

# Memorandum



Date: October 15, 2009

To: Charles D. Scurr, Executive Director  
Office of the Citizens' Independent Transportation Trust

From: *Cathy Jackson*  
Cathy Jackson, Director  
Audit and Management Services Department

Subject: Audit Report – Charter County Transit System Surtax Review –  
City of West Miami

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## PURPOSE AND SCOPE

As requested, we reviewed the City of West Miami's use of Charter County Transit System Surtax (Transit Surtax) proceeds remitted by Miami-Dade County (County) for the six years ended September 30, 2008, to verify compliance with the Interlocal Agreement, as Amended. 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 West Miami (the City) occupies three quarters of a square mile in Western Miami-Dade County, and is nestled between S.W. 8<sup>th</sup> Street to the North, S.W. 24<sup>th</sup> Street to the South, S.W. 57<sup>th</sup> Avenue to the East, and S.W. 67<sup>th</sup> Avenue to the West. The City operates under a Commission-Manager form of government with an elected Mayor and four-member Commission. During the six-year period ended September 30, 2008, the County, through the Office of the Citizens' Independent Transportation Trust (OCITT), remitted \$1.05 million in Transit Surtax proceeds for the City to expend on qualifying transit and transportation-related projects (Schedule I).

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.

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 June 4, 2003 *Interlocal Agreement for Distribution of Charter County Transit System Surtax Proceeds Levied by Miami-Dade County* (Interlocal Agreement), as Amended July 1, 2007, the City reported no amounts for its budgeted FY 2002 General Fund transportation support level, or Maintenance of Effort (MOE).

**Table I**  
**Surtax Proceeds and Reported MOE**  
**For the Six Fiscal Years Ended September 30, 2008**

Description	Fiscal Year Ended September 30,						All Years
	2003	2004	2005	2006	2007	2008	
Maintenance of Effort (MOE)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Surtax Proceeds	\$ 113,307	\$ 173,613	\$ 185,212	\$ 202,961	\$ 194,190	\$ 184,561	\$ 1,053,844

Source: OCITT and the City of West Miami

**SUMMARY RESULTS**

During the audit period, the City received \$1.05 million in Transit Surtax funds but did not report how it used those proceeds to OCITT as required. Instead, City Management provided a listing of claimed transit and transportation expenditures to our auditors totaling \$1.08 million (Schedule II). Further, the \$14,000 MOE claimed while the audit was underway was understated by \$47,000 (Table II). Using the \$61,000 corrected MOE, we determined the City was unable to expend \$435,527 in Transit Surtax proceeds, which may be subject to recapture. Alternatively, amounts may be eligible for rollover which will allow spending of the proceeds in subsequent years, using recently revised guidelines approved by Members of the Citizens’ Independent Transportation Trust (CITT), pending Board of County Commissioner acceptance (Table III).

These and other findings are more fully discussed in the remainder of this report. The City’s written response is incorporated herein and the full text is presented as Attachments I and II. However, the supplemental documents referenced therein are not being distributed as part of this Final Report due to volume, but they are available for inspection upon request. After thoughtful consideration of the comments and concerns expressed by the City, we reaffirm the accuracy of our findings and now consider the audit closed. Follow up reviews will be conducted to assure that the City has been formally notified regarding recertification of the MOE, as well as, resolution of the unspent funds and adherence to new spending rules. We appreciate the courtesies and assistance extended to our staff during the audit process. Please contact me at 305-349-6100 if you have any questions.

**FINDINGS AND RECOMMENDATIONS**

**General Fund Support**

While the audit was underway, the City claimed \$14,000 as its FY 2002 MOE, however, our review disclosed the amount should be \$61,000 as street lighting utilities and repair costs were omitted (Table II). Since municipalities are required to apply Transit Surtax proceeds to supplement, rather than replace, the 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	Maintenance of Effort (MOE)		
	Claimed	Adjustments	Corrected
<b>Transportation Expenditures</b>			
Street Lighting Utility	\$ -	\$ 60,000	\$ 60,000
Sidewalk Repair - Material & Supplies	10,000	(10,000)	-
Building Materials and Supplies	4,000	(4,000)	-
Repairs to Equipment (Street Lights)	-	1,000	1,000
Total	<u>\$ 14,000</u>	<u>\$ 47,000</u>	<u>\$ 61,000</u>

Source: City of West Miami FY 2002 Adopted Budget

**Recommendation**

Require the City to certify the corrected MOE of \$61,000 within 30 days.

**City's Response**

*The City complied with the terms of the MOE through General Fund Support as illustrated by copies of our budgets for the period of time 2001 forward (See Attached). The OCITT website information acknowledges the \$14,000 under the MOE for the period of time from 2001 forward. (See Attached).*

*Under the initial terms of the MOE it was always the position of the OCITT that electrical bills in connection with the Street Lights were ineligible for reimbursement, thus never claimed by the City. If at any time, the regulation changed, the City was not notified.*

**AMS Rejoinder**

*We maintain the accuracy of our findings and conclusions reached regarding the MOE. Street Lighting Utility expenditures are an eligible cost per the OCITT. In fact, the City benefitted from these expenditures as actual utility billings in FYs 2004-2008 were above the amounts budgeted in FY 2002.*

**Use of Surtax Proceeds**

The City provided our auditors with a listing of transit (\$273,154) and transportation-related expenditures (\$805,045) totaling \$1.08 million and, during the audit we identified an additional \$389,318 in qualifying expenditures (Schedule II). Using the corrected MOE and adjusting for ineligible expenditures, our review disclosed the City was unable to expend \$435,527 of the Transit Surtax proceeds (Table III).

**Table III**  
**Analysis of the Usage of Transit Surtax Funds**

Description	Fiscal Year Ended September 30,						All Years
	2003	2004	2005	2006	2007	2008	
Surtax Proceeds (Schedule I)	\$ 113,307	\$ 173,613	\$ 185,212	\$ 202,961	\$ 194,190	\$ 184,561	\$ 1,053,844
<b>Surtax Uses:</b>							
<b>Transit Expenditures</b>							
As Claimed and Adjusted (Schedule II)	\$ 26,687	\$ -	\$ 2,303	\$ 49,284	\$ 79,713	\$ 88,429	\$ 246,416
<b>Transportation Expenditures</b>							
As Claimed and Adjusted (Schedule II)	\$ 64,793	\$ 108,549	\$ 124,974	\$ 106,976	\$ 332,482	\$ 216,078	\$ 953,852
Less: Corrected MOE	(61,000)	(61,000)	(61,000)	(61,000)	(61,000)	(61,000)	(366,000)
Net Expenditures, As Adjusted	\$ 3,793	\$ 47,549	\$ 63,974	\$ 45,976	\$ 271,482	\$ 155,078	\$ 587,852
<b>AMS Analysis:</b>							
<b>Transit Expenditures</b>							
Required 20% Transit Minimum <sup>1</sup>	\$ 22,661	\$ 34,723	\$ 37,042	\$ 40,592	\$ 38,838	\$ 36,912	\$ 210,768
Qualifying Transit-Related Expenditures Applied	(26,687)	-	(2,303)	(49,284)	(79,713)	(88,429)	(246,416)
Unused/(Excess) Transit Funds <sup>2</sup>	\$ (4,026)	\$ 34,723	\$ 34,739	\$ (8,692)	\$ (40,875)	\$ (51,517)	\$ (35,648)
<b>Transportation-Related Expenditures</b>							
Remaining 80% Balance <sup>1</sup>	\$ 90,646	\$ 138,890	\$ 148,170	\$ 162,369	\$ 155,352	\$ 147,649	\$ 843,076
Excess Transit Expenditures Applied <sup>2</sup>	(4,026)	-	-	(8,692)	(40,875)	(51,517)	(105,110)
Qualifying Transportation Expenditures Applied	(3,793)	(47,549)	(63,974)	(45,976)	(114,477)	(96,132)	(371,901)
Unused Transportation Funds	\$ 82,827	\$ 91,341	\$ 84,196	\$ 107,701	\$ -	\$ -	\$ 366,065
<b>Recommended Recapture or Rollover:</b>							
Transit	\$ -	\$ 34,723	\$ 34,739	\$ -	\$ -	\$ -	\$ 69,462
Transportation	82,827	91,341	84,196	107,701	-	-	366,065
Total	\$ 82,827	\$ 126,064	\$ 118,935	\$ 107,701	\$ -	\$ -	\$ 435,527

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

<sup>2</sup> Excess transit expenditures and appropriations may be used to offset available transportation funds.

**Recommendation**

Recapture \$435,527 or allow rollover in subsequent periods in accordance with recently approved Citizens' Independent Transportation Trust guidelines.

**City's Response**

**Use of Surtax Funds:**

*Aside from the Interlocal Agreement between the City of West Miami and OCITT (that does not specify the eligibility for the use of Surtax Dollars), there have been no formal rules to our knowledge on the use of said funds. We have operated under the submitted and accepted Five Year Transportation Plan, amendments, and changes and submitted same to the OCITT.*

**Maintenance, Purchase of Equipment and Labor:**

*On June 9<sup>th</sup>, 2003 the City of West Miami submitted it's Interlocal Agreement along with the Five Year Transportation Plan including funding for the Maintenance of Public Right of Ways and the labor costs associated with funding two positions and the purchase of trees for a total of \$59,000.00 for the first five years of the PTP. The City was never notified that the above was ineligible and it continued funding this category beyond the five years. See attached copy of letter to then Director, Danny Alvarez.*

*During the month of May 2004, the City was asked to respond to a number of questions directly related to the submittal of our five year plan. A response was prepared and submitted to OCITT. Two questions were forwarded to the County Attorney's Office (by the office of OCITT) for legal review and follow-up.*

*On June 30<sup>th</sup>, 2004, County Attorney Bruce Libhaber issued the attached Legal Opinion concerning the Municipal Use of Surtax Funds. Specifically, we wish to point you to paragraph two where the County Attorney deems it legal for cities to expend up to 80% of the monies derived from surtax proceeds eligible to be spent on Non-Transit, Transportation related projects. This included the building, operation and maintenance of roads and bridges. The same question was posed to the County Attorney during our participation at the quarterly meetings, where he opined in the same fashion.*

*The City submitted all changes and updates to our Five Year Transportation Plan to the OCITT office. Attached please find copies of our submittals under the five year plan. All the submittals include Maintenance of public right of ways with the labor costs and not once were we formally advised that these are/were ineligible projects.*

*We would like to refer you to the May 2004 Municipal Q & A publication issued by the County Manager's Office in connection with the allowed use of the surtax proceeds, specifically to item number 12 which clearly allows the purchase of maintenance equipment if used for the repair and maintenance of roads as an acceptable transportation use of surtax proceeds, yet all of our expenditures under this category were found ineligible by your audit finding.*

**Established Route:**

*The City of West Miami recognizes that you considered the payment for the purchase of the City's Jitney Bus circulator using the surtax proceeds; however the audit finding revealed that the driver was not an eligible expense because the City did not have an established route in place before 2004.*

*The City disputes these findings. The City of West Miami did have an established route in place prior to 2004. The City of West Miami established a formal route program through Resolution #89-03. This program involved formal action by the West Miami City Commission and an application for federal grant dollars from the Department of Transportation under the Urban Mass Transportation Act of 1964. The Resolution incorporated a route through the use of statistical information from the City's approved Comprehensive Plan as well as a "Needs Analysis". We are attaching copies of the Resolution and all the related correspondence on this established circulator program for your ready reference and review of same.*

*This portion of the use of surtax proceeds was initially discussed with the office of OCITT and this documentation was supplied during the inception of the program. It was deemed eligible by OCITT.*

*At this time, we would like to request that we be allowed to continue the practice of rolling over surtax funds for capital projects not accomplished within a fiscal year since it is not always financially feasible for a city of our size to accomplish certain capital projects unless we are able to accumulate required working capital.*

*Further, we would like to comment on the time that has elapsed between the implementation of the Surtax program and the first audit of this program. Six years have gone by and for us to be asked to return monies six years after the fact places our small and cash deprived City in a position of concern.*

**AMS Rejoinder**

*AMS maintains the accuracy of our findings and conclusions. As explained to the City of West Miami staff, the maintenance workers salaries were for removing trash and mowing the Traffic Circles and Right-of-Ways areas (not roads and street maintenance), which are not an eligible use of Transit Surtax Funds. Moreover, the City did not establish the Fixed Bus Route until 2006. Prior thereto, the Circulator was used mainly to transport elderly residents to the City's Community Center. Nonetheless, the CITT Board recently approved guidelines allowing rollover of unused funds into subsequent years. The OCITT will be notifying you regarding the City's options for use of the unspent funds cited herein under the revised guidelines.*

**Certification and Reporting Requirements**

Although required, the City did not submit annual reports of qualifying expenditures, Certification Letters, and the FY 2004 Five-Year Transportation Plan.

**Recommendation**

- The City should submit all delinquent reports to OCITT as required.
- OCITT should establish formal recordkeeping procedures to ensure that municipalities' annual reports are submitted on time, and maintained for subsequent review or audit.
- OCITT should consider withholding funding if reports are incomplete or delinquent.

**City's Response**

*The City has submitted to the office of OCITT the required annual reports of qualifying expenditures along with the Five Year Transportation Plan, copies of the approved City Budgets and Independent yearly audits. Mr. Nestor Toledo with OCITT has confirmed that the City of West Miami has complied with the submittal of the above. If additional reports are or have been due, the City has never been notified of any new reporting requirements.*

**AMS Rejoinder**

*We reaffirm that at the time of our review, the subject reports were not available. Prospectively, the City should submit reports that meet the reporting requirements as prescribed within the stated time frames.*

**Signage**

The Amended Interlocal Agreement requires the posting of a conspicuous sign at the job site, structure or vehicle if funded in whole, or in part, by Transit Surtax proceeds. We found no evidence of posting on the existing Community Shuttle buses.

**Recommendation**

The City should be instructed to comply with the signage requirement.

**City's Response**

*The City has ordered signage in an effort to comply with our Interlocal Agreement to read as follows: Circulator Bus Funded by the "Transit Surtax Proceeds".*

CJ:zg

Attachments

- c: Honorable Harvey A. Ruvin, Clerk of the Courts
- 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
- Yolanda Aguilar, City Manager, City of West Miami

**Charter County Transit System Surtax  
Summary of Payments to Municipalities  
For the Six Fiscal Years Ended September 30, 2008**

Schedule I

Municipality	Fiscal Year (FY) Ended September 30,						
	2003	2004	2005	2006	2007	2008	Total
City of Aventura	\$ 495,408	\$ 759,096	\$ 818,788	\$ 933,612	\$ 947,021	\$ 946,296	\$ 4,900,221
Town of Bal Harbour Village	62,707	96,085	99,550	112,832	105,834	95,526	572,534
Town of Bay Harbor Islands	96,989	148,613	155,936	172,145	173,190	167,339	914,212
Village of Biscayne Park	62,045	95,070	104,750	117,666	110,586	106,676	596,793
City of Coral Gables	810,009	1,241,148	1,298,953	1,467,752	1,480,710	1,426,754	7,725,326
Village of El Portal	47,795	73,232	76,045	84,400	84,367	82,000	447,839
City of Florida City	153,748	235,582	254,464	288,454	291,983	295,447	1,519,678
Town of Golden Beach	17,511	26,830	27,952	32,999	24,732	7,016	137,040
City of Hialeah	4,382,718	6,715,483	7,014,990	7,730,686	7,656,151	7,336,976	40,837,004
City of Hialeah Gardens	373,801	572,763	604,331	676,565	681,956	657,921	3,567,337
City of Homestead	621,791	952,745	1,051,671	1,208,129	1,275,853	1,387,011	6,497,200
Indian Creek Village	625	955	931	1,093	-	-	3,604
Village of Key Biscayne	202,733	310,644	333,638	369,378	379,639	368,354	1,964,386
Town of Medley	21,186	32,464	33,963	37,170	37,616	41,385	203,784
City of Miami	6,905,410	10,580,915	11,208,930	12,562,541	12,855,629	12,574,719	66,688,144
City of Miami Beach	1,686,079	2,583,517	2,719,756	3,029,839	3,108,056	2,960,734	16,087,981
Town of Miami Lakes	460,331	705,348	737,093	822,002	822,114	876,926	4,423,814
Village of Miami Shores	197,655	302,860	313,826	346,278	348,437	335,963	1,845,019
City of Miami Springs	259,738	397,985	412,534	456,196	459,353	440,937	2,426,743
City of North Bay Village	126,762	194,231	198,770	218,913	215,921	186,169	1,140,766
City of North Miami	1,136,965	1,742,129	1,805,505	1,989,253	2,004,095	1,919,328	10,597,275
City of North Miami Beach	799,300	1,224,740	1,267,423	1,402,019	1,366,735	1,307,355	7,367,572
City of Opa-Locka	291,102	446,045	468,652	533,416	513,020	497,615	2,749,850
Village of Palmetto Bay	459,612	704,246	745,086	824,252	823,908	807,842	4,364,946
Village of Pinecrest	361,540	553,977	579,684	639,364	646,631	627,523	3,408,719
City of South Miami	203,889	312,415	323,655	360,476	351,494	338,279	1,890,208
City of Sunny Isles Beach	293,299	449,411	486,866	548,772	555,020	582,250	2,915,618
Town of Surfside <sup>1</sup>	95,908	146,959	157,799	184,160	144,185	223,419	952,430
City of Sweetwater	270,238	414,075	429,218	472,215	477,595	458,867	2,522,208
Village of Virginia Gardens	44,592	68,325	70,576	77,979	78,619	76,184	416,275
<b>City of West Miami</b>	<b>113,307</b>	<b>173,613</b>	<b>185,212</b>	<b>202,961</b>	<b>194,190</b>	<b>184,561</b>	<b>1,053,844</b>
	<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>\$ 37,317,372</u>	<u>\$ 200,738,370</u>

Source: Office of Citizens' Independent Transportation Trust

<sup>1</sup> Payments for FY 2008 include a \$42,361 disbursement that was withheld in FY 2007.

**City of West Miami**  
**Summary of Claimed Transit Surtax Expenditures and Adjustments**  
**For the Six Fiscal Years Ended September 30, 2008**

Description	Fiscal Year (FY) Ended September 30,						All Years
	2003	2004	2005	2006	2007	2008	
<b>Transit Expenditures</b>							
Salaries and Benefits (Bus Driver)	\$ -	\$ 26,738	\$ -	\$ 38,421	\$ 48,040	\$ 51,880	\$ 165,079
Bus Purchase/Rental	26,687	-	343	-	20,640	20,000	67,670
Bus Fuel	-	-	-	6,547	6,860	9,610	23,017
Bus Maintenance, Repairs and Tires	-	-	1,900	1,584	3,589	1,939	9,012
Insurance	-	-	-	-	-	5,000	5,000
Bus Route Signage	-	-	60	1,094	584	-	1,738
Advertisement for Bus Route	-	-	-	1,638	-	-	1,638
Total before Adjustments	26,687	26,738	2,303	49,284	79,713	88,429	273,154
<b>Audit and Management Services (AMS) Adjustments for Non-Circulator Salaries</b>	-	(26,738)	-	-	-	-	(26,738)
Total Claimed Expenditures, As Adjusted	\$ 26,687	\$ -	\$ 2,303	\$ 49,284	\$ 79,713	\$ 88,429	\$ 246,416
<b>Transportation Expenditures</b>							
Traffic Calming	\$ -	\$ -	\$ -	\$ -	\$ 250,434	\$ 128,318	\$ 378,752
Salaries and Benefits (Maintenance Workers)	-	27,520	26,357	46,142	52,410	52,284	204,713
Professional and Engineering Services	-	36,340	50,690	3,450	18,850	514	109,844
Street Sweeping	-	1,340	380	9,897	9,409	10,784	31,810
Right of Way Maintenance (Tree Installation, Landscaping and Other Related Costs)	-	2,228	12,405	8,303	1,730	1,219	25,885
Miscellaneous Expenditures <sup>1</sup>	-	7,457	1,084	-	-	-	8,541
Road Repair	-	2,112	3,500	-	-	-	5,612
Administrative Expenses	4,088	8,400	-	8,400	8,400	10,600	39,888
Total before AMS Adjustments	4,088	85,397	94,416	76,192	341,233	203,719	805,045
<b>AMS Adjustments for Additional Qualifying Expenditures:</b>							
Street Lighting Utilities	59,128	60,076	61,143	64,631	62,929	67,234	375,141
Eligible Administrative Expenses to Meet 5% Limit	1,577	281	9,261	1,748	1,310	-	14,177
Record Professional and Engineering Services Expenses in the Correct FY	-	-	-	18,850	(18,850)	-	-
Sub-Total	60,705	60,357	70,404	85,229	45,389	67,234	389,318
<b>AMS Adjustments for Non-Transportation Related Expenditures:</b>							
Salaries and Benefits (Maintenance Workers)	-	(27,520)	(26,357)	(46,142)	(52,410)	(52,284)	(204,713)
Right of Way Maintenance (Tree Installation, Landscaping and Other Related Costs)	-	(2,228)	(12,405)	(8,303)	(1,730)	(1,219)	(25,885)
Miscellaneous Expenditures <sup>1</sup>	-	(7,457)	(1,084)	-	-	-	(8,541)
Administrative Expenses in Excess of 5% of Transit Surtax Proceeds	-	-	-	-	-	(1,372)	(1,372)
Sub-Total	-	(37,205)	(39,846)	(54,445)	(54,140)	(54,875)	(240,511)
Total Claimed Expenditures, As Adjusted	\$ 64,793	\$ 108,549	\$ 124,974	\$ 106,976	\$ 332,482	\$ 216,078	\$ 953,852

Source: City of West Miami General Ledger Transaction History, ADP Employee Earnings Record Reports, and Vendor Invoices

<sup>1</sup> Includes expenditures related to small tools, sidewalk repair, lawnmower parts, truck paint and repair, and petty cash reimbursement.



September 21, 2009

YOLANDA AGUILAR  
City Manager

Cathy Jackson, Director  
Audit and Management Services Department  
Miami Dade County

Re: Comments to the Audit Report - Charter County Transit System Surtax Program  
City of West Miami

Dear Ms. Jackson,

The City of West Miami is in receipt of the September 9<sup>th</sup>, 2009 Draft audit and would like to comment on same. I wish to thank you for the opportunity given to us on September 15<sup>th</sup>, 2009 to discuss the audit with your staff and for the time that you have afforded to us to comment as follows:

**USE OF SURTAX FUNDS:**

Aside from the Interlocal Agreement between the City of West Miami and OCITT (that does not specify the eligibility for the use of Surtax Dollars), there have been no formal rules to our knowledge on the use of said funds. We have operated under the submitted and accepted Five Year Transportation Plan, amendments, and changes and submitted same to the OCITT.

**MOE:**

The City complied with the terms of the MOE through General Fund Support as illustrated by copies of our budgets for the period of time 2001 forward. (See Attached) The OCITT website information acknowledges the \$14,000 under the MOE for the period of time from 2001 forward. (See Attached).

Under the initial terms of the MOE it was always the position of the OCITT that electrical bills in connection with the Street Lights were ineligible for reimbursement, thus never claimed by the City. If at any time, the regulation changed, the City was not notified.

CITY OF WEST MIAMI

## MAINTENANCE, PURCHASE OF EQUIPEMENT AND LABOR:

On June 9<sup>th</sup>, 2003 the City of West Miami submitted it's Interlocal Agreement along with the Five Year Transportation Plan including funding for the Maintenance of Public Right of Ways and the labor costs associated with funding two positions and the purchase of trees for a total of \$59,000.00 for the first five years of the PTP. The City was never notified that the above was ineligible and it continued funding this category beyond the five years. See attached copy of letter to then Director, Danny Alvarez.

During the month of May 2004, the City was asked to respond to a number of questions directly related to the submittal of our five year plan. A response was prepared and submitted to OCITT. Two questions were forwarded to the County Attorney's Office (by the office of OCITT) for legal review and follow-up.

On June 30<sup>th</sup>, 2004, County Attorney Bruce Libhaber issued the attached Legal Opinion concerning the Municipal Use of Surtax Funds. Specifically, we wish to point you to paragraph two where the County Attorney deems it legal for cities to expend up to 80% of the monies derived from surtax proceeds eligible to be spent on Non-Transit, Transportation related projects. This included the building, operation and maintenance of roads and bridges. The same question was posed to the County Attorney during our participation at the quarterly meetings, where he opined in the same fashion.

The City submitted all changes and updates to our Five Year Transportation Plan to the OCITT office. Attached please find copies of our submittals under the five year plan. All the submittals include Maintenance of public right of ways with the labor costs and not once were we formally advised that these are/were ineligible projects.

We would like to refer you to the May 2004 Municipal Q & A publication issued by the County Manager's Office in connection with the allowed use of the surtax proceeds, specifically to item number 12 which clearly allows the purchase of maintenance equipment if used for the repair and maintenance of roads as an acceptable transportation use of surtax proceeds, yet all of our expenditures under this category were found ineligible by your audit finding.

## ANNUAL REPORTS:

The City has submitted to the office of OCITT the required annual reports of qualifying expenditures along with the Five Year Transportation Plan, copies of the approved City Budgets and Independent yearly audits. Mr. Nestor Toledo with OCITT has confirmed that the City of West Miami has complied with the submittal of the above. If additional reports are or have been due, the City has never been notified of any new reporting requirements.

## ESTABLISHED ROUTE:

The City of West Miami recognizes that you considered the payment for the purchase of the City's Jitney Bus circulator using the surtax proceeds; however the audit finding revealed that the driver was not an eligible expense because the City did not have an established route in place before 2004.

The City disputes these findings. The City of West Miami did have an established route in place prior to 2004. The City of West Miami established a formal route program through Resolution #89-03. This program involved formal action by the West Miami City Commission and an application for federal grant dollars from the Department of Transportation under the Urban Mass Transportation Act of 1964. The Resolution incorporated a route through the use of statistical information from the City's approved Comprehensive Plan as well as a "Needs Analysis". We are attaching copies of the Resolution and all the related correspondence on this established circulator program for your ready reference and review of same.

This portion of the use of surtax proceeds was initially discussed with the office of OCITT and this documentation was supplied during the inception of the program. It was deemed eligible by OCITT.

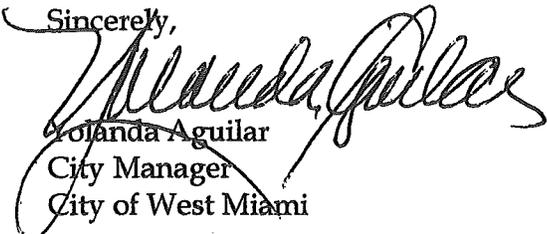
At this time, we would like to request that we be allowed to continue the practice of rolling over surtax funds for capital projects not accomplished within a fiscal year since it is not always financially feasible for a city of our size to accomplish certain capital projects unless we are able to accumulate required working capital.

Further, we would like to comment on the time that has elapsed between the implementation of the Surtax program and the first audit of this program. Six years have gone by and for us to be asked to return monies six years after the fact places our small and cash deprived City in a position of concern.

In closing, we are asking for reconsideration (based on the attached exhibits and information) of the audit findings stated in your draft report, and ask that these items be reconsidered by your audit office.

We anxiously wait for your response,

Sincerely,

  
Yolanda Aguilar  
City Manager  
City of West Miami

Cc: Finance Director, Mercedes Leon  
Rodriguez, Trueba & Co., Independent Auditors  
Rebeca Sosa, District Six, Miami Dade County Commissioner  
Director of Public Works, Juan Pena  
Charles Scurr, Executive Director OCITT  
Nestor Toledo, OCITT  
City Manager File  
City Clerk

Enclosures



YOLANDA AGUILAR  
City Manager

October 14, 2009

Cathy Jackson, Director  
Audit and Management Services Dept  
Miami Dade County

Re: Addendum to September 21, 2009 response  
Audit – Charter County Transit System Surtax Program

Dear Ms. Jackson,

Please accept this letter with supplemental information concerning the City's use of the County Transit System Surtax Program as it pertains to the required signage on the City's established circulator.

Please be advised that the City of West Miami has ordered signage in an effort to comply with our Interlocal Agreement to read as follows:

**CIRCULATOR BUS FUNDED BY THE "TRANSIT SURTAX PROCEEDS"**

Attached please find a memorandum issued by this office on October 7<sup>th</sup>, 2009 to the Director of Public Works.

The sign should be ready no later than next week. We will provide you with a picture of the sign upon installation in the bus.

Should you require further information, please feel free to contact this office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Yolanda Aguilar", is written over a printed name and title.

Yolanda Aguilar  
City Manager

Cc: Mercedes Leon, Finance Director  
City Manager File  
Surtax File – Audit 2009  
City Clerk  
Director of Public Works, J. Pena

CITY OF WEST MIAMI

901 S.W. 62nd Avenue • West Miami, FL 33144 • Phone: (305) 266-1122 • Fax: (786) 388-5249  
E-mail: cwmyaguilar@bellsouth.net



To: Juan Pena, Director of Public Works  
From: Yolanda Aguilar, City Manager  
Re: Bus Signage – Hourly Loop  
Cc: Cathy Jackson, Director Miami Dade County  
Audit and Management Services Dept  
Jacqueline Williams, Miami Dade County  
Girsi Andreu, Auditor Miami Dade County  
Nestor Toledo, CITT Contract Manager

Date: October 7<sup>th</sup>, 2009

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This memorandum shall serve to direct you to order a sign for the Hourly Loop Bus to read as follows:

**CIRCULATOR BUS FUNDED BY THE "TRANSIT SURTAX PROCEEDS"**

This is an issue involving a finding by the Miami Dade County office of Audit and Management Services that we need to address pursuant to our amended 2007 Interlocal Agreement.

Please take a picture of the signage so that we can forward to all the above captioned parties.

Thank you,

Cc: City Manager file  
Audit File