cannot be used for lobbying activities or normal operating assistance, such as salaries, except where activities are directly related to the performance of a grant.
 - For fiscal years (FY) 2005, 2006, and 2007, the city expended Federal funding of \$71 million, \$68 million, and \$77 million, respectively, for FTA-funded projects.



Summary of OIG Results:

- **We found no evidence that the city was using Federal transit funds for unauthorized purposes. We also found that FTA and Muni controls were adequate to ensure proper use of Federal transit funds for Muni.**

- In our examination of Muni's accounting records, we found that Muni used funds from its operating budget, a legitimate source of funds, to:
 - reimburse the mayor's office more than \$200,000 for lobbying activities carried out on Muni's behalf for FYs 2006 and 2007.
 - make payments of approximately \$195,000 in FY 2008 for positions in the mayor's office or other city departments that were related to Muni's mission.

- We randomly sampled 77 capital project expenditures valued at \$6.16 million and found all to be eligible capital project costs. These included salaries for project engineers, retrofit of transit vehicles, and procurement of hybrid-electric diesel coaches.

- In our examination of FTA and Muni oversight, we found:
 - FTA uses an effective review system to ensure Muni's compliance with Federal regulations.
 - Muni ensures proper separation of its capital and operating budgets and related staff functions.



Muni Uses Operating Funds To Pay for Lobbying Activities

- Muni uses funds from its operating budget to reimburse the mayor's office for its share of lobbying services expenditures.
 - For FYs 2006 and 2007, Muni reimbursed the mayor's office \$60,000 and \$140,890, respectively. Muni expects to reimburse the mayor's office \$140,890 for FY 2008.

- The mayor's office coordinates lobbying activities for city departments, including Muni.

- The city contracts with lobbying firms in Sacramento, CA, and Washington, DC, to carry out these activities.

- Lobbying activities include:
 - obtaining state and Federal funding for capital projects and operations.
 - contacting Federal legislators and regulatory agencies.
 - testifying before legislative and regulatory committees.



Muni Uses Operating Funds To Pay for Positions Assigned to the Mayor's Office or Other City Departments

- Muni uses funds from its operating budget to pay its share of salaries for positions assigned to the mayor's office or other city departments for services related to Muni's mission.
- For FY 2008, Muni paid more than \$195,000 for its share of salaries and estimated fringe benefits for positions assigned to the mayor's office, or other city departments (see table at slide 7).
- As of February 8, 2008:
 - The Deputy Chief of Staff for Transit Issues and the Executive Secretary positions moved from the mayor's office to Muni.
 - The Deputy Chief of Staff position became vacant.
- As of June 26, 2008:
 - Muni and mayoral staff are negotiating the extent of Muni's share of salaries for the City Build Director and Special Events Coordinator, both in the Office of Economic and Workforce Development.
 - Muni has requested that its share be reduced from 100 percent to 25 percent (from \$245,300 to \$61,325).



Actual or Planned Muni Expenditures for Positions Assigned to the Mayor's Office or Other City Department – City's FY 2007-2008 Budget

Title/Position Function	Muni Share of Salary and Estimated Fringe Benefits City's FY 2007-2008 Budget (July 1 to June 30)
Mayor's Deputy Chief of Staff for Transit Issues – Coordinates transit issues between Muni and the mayor's office.	\$91,200: Muni paid 60% of the Deputy Chief of Staff's salary.
Executive Secretary - Supports Deputy Chief of Staff for Transit Issues.	\$30,800: Muni paid 60% of the Executive Secretary's salary.
Greening Director – Focuses on beautifying city streets.	\$39,400: Muni paid 28% of the Greening Director's salary.
Climate Protection Initiatives Director – Implements Proposition A requiring a Climate Protection Plan, which includes encouraging bicycle use and reducing carbon emissions.	\$33,800: Muni paid 40% of the Climate Protection Initiatives Director's salary.
Muni's Total Share of Salaries and Estimated Fringe Benefits	\$195,200
Special Events Coordinator – Coordinates transit/traffic routes and street closures during special events.	\$130,900*: Muni in negotiation with mayor's office to reduce its share of the Special Events Coordinator's salary from 100% to 25%.
City Build Director – Focuses on placing low-income residents into construction jobs.	\$114,400*: Muni in negotiation with mayor's office to reduce its share of the City Build Director's salary from 100% to 25%.

Note: Dollar figures rounded to nearest hundred dollars.

*As of June 26, 2008, Muni had not reimbursed the Office of Economic and Workforce Development for these two positions.



Muni Used Federal Transit Funds To Pay for Capital Project Expenditures

- Muni uses funds from its capital budget (FTA funds) to pay for its capital project expenditures.
- For the period January 2007 through March 2008, we randomly sampled 77 of 5,726 capital project expenditures valued at \$6.16 million of the \$44.2 million in total capital project expenditures and verified that the city *did not* use FTA funds to pay for unallowable costs, such as lobbying.
- Expenditures for capital projects included:
 - \$4.2 million for procurement of 55 standard hybrid-electric diesel coaches.
 - \$13,331 in retrofit costs of ninety 60-foot diesel coaches.
 - \$19,885 in salaries of Muni employees, such as engineers, working directly on the Third Street Light Rail Transit Project.



FTA Oversight Was Adequate To Ensure Proper Use of Federal Transit Funds

- We found that FTA oversight was adequate to ensure proper use of Federal transit funds for Muni.
- To ensure the city uses FTA grant funds only for authorized purposes, FTA relies on triennial and financial management reviews¹ and single (independent) audits:
 - *Triennial reviews* examine statutory and administrative compliance in 23 areas, such as lobbying for recipients of Federal grants in excess of \$100,000. These reviews must, among other things:
 - certify compliance with prohibition against use of Federal funds for lobbying.
 - disclose any use of non-Federal funds for this purpose.
 - The FY 2007 triennial review found that Muni:
 - complied with the preclusion against the use of Federal funds for lobbying.
 - provided support for 15 FTA grant draw-downs but needed additional time to find the required supporting documents.

¹ FTA and external contractors conduct triennial reviews. Contractors conduct financial management reviews for FTA.
Report Number AV-2008-071



FTA Oversight Was Adequate To Ensure Proper Use of Federal Transit Funds (continued)

- *Financial Management Oversight Reviews (FMO):* A triennial review or an annual risk assessment may trigger an FMO review, which is a more in-depth analysis of the grantee.
- An FMO Review of Muni conducted in FY 2003 found:
 - no indication that Muni used Federal funds for lobbying.
 - more than a 10-percent increase, however, in Muni's indirect cost rate for FY 2000 without required FTA approval.
- A 2007 FMO review of Muni's indirect cost rate for FY 2004 found:
 - the rate still too high;
 - the methodology used to calculate the rate in non-compliance with OMB-87 and Federal regulations.
 - the need for FTA to suspend future funding of indirect charges until Muni complied.
- On May 5, 2008, FTA suspended funding of indirect charges from FY 2005 onward until Muni became compliant.
- As of the date of our review, FTA and Muni were in discussions to resolve this issue.



FTA Oversight Was Adequate To Ensure Proper Use of Federal Transit Funds (continued)

- *Single audits* are conducted under Federal guidelines by independent auditors. The purpose of single audits is to determine whether the grantee (Muni) is complying with provisions of laws, regulations, contracts, and grants pertaining to Federal awards. The Office of Management and Budget Circular A-133 details the compliance requirements for single audits.
- The independent audit firm, KPMG LLP, performed single audits of Muni. These audits found that, for FY 2006 and FY 2007, Muni had a control environment that decreased the risk of fraud.



Muni's Internal Controls Were Adequate To Ensure Proper Use of Federal Transit Funds

- We found that Muni's internal controls were adequate to ensure the proper use of Federal transit funds.
 - Muni has two distinct accounts, which separate the capital budget from the operating budget; each account has its own set of codes.
 - Capital Budget - The capital budget contains the cost of projects covered by Federal grants, including the cost of construction, equipment, and rolling stock. Muni staff use FTA funds to pay for expenditures in the capital budget.
 - Operating Budget - Items in the operating budget include departmental salaries, materials and supplies, and work orders (i.e., requests for services from other departments). Muni staff use local and/or state funds to pay for expenditures in the operating budget.
 - Source of operating funds include sales of parking permits, collection of fines and fees, receipts from fare boxes, parking garage revenues, sales of transit passes, collections from the city's general fund, and state sales tax revenues.
 - In addition to properly separating its capital and operating expenses, Muni ensures that employees administering these budgets have adequate separation of duties for posting transactions and making payments.
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Audit Scope and Methodology

- We conducted audit work between February and June of 2008, and reviewed data from FY 2005 to FY 2008. We conducted this review in accordance with Generally Accepted Government Auditing Standards prescribed by the Comptroller General of the United States.
- To obtain data, we interviewed officials from:
 - FTA, Region IX, San Francisco
 - San Francisco Municipal Transportation Agency (which operates Muni)
 - Office of the Mayor, City and County of San Francisco
 - Office of the Controller, City of and County of San Francisco
 - San Francisco Ethics Commission
 - KPMG
- We reviewed:
 - Federal legislation and regulations covering permissible and non-permissible costs for Federal grants
 - FTA policies and procedures related to application, approval, funding, and oversight of Federal transit grants
 - Type and dollar amount of active FTA grants to Muni
 - Oversight by Offices of Mayor and Controller
 - Muni's internal control system
 - Report relevant to the use of Muni funds for positions in the mayor's office
 - Muni's single audits and supporting documents for FY 2005 through FY 2007
- For the period January 2007 through March 2008, we tested a statistical sample of 77 financial transactions selected from a universe of 5,726 capital project expenditures to determine if the city was using funds for unauthorized purposes, such as lobbying.