

Memorandum



Date: October 28, 2008

To: Nan Markowitz, Executive Director
Office of the Citizens' Independent Transportation Trust

From: Cathy Jackson, Director
Audit and Management Services Department

Subject: Audit Report – Charter County Transit System Surtax Review –
City of Opa-locka

PURPOSE AND SCOPE

As requested, we reviewed the City of Opa-locka's use of Charter County Transit System Surtax (Transit Surtax) proceeds remitted by Miami-Dade County (County) for the period January 1, 2003 through September 30, 2007, to verify compliance with the Interlocal Agreement. Our review included, but was not limited to, testing expenditures for propriety and assessing internal controls over recordkeeping and financial reporting.

BACKGROUND

The City of Opa-locka (City) is bounded on the East by NW 17 Avenue, on the West by NW 45 Avenue, on the North by NW 151 Street and on the South by NW 125 Street. The City is governed by an elected Mayor and four Council Members. The City Manager is appointed by the Mayor and Council and is responsible for the day-to-day operations of the City. During the five-year period ended September 30, 2007, the County, through the Office of the Citizens' Independent Transportation Trust (OCITT), remitted approximately \$2.3 million in Transit Surtax proceeds for the City to expend on qualifying transportation-related projects (Schedule D).

Pursuant to Section 212.055(1), Florida Statutes (2001), Miami-Dade County Ordinance (Ordinance) No. 02-116, enacted on July 9, 2002, imposed a one-half of one percent Transit Surtax on eligible sales transactions for transportation-related projects. Of the proceeds received by the County, 20% must be distributed to municipalities incorporated as of November 5, 2002 on a pro rata basis using population statistics. However, cities receiving Transit Surtax proceeds must continue the same level of General Fund support for transportation projects that was appropriated in their Fiscal Year (FY) 2002 Budget. Proceeds may be used to develop, construct, equip, maintain, operate, or expand:

- County-wide bus systems,
- Fixed guide-way rapid transit systems, and
- Roads and bridges in the County.

Surtax proceeds may also be used to secure bonds or pay debt service for such systems.

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Further, cities are required to apply at least 20% of the proceeds to transit-related projects such as circulator buses, bus shelters, bus pullout bays, or other related infrastructure. If unable to do so, cities may apply such proceeds to a County project that enhances traffic mobility within their municipal boundaries, or funds shall be redistributed among other cities in the ensuing year for similar purposes.

Under the terms of the July 3, 2003 *Interlocal Agreement for Distribution of Charter County Transit System Surtax Proceeds Levied by Miami-Dade County* (Interlocal Agreement), the City reported \$189,866 as its budgeted FY2002 General Fund transportation support level, or Maintenance of Effort (MOE) (Table I).

Table I
Surtax Proceeds and Expenditures Claimed
For the Five Fiscal Years Ended September 30, 2007

Description	2002	2003	2004	2005	2006	2007
Maintenance of Effort (MOE)	\$ 189,866	\$ 189,866	\$ 189,866	\$ 189,866	\$ 189,866	\$ 949,330
Surtax Proceeds	\$ 291,102	\$ 446,045	\$ 468,652	\$ 533,416	\$ 513,020	\$ 2,252,235
Surtax Uses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Source: OCITT and City of Opa-locka

SUMMARY RESULTS

During the audit period, the City received \$2.3 million in Transit Surtax funds but did not report its use of those proceeds to OCITT (Table I). The City reported its FY2002 MOE as \$189,866 based on *actual* transportation expenses, rather than *budgeted* General Fund transportation expenses. The City also included landscaping costs in its MOE, which are not eligible transportation expenditures. After making adjustments for these and other errors, we determined that the City's MOE should be \$254,705. Future remittances should be withheld unless City officials certify the amended MOE within 30 days.

A 450,000
68,000

Although the City did not report any Surtax expenditures to OCITT, City management provided a list of claimed amounts for three of the five years audited, of which \$68,303 lacked supporting documentation (Table III). Using the updated MOE and eliminating unsupported items, we determined that \$1.2 million (54%) of Surtax proceeds was not spent on eligible projects (including \$450,000 related to transit projects), and thus is subject to recapture (Table IV). Further, City officials could not provide our auditors with copies of annual reports required by the Interlocal Agreement.

These and other findings are more fully discussed in the remainder of this report. We appreciate the courtesies and assistance extended to our staff during the audit process. The City's written response is incorporated herein and the full text is presented as Attachment I. Overall, we are pleased with the City's actions planned to address our concerns except as otherwise indicated. Nonetheless, a written response is also requested by the OCITT within 30 days, in accordance

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with Administrative Order 3-7. Please contact Nancy McKee, Deputy Director, at 305-349-6100 if you have any questions.

FINDINGS AND RECOMMENDATIONS

General Fund Support

The City reported its FY2002 MOE as \$189,866 based upon *actual* rather than *budgeted* General Fund transportation expenditures. The City also included landscaping costs that are not eligible transportation expenditures. Nonetheless, we reviewed the FY2002 General Fund Budget and identified eligible transportation expenditures of \$254,705 (Table II). Since municipalities are required to apply Surtax proceeds to supplement, rather than replace, their General Fund support for transit and transportation-related projects, the propriety of all future uses of Transit Surtax proceeds are affected by the accuracy of the MOE.

Table II
 FY 2002 General Fund MOE

Description	Budget	Actual
Street Repairs and Improvements	\$ 274,205	\$ 189,866
Streetlighting Utilities	100,000	128,383
Less:		
Landscaping Expenditures	(40,000)	(19,162)
Equipment Purchase & Maintenance	(17,500)	(9,812)
Non-Streetlight Utilities	(62,000)	(79,598)
	<u>\$ 254,705</u>	<u>\$ 209,677</u>

Source: City of Opa-locka Budget and General Ledger

Recommendation

Require the City to support and certify a corrected MOE within 30 days.

City's Response

The City has reviewed and supports the recommendation to amend the MOE from \$189,866 to \$254,705. In a separate letter to the CITT dated November 13, 2008, the City certified the revised MOE (Attachment II).

Adjustments to Expenditures

Although the City did not report any Surtax expenditures to OCITT, City management provided a detail of annual Surtax expenditures totaling \$4.5 million as shown in Schedule II. Our review of those expenditures disclosed \$68,303 which lacked proper supporting documentation, and were disallowed (Table III).

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Table III
Adjustments for Unsupported Claimed Expenditures

	2003	2004	2005	2006	2007	2008
PAWA Architects - NW 38 th Court Overpayment	\$ -	\$ -	\$ -	\$ 25,000	\$ -	\$ 25,000
Accruals - Transportation Fund	-	-	43,303	-	-	43,303
	\$ -	\$ -	\$ 43,303	\$ 25,000	\$ -	\$ 68,303

Source: City of Opa-locka Expenditure Records

Recommendation

The City should report its annual Surtax expenditures to OCITT, less the items shown in Table III.

City's Response

\$43,303 – this amount represents accrual of retainage payable at the end of fiscal year 2005. This was subsequently paid but was inadvertently recorded and charged against the general fund budget.

\$25,000 – subsequent review of this payment disclosed an error of omission with the exclusion of a previous payment made in the computation. This amount will be adjusted out as expenditures of the surtax fund.

AMS Rejoinder

We reiterate that adequate documentation was not provided to substantiate the disallowed expenditures shown in Table III.

Use of Surtax Proceeds

Municipalities are required to apply at least 20% of their OCITT proceeds to transit-related projects such as circulator buses, bus shelters, bus pullout bays, or other related infrastructure. The City had no transit expenditures during the audit period. Additionally, the City was unable to expend all of the remaining 80% of OCITT proceeds on transportation-related projects, after adjusting for the items noted in Table III. Our tests of qualifying Surtax expenditures disclosed \$1.2 million of unspent Surtax proceeds that are subject to recapture (Table IV).

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Table IV
Transit Surtax Funds Recommended for Recapture

	2005	2006	2007	2008	2009	2010
Surtax Proceeds	\$ 291,102	\$ 446,045	\$ 468,652	\$ 533,416	\$ 513,020	\$ 2,252,235
Reported Qualifying Costs:						
Transportation Expenditures						
PTP Fund Claimed Expenditures (Schedule II) ²	\$ -	\$ -	\$ 1,504,710	\$ 1,257,872	\$ 49,132	\$ 2,811,714
Unsupported Expenditures (Table III)	-	-	(43,303)	(25,000)	-	(68,303)
Other Allowable Expenditures (Schedule II) ³	212,450	258,454	305,345	458,956	427,335	1,662,540
	212,450	258,454	1,766,752	1,691,828	476,467	4,405,951
Less: MOE, as Corrected	(254,705)	(254,705)	(254,705)	(254,705)	(254,705)	(1,273,525)
Transportation Expenditures, as adjusted	\$ (42,255)	\$ 3,749	\$ 1,512,047	\$ 1,437,123	\$ 221,762	\$ 3,132,426
AMS Analysis of the Use of Surtax Proceeds:						
Transit Expenditures						
Required 20% Transit Minimum ¹	\$ 58,220	\$ 89,209	\$ 93,730	\$ 106,683	\$ 102,604	\$ 450,446
Reported Expenditures	-	-	-	-	-	-
Unused Transit Funds	\$ 58,220	\$ 89,209	\$ 93,730	\$ 106,683	\$ 102,604	\$ 450,446
Transportation-Related Expenditures						
Remaining 80% Balance ¹	\$ 232,882	\$ 356,836	\$ 374,922	\$ 426,733	\$ 410,416	\$ 1,801,789
Qualifying Transportation-Related Expenditures Applied	-	(3,749)	(374,922)	(426,733)	(221,762)	(1,027,166)
Unused Transportation Funds	\$ 232,882	\$ 353,087	\$ -	\$ -	\$ 188,654	\$ 774,623
Recommended Recapture:						
Transit	\$ 58,220	\$ 89,209	\$ 93,730	\$ 106,683	\$ 102,604	\$ 450,446
Transportation	232,882	353,087	-	-	188,654	774,623
	\$ 291,102	\$ 442,296	\$ 93,730	\$ 106,683	\$ 291,258	\$ 1,225,069

¹ At least 20% of Transit Surtax proceeds must be used on transit-related projects, such as circulator fares, and the remaining funds (80%) are earmarked for eligible transportation projects as defined by Florida Statutes.

² Although no Surtax expenditures were reported to OCITT, City management provided a list of claimed expenditures during our audit.

³ City management provided a list of other allowable expenditures which included street lighting and street repair and improvements.

Recommendation

OCITT should recapture or withhold \$1.2 million from subsequent remittances. Prospectively, remittances should be withheld until City officials submit a plan that demonstrates it can effectively use the 20% transit portion.

City's Response

As shown in Table II of the auditors' report the City spent \$2.8 million of Surtax funds on allowable transportation-related projects in 2005, 2006 and 2007. For the five years ended fiscal September 30, 2007, the City received \$2,252,235 of surtax funds and spent \$2,811,714 in allowable transportation-related projects. The City strongly disagrees with the Auditor's recommendation to recapture or withhold \$1.2 million. However, the City acknowledges that it did not spend 20% of those actual expenditures in transit-related projects. The City further

acknowledges that Surtax funds were not spent in the period they were appropriated and that the City failed to carry over unspent funds in its annual budget appropriation for fiscal years 2004 and 2005. The delay in the expenditures of funds was primarily due to the fact that the amount of money the City received in those two years put together was not sufficient to start any transit or transportation projects.

In the future the City will ensure that project status is reported to CITT in a timely manner. In addition, the City will communicate any delay and/or change in projects and seek approval from CITT before implementing any project changes.

Certification and Reporting Requirements

The City could not provide our auditors with certain copies of annual reports required under the Interlocal Agreement, which include reports of qualifying expenditures and the Five-Year Transportation Plan. These reports must be submitted annually on June 1, along with a certification that OCITT funds were used in accordance with the terms of the Interlocal Agreement. We reviewed Five-Year Transportation Plans for all years except FY2006. There were no annual reports of qualifying expenditures.

Recommendation

- The City should submit all required reports to the OCITT as required by the Interlocal Agreement.
- OCITT should consider withholding funding if reports are incomplete or delinquent.

City's Response

The City signed the interlocal agreement with Miami-Dade County in 2002. The City submitted yearly its audited Comprehensive Annual Financial Report (CAFR) to CITT as required by Article 5.1 of the interlocal agreement. The City believes that this submission complies with the reporting requirement for annual Surtax expenditures to CITT considering CITT did not notify the City of non-compliance of the Certification and Reporting Requirements.

For the fiscal year 2008 reporting compliance CITT provided the City with a Municipal Projects Template for reporting projects expenditures. The City will use the template in reporting its fiscal year 2008 Surtax expenditures.

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Other Matter

The City contracted with PAWA Architects & Engineers, Inc. (PAWA) from FY2002 through FY2008 to provide engineering consulting services. On May 28, 2008, PAWA's owner was arrested and charged with 18 felonies pertaining to fraud, extortion and money laundering. According to the arrest affidavit PAWA's owner served as the City's primary engineer and approved construction change orders. During the audit period, PAWA and the APAC Group, Inc. (a construction contractor) were paid \$531,130 and \$2.2 million, respectively, for services rendered on eligible Surtax projects.

Additionally, PAWA was compensated \$389,250 in September and October 2006, for services performed on non-Surtax projects from October 2002 to May 2004. Justification for the two-year billing delay was not adequately substantiated. It is during this same time period that the owner of Hard J Construction, a City Contractor and subcontractor of APAC, allegedly paid PAWA's owner at least \$385,000 in kickbacks.

Auditee Response

The City strongly believes that inclusion of expenditures funded by non-Surtax funds in this report is not within the scope of this audit. In addition, this matter was not discussed with the City by the auditors in either of the two telephone conferences that the City had with the auditors. Further, the City was not informed during the fieldwork about the review of non-Surtax funds expenditures and the issues that the auditors had as a result of the review. The Director of Audit Service Department insisted on leaving the comment in the report because of the ongoing investigation of the principal of the company that did the work for the City.

Notwithstanding the above, please be informed that the City Commission of the City of Opa-locka has passed a resolution to hire an independent auditor to perform an audit of all the City's construction projects for the five years ended September 30, 2007.

CJ:zg

Attachments

c: Honorable Harvey A. Ruvin, Clerk of the Courts
George M. Burgess, County Manager
Robert A. Cuevas, Jr., County Attorney
Ysela Llort, Assistant County Manager
Jennifer Glazer-Moon, Special Assistant/Director, Office of Strategic Business Management
Charles Anderson, Commission Auditor
Jannie R. Beverly, City Manager, City of Opa-locka

Schedule I

**Charter County Transit System Surtax
Summary of Payments to Municipalities
For the Five Fiscal Years Ended September 30, 2007**

Municipality	Fiscal Year Ended September 30,					Total
	2003	2004	2005	2006	2007	
City of Aventura	\$ 495,408	\$ 759,096	\$ 818,788	\$ 933,612	\$ 947,021	\$ 3,953,925
Town of Bal Harbour Village	62,707	96,085	99,550	112,832	105,834	477,008
Town of Bay Harbor Islands	96,989	148,613	155,936	172,145	173,190	746,873
Village of Biscayne Park	62,045	95,070	104,750	117,666	110,586	490,117
City of Coral Gables	810,009	1,241,148	1,298,953	1,467,752	1,480,710	6,298,572
Village of El Portal	47,795	73,232	76,045	84,400	84,367	365,839
City of Florida City	153,748	235,582	254,464	288,454	291,983	1,224,231
Town of Golden Beach	17,511	26,830	27,952	32,999	24,732	130,024
City of Hialeah	4,382,718	6,715,483	7,014,990	7,730,686	7,656,151	33,500,028
City of Hialeah Gardens	373,801	572,763	604,331	676,565	681,956	2,909,416
City of Homestead	621,791	952,745	1,051,671	1,208,129	1,275,853	5,110,189
Indian Creek Village	625	955	931	1,093	-	3,604
Village of Key Biscayne	202,733	310,644	333,638	369,378	379,639	1,596,032
Town of Medley	21,186	32,464	33,963	37,170	37,616	162,399
City of Miami	6,905,410	10,580,915	11,208,930	12,562,541	12,855,629	54,113,425
City of Miami Beach	1,686,079	2,583,517	2,719,756	3,029,839	3,108,056	13,127,247
Town of Miami Lakes	460,331	705,348	737,093	822,002	822,114	3,546,888
Village of Miami Shores	197,655	302,860	313,826	346,278	348,437	1,509,056
City of Miami Springs	259,738	397,985	412,534	456,196	459,353	1,985,806
City of North Bay Village	126,762	194,231	198,770	218,913	215,921	954,597
City of North Miami	1,136,965	1,742,129	1,805,505	1,989,253	2,004,095	8,677,947
City of North Miami Beach	799,300	1,224,740	1,267,423	1,402,019	1,366,735	6,060,217
City of Opa-Locka	291,102	446,045	468,652	533,416	513,020	2,252,235
Village of Palmetto Bay	459,612	704,246	745,086	824,252	823,908	3,557,104
Village of Pinecrest	361,540	553,977	579,684	639,364	646,631	2,781,196
City of South Miami	203,889	312,415	323,655	360,476	351,494	1,551,929
City of Sunny Isles Beach	293,299	449,411	486,866	548,772	555,020	2,333,368
Town of Surfside	95,908	146,959	157,799	184,160	144,185	729,011
City of Sweetwater	270,238	414,075	429,218	472,215	477,595	2,063,341
Village of Virginia Gardens	44,592	68,325	70,576	77,979	78,619	340,091
City of West Miami	113,307	173,613	185,212	202,961	194,190	869,283
	<u>\$ 21,054,793</u>	<u>\$ 32,261,501</u>	<u>\$ 33,986,547</u>	<u>\$ 37,903,517</u>	<u>\$ 38,214,640</u>	<u>\$ 163,420,998</u>

Source: Citizens' Independent Transportation Trust

Charter County Transit System Surtax - City of Opa-locka
Listing of Qualifying Surtax Projects, as Reported
For the Five Years Ended September 30, 2007

Description	Fiscal Year Ended September 30					All Years
	2003	2004	2005	2006	2007	
Transportation Projects						
Peoples' Transportation Tax Fund						
Port Said Road	\$ -	\$ -	\$ 395,817	\$ 959,598	\$ -	\$ 1,355,415
Sbarazad Boulevard	-	-	473,775	200,203	-	673,978
Northwest 38 th Court	-	-	591,805	40,000	-	631,805
Opa-locka Boulevard	-	-	-	58,000	-	58,000
Traffic Calming	-	-	-	-	49,000	49,000
Citywide Expenditures	-	-	43,313	71	132	43,516
	-	-	1,504,710	1,257,872	49,132	2,811,714
General Fund						
Street Repairs and Improvements	144,724	184,332	210,597	347,479	313,674	1,200,806
Street Lights	67,726	74,122	94,748	111,477	113,661	461,734
	212,450	258,454	305,345	458,956	427,335	1,662,540
	\$ 212,450	\$ 258,454	\$ 1,810,055	\$ 1,716,828	\$ 476,467	\$ 4,474,254

"THE GREAT CITY"

Attachment I



November 14, 2008

Nan Markowitz, Executive Director
Office of the Citizen's Independent Transportation Trust

Dear Madam:

We have reviewed the audit report of the City of Opa-locka's use of the Charter Transit System Surtax (Transit Surtax funds) for the five years ended September 30, 2007 with the Audit and Management Services Department. The City agrees and concurs with some of the items and is presently implementing corrective actions. However, the City would like to express its disagreement on the scope of the audit and the audit report. The audit included a review of the City's expenditures not funded by the transit surtax funds which clearly are not within the scope of the audit.

Please find below the City's responses to the findings.

I. General Fund Support

City's response: The City has reviewed and supports the recommendation to amend the MOE from \$189,866 to \$254,705. In a separate letter to the CIIT dated November 13, 2008, the City certified the revised MOE (See attached copy.)

II. Adjustment to Expenditures

City's response to Certification and Reporting Requirements:

The City signed the interlocal agreement with Miami-Dade County in 2002. The City submitted yearly its audited Comprehensive Annual Financial Report (CAFR) to CIIT as required by Article 5.1 of the interlocal agreement. The City believes that this submission complies with the reporting requirement for annual Surtax expenditures to CIIT considering CIIT did not notify the City of non-compliance of the Certification and Reporting Requirements.

For the fiscal year 2008 reporting compliance CIIT provided the City with a Municipal Projects Template for reporting projects expenditures. The City will use the template in reporting its fiscal year 2008 Surtax expenditures.

City's response to the unsupported expenditures detailed in Table III.

\$43,303 - this amount represents accrual of retainage payable at the end of fiscal year 2005. This was subsequently paid but was inadvertently recorded and charged against the general fund budget.

Attachment I

Nan Markowitz, Executive Director
Office of the Citizen's Independent Transportation Trust

\$25,000 – subsequent review of this payment disclosed an error of omission with the exclusion of a previous payment made in the computation. This amount will be adjusted out as expenditures of the surtax fund.

III. Use of Surtax Proceeds

City's response: As shown in Table II of the auditors' report the City spent \$2.8 million of Surtax funds on allowable transportation-related projects in 2005, 2006 and 2007. For the five years ended fiscal September 30, 2007, the City received \$2,252,235 of surtax funds and spent \$2,811,714 in allowable transportation-related projects. The City strongly disagrees with the Auditor's recommendation to recapture or withhold \$1.2 million. However, the City acknowledges that it did not spend 20% of those actual expenditures in transit-related projects. The City further acknowledges that Surtax funds were not spent in the period they were appropriated and that the City failed to carry over unspent funds in its annual budget appropriation for fiscal years 2004 and 2005. The delay in the expenditures of funds was primarily due to the fact that the amount of money the City received in those two years put together was not sufficient to start any transit or transportation projects.

In the future the City will ensure that project status is reported to CITT in a timely manner. In addition, the City will communicate any delay and/or change in projects and seek prior approval from CITT before implementing any project changes.

IV. Other Matter

City's response: The City strongly believes that inclusion of expenditures funded by non-Surtax funds in this report is not within the scope of this audit. In addition, this matter was not discussed with the City by the auditors in either of the two telephone conferences that the City had with the auditors. Further, the City was not informed during the fieldwork about the review of non-Surtax funds expenditures and the issues that the auditors had as a result of the review. The Director of Audit Service Department insisted on leaving the comment in the report because of the ongoing investigation of the principal of the company that did the work for the City.

Notwithstanding the above, please be informed that the City Commission of the City of Opa-locka has passed a resolution to hire an independent auditor to perform an audit of all the City's construction projects for the five years ended September 30, 2007.

Sincerely,


Jannie R. Beverly
City Manager

Attachment II



November 13, 2008

Nestor H. Toledo
Municipal Administrator
Office of the Citizens' Independent Transportation Trust
111 NW 1st Street, Suite 1010
Miami, Florida 33128

Re: Change in MOE (Maintenance of Effort)

Dear Nestor:

As you may be aware, the Miami Dade County Audit and Management Services Department has completed a review of the City of Opa-Locka's (City) use of Transit Surtax proceeds. One of the findings was that the City's MOE of \$189,866 was based on actual FY 2002 expenses rather than budgeted expenses. It was determined and recommended that the City's MOE should actually be \$254,705.

The City has reviewed and supports this recommendation.

Therefore, the City of Opa-Locka certifies that the MOE is \$254,705 and will like to retroactively restore this amount to FY 2002.

Please let me know if you have any questions or concerns.

Sincerely,

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

Ezekiel Orji, PhD, CPA

Assistant City Manager/Finance Director

/fd