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MASS TRANSIT

Reauthorization Offers Opportunity To Address the Appropriate Federal Role

Statement for the Record of
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Before the
Subcommittee on Housing and Urban Affairs
Committee on Banking, Housing, and Urban Affairs
United States Senate

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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to present our views on the Urban Mass Transportation Administration's (UMTA) grant programs and the 5-year, $16.3 billion reauthorization proposal.[1] Our testimony is based on our work at UMTA over the past several years and focuses on those aspects of UMTA's proposal dealing with the sources and uses of funds, increased funding flexibility between mass transit and highways, and oversight of grantee activities.

In summary, our work shows the following:

-- UMTA's proposal--to provide $16.3 billion for mass transit over the next 5 years--represents only a nominal 1-percent increase in authorized funding over the past 5 fiscal years and could represent nearly a 17 percent decrease in real dollars over the next 5 years, based on projected inflation rates.[2] In contrast, highway funding will increase in nominal dollars over 25 percent--from $69 billion to $87

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[1]The Urban Mass Transportation Act of 1964, as amended, envisioned that improving transit services would not only help stem ridership declines but also help solve such urban problems as traffic congestion, air pollution, energy consumption, urban sprawl, and the unmet needs of those who cannot afford an automobile or are physically unable to drive one. Many of the anticipated benefits depended, in part, on attracting automobile users to mass transit.

[2]To estimate inflation, we used the gross national product implicit price deflator prepared by WEFA, a major economic forecasting firm.

billion--over the next 5 years, or about 4 percent in real dollars.

-- UMTA's proposal would allow state and local governments flexibility in allocating federal funds between mass transit and highway projects. We support a multi-modal strategy to address transportation needs. However, a number of obstacles need to be overcome, including the biases that favor funding highways over mass transit and the effective integration of transit and highway planning and decision making at all levels of government, for the proposal to succeed.

-- UMTA's proposal would also shift a larger share of the financial burden to grant recipients by reducing the federal share for capital projects from 80 percent to 60 percent. This increased financial burden comes at a time when transit authorities will have to absorb costs to meet new wheelchair access and pollution emission standards. Although the concept of greater cost sharing by states, localities, and grantees can promote leveraging of scarce federal funds, caution should be exercised in making an immediate shift of financial responsibility to transit authorities who will have to absorb the increase while maintaining service levels. If these added costs are passed to transit users through higher fares, it could thwart efforts to attract ridership away from automobiles and increase transit costs for those who can least afford it--the elderly, handicapped, and economically disadvantaged.

-- UMTA does not effectively oversee grantees' management and use of federal funds. In this regard, the Department of Transportation's (DOT) Office of Inspector General (OIG) has questioned grantees' use of over $300 million between October 1987 and March 1991. With federal dollars limited and mass transit needs great, grantees must have management controls that ensure the appropriate, prudent, and efficient use of funds and UMTA must effectively monitor grantees' activities.

PURCHASING POWER OF MASS TRANSIT FUNDING WILL DECREASE OVER THE 5-YEAR PROPOSAL

Between fiscal years 1981 and 1991, annual federal funding for mass transit has declined from $4.6 billion to $3.2 billion--a reduction of about 50 percent when inflation is considered. To maintain the same purchasing power today that was provided by the $4.6 billion in 1981, the present funding level would have to be about $6.4 billion. Under the proposal, UMTA's authorized funding will increase by 1 percent over the prior 5 fiscal years. On the basis of current inflation estimates, a decline in funding of nearly 17 percent could occur over the next 5 years. In contrast, DOT proposes to increase highway funding over 25 percent--from $69 billion to $87 billion--in nominal dollars or about 4 percent in real dollars during the same period.

All mass transit funding under the proposal would come from the Mass Transit Account (account) of the Highway Trust Fund. The account is financed by 1.5 cents per gallon from motor fuel excise taxes. Using the account alone is a significant departure from the current practice of using both general revenues and the account (see attachment I). Since 1983, when the Congress established it, about 30 percent of UMTA's funds have come from the account; the remainder have come from general revenues. Through fiscal year 1991, receipts and interest in the account totaled $14 billion.

Of the $14 billion, the Congress authorized UMTA to use $10.4 billion but imposed a $9.9 billion spending (obligation) limit. As a result, at the end of fiscal year 1991, the transit account will have $4.1 billion in uncommitted funds. UMTA projects that the drawdown of the $4.1 billion in uncommitted funds together with fuel tax receipts and interest would be sufficient to fund the $16.3 billion proposal through fiscal year 1996 and leave about a $400 million balance in the account.

However, mass transit authorizations from the account could be increased over the proposed funding level. The Highway Trust Fund portion of the Internal Revenue Code provides that 1 additional year of revenue collections should be included in calculating funding available for mass transit.[3] Under this provision, and assuming a $500 million safety cushion, an additional $2.2 billion could be authorized for mass transit between fiscal years 1992 and 1996 (see attachment II). However, either level of funding would fall short of the needs identified by the transit community. The American Public Transit Association estimates that more than $90 billion would be needed between 1992 and 1997 primarily to replace old buses, extend and construct rail systems, and rehabilitate and maintain aging bus facilities and rail lines.

IMPORTANT MULTI-MODAL AND COST-SHARING ISSUES ARE NOT ADDRESSED IN THE PROPOSAL

We support a multi-modal strategy to address the nation's transportation needs but believe that obstacles, including the absence of clearly defined mass transit needs, could threaten the successful implementation of funding flexibility between transit and highways. In addition, we believe that caution should be exercised in making an immediate shift of financial responsibilities to transit authorities. Such a shift may adversely affect service levels or ridership costs. The proposed federal share reduction also does not address the full impact of the significant financial investment that transit authorities will

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[3]Specifically, the Rostenkowski test of the Byrd Amendment to the Federal-Aid Highway Act of 1956, as reflected in the Internal Revenue Code, applies to the mass transit account.

incur to implement the Americans with Disabilities Act of 1990 and the Clean Air Act Amendments of 1990.

Obstacles Exist to Implementing Multi-Modal Flexibility

The reauthorization proposal would provide greater flexibility to state and local governments in allocating federal funds between mass transit and highway projects. We support a multi-modal strategy to address surface transportation infrastructure and congestion needs. However, as we reported in 1988, the ability to successfully implement a multi-modal strategy is not well served by DOT's practice of preparing separate budget and needs studies for mass transit and highways.[4] The proposal does not address mechanisms to remove the barriers for developing an integrated transportation strategy and effectively evaluating mass transit and highway needs.

Under the proposal, as long as a dedicated source of funds (balanced local approach) exists, mass transit would be eligible for urban/rural highway program funds (about $22 billion plus 15 percent of highway Interstate funding that could be shifted to the urban/rural highway program), and highways would be eligible for all mass transit funding except for new starts (about $14 billion). UMTA officials explained that a balanced local approach

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[4]Transition Series: Transportation Issues (GAO/OCG-89-25TR, Nov. 1988).

means that states will need a dedicated source of funds that can be used for both transit and highways.

According to the American Association of State Highway and Transportation Officials' data, only a limited number of states have funds that can be used interchangeably for mass transit and highways. Also, most of UMTA's assistance is provided directly to local transit authorities, while highway assistance is provided to the states. Therefore, coordinated planning and project selection by federal, state, and local governments will be difficult, and the mass transit industry is concerned that states will place greater emphasis on highways to the detriment of mass transit. To avoid modal bias with highways and meet the flexibility envisioned in the proposal, it will be extremely important to encourage states to address traffic congestion through transit alternatives.

Moreover, no comprehensive federal assessment of the nation's mass transit needs exists. The Federal Highway Administration routinely reports on the capital investment requirements for the nation's highways and bridges, including long-term projections of investment requirements. UMTA, however, compiles information only on the cost of maintaining the existing transit infrastructure--which it estimates to be between $3 billion and $3.7 billion annually--but does not include transit projects currently under construction or future transit needs. Also, the criteria used to assess transit and highway projects may further exacerbate choosing between the two modes. For example, one transit objective is to move people out of their cars, and one highway premise is to build roads that can accommodate more and more cars. DOT does not currently have plans to provide guidance to the states, localities, and grantees to implement multi-modal flexibility. When taken together, these factors raise questions about the federal government's ability to implement intermodalism and develop a long-term investment strategy to ensure its success.

We did identify an area of UMTA's proposal that gives states flexibility while it protects some transit funding. UMTA currently provides states with separate funding earmarked for (1) formula grants to areas with populations under 200,000, (2) the rural program, and (3) the elderly and handicapped program. Under the proposal, UMTA would award a lump sum (about 10 percent of UMTA's fiscal year 1992 funding) to the states that the governor can allocate at his/her discretion among the three programs. Before mass transit funds for rural and small urban areas can be shifted to highways, the state must certify that no unmet transit need exists in the area, and the area must concur with the state's certification. This provision contains safeguards that, if properly implemented, may protect against the inherent bias toward highways.

Caution Needed In Reducing the Federal Contribution

UMTA proposes to shift a larger share of the burden of financing transit programs to states and grantees by reducing the federal funding share and eliminating some federal operating assistance. Under the proposal, the maximum federal contribution for capital transit projects would be reduced from 80 percent to 60 percent and for new construction projects, from 75 percent to 50 percent. Depending on the type of transit program, transit authorities currently contribute as little as 20 percent to 25 percent of eligible project costs. UMTA does not view the proposal as a significant change because it already provides only 60 percent on new mass transit projects to some grantees and this level would be consistent with the proposed funding for highway's urban/rural program. However, it is less than the minimum 75 percent federal share proposed for highways of national significance.

Although we agree that benefits may be gained by increased state and local financial contributions, reductions in the federal share should be addressed within the full context of financial realities in the transit community. On one hand, increasing state and local financial interests could encourage transit authorities to build cost-beneficial projects, seek cost-effective alternatives, maintain the existing infrastructure, and minimize waste and misuse of federal funds. On the other hand, some transit authorities may not be able to absorb a larger proportion of costs while maintaining service levels and may find it difficult to attract new riders that now rely heavily on automobiles or may lose riders to automobiles because of price considerations.

Under its current program, UMTA provides about $800 million annually in operating assistance based on the size of the urban area and the transit authority's prior years' grants. Transit authorities use about 70 percent of this assistance for salaries and other labor costs; about 10 percent for materials and supplies; and the remainder for utilities, insurance, and other expenses. UMTA proposes to eliminate operating assistance for large urban areas with populations of 1 million or more. Urban areas with populations less than 1 million could include materials and supplies as capital maintenance items and use up to 25 percent of their section 9 apportionment or an amount equal to their fiscal year 1991 operating assistance, whichever is greater, for such items.

According to UMTA, the largest transit authorities rely the least on federal operating assistance. However, we estimate that the 30 largest urban areas (as defined by UMTA) include about 176 transit authorities that vary both in size (as measured by the number of vehicles) and their reliance on federal operating assistance. Although 9 of the largest transit authorities receive less than 10 percent of their operating assistance from UMTA, 94 receive between 10 percent and 19 percent, and 73 rely on UMTA for 20 percent or more of their operating assistance. These and transit authorities in urban areas of less than 1 million population will either have to reduce their operating expenses, obtain greater state or private sector financing, or increase funding from other sources, such as the farebox.

The proposal also does not fully consider the additional financial burden that will be placed on transit authorities to comply with the recently enacted Americans with Disabilities Act of 1990 and the Clean Air Act Amendments of 1990. UMTA would provide only $50 million annually for transit authorities to implement these new legislative requirements. However, the transit industry estimates that the financial burden to comply with these laws will be significant. For example, 18 of the largest transit operators estimate that about $1.2 billion would be needed annually to convert their bus fleets to alternative fuels or other clean emission technologies to comply with the Clean Air Act Amendments. In addition, transit operators cite DOT estimates that complying with the Americans with Disabilities Act will cost between $850 million and $1.3 billion annually. The transit community is concerned that the majority of these costs will be shifted to states, localities, and transit riders.

SOME FEDERAL MASS TRANSIT FUNDS ARE VULNERABLE TO WASTE AND MISMANAGEMENT

With the nation's mass transit needs outstripping available funding, it is critical to ensure that UMTA grantees use and manage funds properly. Between October 1987 and March 1991, DOT's OIG has questioned over $300 million in grant expenditures, including instances where grantees double-billed UMTA, failed to reimburse UMTA when costs were less than expected, wrote off UMTA-funded inventories because grantees could not determine whether parts had been used, lost, or stolen, or did not promptly repay unneeded funds upon completion of the project (attachment III summarizes the questioned costs in the 65 reports we examined).

For example, under UMTA guidelines, transit authorities with more than 50 buses are allowed to use federal funds to purchase enough buses to cover service during their peak period of operation, plus 20 percent more buses as spares. The OIG found that transit authorities had spent $85.6 million for excessive buses. In addition, the OIG found that transit authorities had charged UMTA $33.8 million for costs, such as extended warrantees and rental of publicly-owned buildings, that are not eligible for federal funding. Although the OIG bases its findings on criteria that it believes is clearly prescribed by law, some OIG findings relate to requirements that UMTA or the transit authorities believe may not be needed or are subject to differing interpretations.

On the basis of our prior work (attachment IV discusses some of these reports) and that of the OIG, the Secretary identified UMTA's inadequate oversight of grantees as a material internal control weakness in his 1989 and 1990 reports to the President required by the Federal Managers' Financial Integrity Act of 1982, as amended. UMTA attributed the oversight weaknesses to staffing shortages and requested additional staffing authority to correct the deficiency.

Our current work in four UMTA regions covering about 60 percent of the grants shows many instances in which inadequate grantee management systems contributed to the inappropriate use of federal funds. On paper, UMTA has several tools to oversee grantees' activities, including financial and progress reports, triennial reviews, procurement reviews, annual audits, and contractor-provided oversight. However, UMTA relies primarily on grantees' certifications that they are financially and technically capable of managing mass transit projects and that they will comply with federal procurement and other requirements to ensure that funds are properly spent. UMTA does not verify that grantees have adequate systems to meet their commitments and generally does not require grantees to take corrective actions or use its enforcement authorities, such as withholding funds or requiring reimbursement, when problems are found.

Under the proposal, UMTA would obtain 31 additional staff and increase its use of contractors to oversee grantees. According to UMTA's Director of Personnel, 26 of the new staff will be located in regional offices and 5 in UMTA headquarters. The director indicated that the new regional staff will be used primarily for grant oversight or to provide technical assistance to grantees, and one or two of the new headquarters staff will be assigned to the Office of Grants Management. UMTA also proposes to expand its use of contractors to conduct safety, procurement, management, and financial compliance reviews.

We believe that oversight problems go beyond staff shortages. Even with the additional resources, safeguarding federal transit funds will depend on several factors. First, grantees must have effective management systems. Second, UMTA must take a proactive oversight approach rather than rely on grantees' assurances and use the full scope of its monitoring tools and enforcement authorities, such as withholding funds. Without such actions, the significant federal investment in mass transit will remain at risk.

However, we found no evidence in our ongoing work--nor in UMTA's reauthorization submission--that UMTA recognizes the systemic nature of these very serious oversight problems. UMTA has not articulated the actions that it must take to evaluate management controls of grant recipients to ensure that they are consistent with federal requirements for the proper and efficient use of funds and ensure that grantees implement corrective actions before approving additional funding requests.

We are also concerned that UMTA's proposal does not change its position concerning the scope and depth of triennial reviews. The

Urban Mass Transportation Act states that the triennial review is to be "... a full review and evaluation of the performance of a [grant] recipient in carrying out the recipients's program, with specific reference to compliance with statutory and administrative requirements ..." In March 1989, we first reported our concerns regarding the limited scope of triennial reviews and recommended that UMTA include tests of selected procurements to ensure that proper procedures were in place and being followed.[5] Although UMTA views triennial reviews as a primary mechanism to monitor grantees, UMTA did not implement our recommendation and has not expanded the scope of these reviews. UMTA's position is that the reviews are not audits, and it intentionally limits their depth. UMTA's proposal will continue the status quo, and barring a change in UMTA's position or congressional intervention, triennial reviews will not have sufficient depth to evaluate a grantee's "compliance with statutory and administrative requirements."

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In conclusion, we support the concept of defining mass transit objectives in the context of a nationwide surface transportation system. However, the disproportionate funding increase for mass transit relative to highways--1 percent versus more than 25 percent under the 5-year proposal--tends to support the perception that

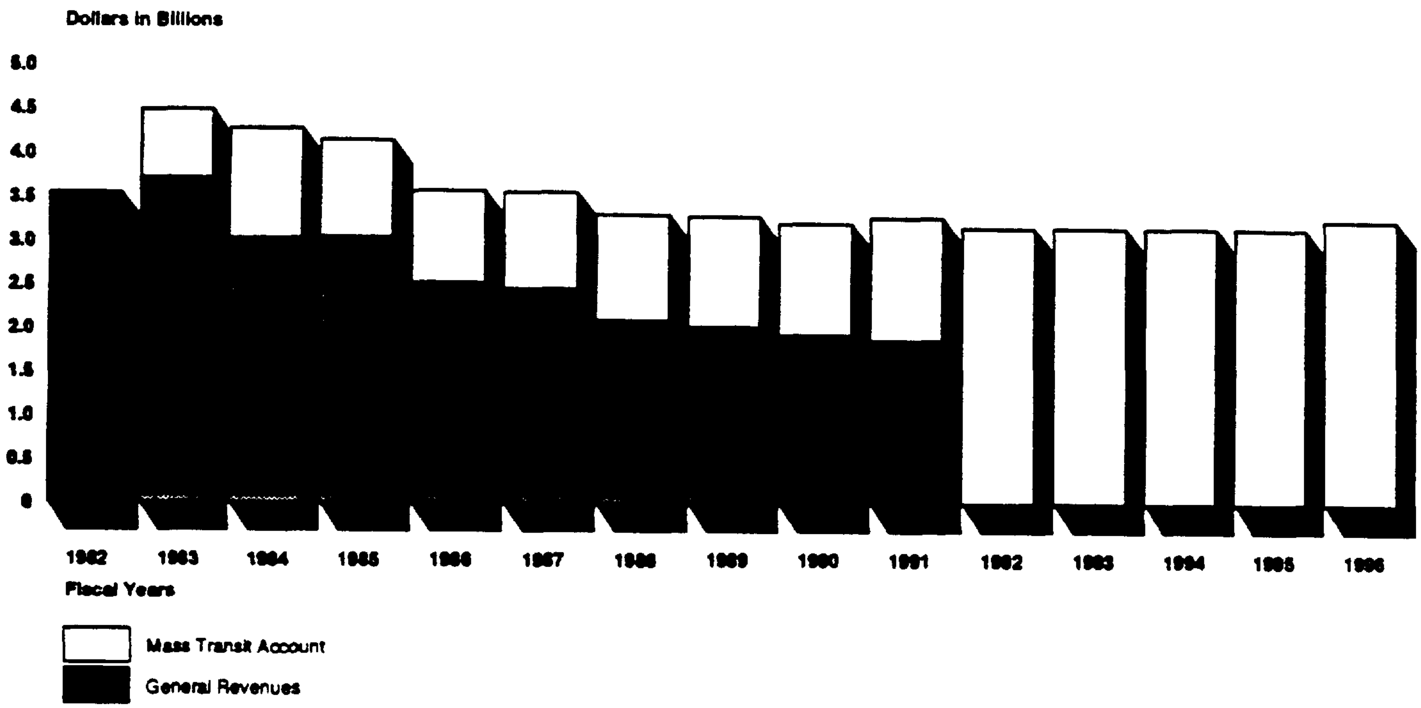
[5]Mass Transit Grants: UMTA Needs to Improve Procurement Monitoring at Local Transit Authority (GAO/RCED-89-94, Mar. 31, 1989).

transit is less important than highways. As long as this disparity exists, the nation may encounter considerable difficulty achieving the Administration's policy to integrate transportation systems and move people from cars to transit in congested areas.

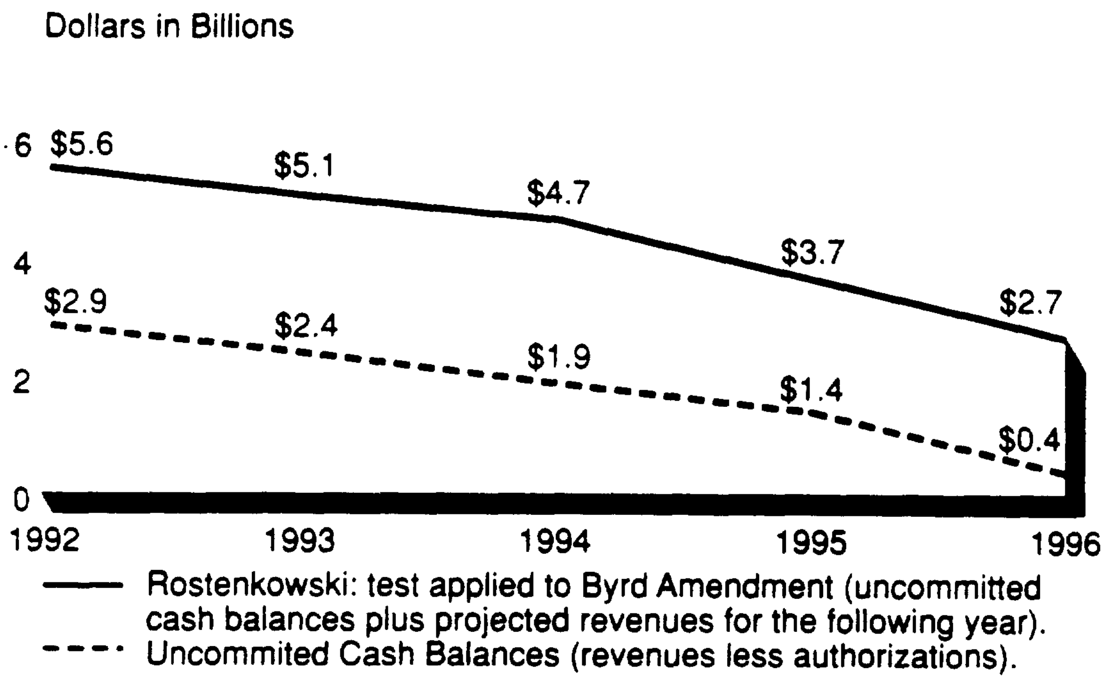
In addition, since federal transit funds could decrease in real dollars under UMTA's proposal and large demands exist for urban and rural transit systems, it is particularly important that UMTA ensures the judicious, prudent, and effective use of scarce resources and that grant recipients manage federal funds in the most efficient and economical manner possible. In this regard, UMTA needs to give particular attention to program planning and oversight to avoid the deficiencies of the present system and to ensure the best use of limited federal transportation dollars in the future.

We appreciate the opportunity to submit our views.

Sources of UMTA Funds: Fiscal Years 1982-91 and Proposed Fiscal Years 1992-96



Proposed Mass Transit Account Status Under Byrd Amendment (fiscal years 1992-96)



Source: U.S. DOT, Office of the Secretary.

SUMMARY OF COSTS QUESTIONED IN 65 DOT OIG REPORTS (ISSUED FROM OCTOBER 1987 TO MARCH 1991)

Excess Equipment $85.6 million

This category includes the cost of excessive buses bought with UMTA funds in seven regions. According to UMTA guidelines, transit authorities are allowed to use federal funds to purchase enough buses to cover service during their peak period of operation, plus 20 percent more buses as spares. It also includes funds used to purchase excess bus parts.

Equipment Not Used for Intended Purposes $74.1 million

This category includes costs to replace buses that were used solely to transport students, in direct contradiction of UMTA regulations. Under UMTA regulations, buses purchased with federal funds are to be used for public mass transit. The buses can be used to transport students if the bus lines are also open to the public. In these cases, open ridership was not maintained.

Prematurely Retired or Improperly Maintained Equipment $36.1 million

This category includes the cost of buses and railcars that were retired prior to UMTA's prescribed service life, could not be accounted for, or were bought and not used.

Ineligible Costs $33.8 million

Costs were ineligible for reimbursement under UMTA guidelines yet were still billed to UMTA. Amount also includes additional interest costs.

Possible Cost Savings $30.2 million

These are cost savings that could have been realized if value engineering techniques or cost analysis had been used during construction.

Improper Expenditures **$22.7 million**

Funds were used for personal purposes, improper contracting, excessive grants, excessive profits made by a contractor, and to purchase property that was later lost or stolen. Amount also includes unexplained adjustments of financial records, stolen revenues, and overcharges.

Unsupported Costs **$18.4 million**

This category includes costs questioned because documentation did not adequately support funds spent, allocation methods used, or the cost analyses performed.

Unexpended Program Funds Not Deobligated, or Obligated Prior to Need **$15.6 million**

Funds were either not repaid promptly upon completion of the project or obtained prior to need. UMTA was unable to allocate the funds to other projects and interest was lost.

Local Grant Share Requirements Not Met **$7.4 million**

These are federal funds spent on projects where grantees did not meet the required nonfederal funding match.

Unclaimed Share of Lawsuit **$0.4 million**

This category represents UMTA's share in a lawsuit filed by a grantee. The grantee overpaid a contractor that subsequently filed for bankruptcy. The grantee sued the contractor, and UMTA is owed a percentage of any settlement.

OTHER GAO REPORTS ON UMTA

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

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

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

We examined transit's role in helping to mitigate various social, economic, and environmental problems confronting urban areas. We found that (1) federal funds have helped reverse the 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 transportation for low-income, elderly, and handicapped persons.

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

We reported that the Southeastern Pennsylvania Transportation Authority (SEPTA) had major procurement system problems, and UMTA had not detected these problems. Our report disclosed that UMTA's triennial review of SEPTA did not include a detailed procurement assessment, yet the review indicated that SEPTA had complied with procurement requirements. Further, single annual audits performed by public accounting firms did not include an evaluation of SEPTA's compliance with federal procurement requirements. We concluded that UMTA's monitoring procedures were inadequate to detect the weaknesses at SEPTA and made several recommendations to better focus UMTA's monitoring to detect procurement deficiencies.

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

We reported that SEPTA had experienced an increase in motor bus, trolley bus, and streetcar accidents and injuries. We also found that UMTA had not adequately 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 UMTA's Administrator considered in awarding discretionary grants to SEPTA because the bases for the decisions were not documented. We recommended that UMTA, among other things, obtain more complete and accurate information on SEPTA accidents and injuries to use in evaluating SEPTA's safety conditions during triennial reviews and in selecting projects for funding. In addition, we recommended that UMTA document its discretionary funding decisions.

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