

Memorandum



Date: November 18, 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 North Miami Beach

PURPOSE AND SCOPE

As requested, we reviewed the City of North Miami Beach'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. 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 North Miami Beach (the City) is bordered on the South by Northeast 135th Terrace, on the East by the Intracoastal Waterway, on the West by Northwest 4th Avenue, and on the North by Northeast 196 Terrace, in Miami-Dade County. The City is governed by an elected Mayor and six Council Members. The City Manager, as appointed by the Council, is responsible for day-to-day oversight and administration. During the six-year period ended September 30, 2008, the County, through the Office of the Citizens' Independent Transportation Trust (OCITT), remitted approximately \$7.4 million in Transit Surtax proceeds for the City to expend on qualifying 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 August 18, 2003 *Interlocal Agreement for Distribution of Charter County Transit System Surtax Proceeds Levied by Miami-Dade County* (Interlocal Agreement), the City reported \$50,000 as its budgeted FY 2002 General Fund transportation support level (Table I), or Maintenance of Effort (MOE).

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

Description	2003	2004	2005	2006	2007	2008	All Years
Maintenance of Effort (MOE)	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 300,000
Surtax Proceeds	\$ 799,300	\$ 1,224,740	\$ 1,267,423	\$ 1,402,019	\$ 1,366,735	\$ 1,307,355	\$ 7,367,572

Source: OCITT and City of North Miami Beach

SUMMARY RESULTS

During the audit period, the City received \$7.4 million in Transit Surtax funds but did not report how it used those proceeds to OCITT, as required. Instead, City management claimed \$13.9 million in transit and transportation expenditures while fieldwork was underway. The City claimed \$50,000 as its MOE, however our auditors determined the amount should have been \$847,476 using the FY 2002 Budget. Using the revised MOE, and adjusting for ineligible expenditures, we determined the City was unable to expend \$1.5 million in Transit Surtax receipts which are subject to recapture. Alternatively, amounts may be eligible for rollover which will allow spending of the proceeds in subsequent years, using the recently revised guidelines approved by the Members of the Citizens' Independent Transportation Trust, pending Board of County Commissioners acceptance.

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 Attachment I. Overall, we are pleased with the City's response and the audit has been 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. 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

The City claimed an MOE appropriation of \$50,000 for its on-demand Van Program, however our review disclosed \$847,476 in FY 2002 General Fund budget appropriations in the Streets and Alleys Division of the Public Services Department (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	Claimed Amount	AMS Adjustments	As Revised
Transit Projects			
Help Van Program	\$ 50,000	\$ (50,000)	\$ -
Transportation Projects			
Streets and Alleys Department	-	896,196	896,196
Less Deduction for Ineligible Amounts:			
Non-Street Light Expenditures	-	(38,720)	(38,720)
Sidewalks Materials and Supplies	-	(10,000)	(10,000)
	-	847,476	847,476
Total	\$ 50,000	\$ 797,476	\$ 847,476

Source: City of North Miami Beach FY 2002 Budget and Vendor Invoices

Recommendation

Require the City to certify a corrected MOE of \$847,476 within 30 days.

Auditee Response

The City of North Miami Beach has reviewed the general fund support provided for transportation in the City's FY 2001-2002 budget and has concurred with the recommendation. The City has addressed a letter to the Citizens' Independent Transportation Trust (CITT) correcting its MOE from \$50,000 to \$847,476.

Use of Surtax Proceeds

Although the City did not submit reports detailing Surtax project expenditures to OCITT as required, Management claimed transit and transportation-related expenditures to our auditors of \$13.9 million (Schedule II). Our review of those expenditures disclosed \$1.5 million in ineligible costs that included a pedestrian bridge (Figure I), an on-demand Van Program, as well as building and other charges. After adjusting claimed expenditures and using the corrected MOE, we determined the City was unable to expend \$1.5 million on eligible projects (Table III).

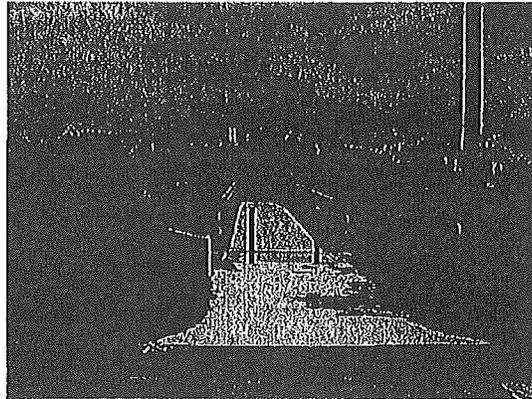


Figure 1 - Columbia Pedestrian Bridge

In 2003, the City executed a loan agreement with the Florida Municipal Loan Council to borrow \$7.8 million for major roadway improvements and other infrastructure projects of which \$2.9 million in debt service payments was claimed. As required, the loan proceeds were used on qualifying transportation-related projects and, as such, the debt service payments are an eligible use of Transit Surtax proceeds (Schedule II).

Table III
 Surtax Funds Recommended for Recapture

Description	Fiscal Year Ended September 30						All Years
	2003	2004	2005	2006	2007	2008	
Surtax Proceeds (Schedule I)	\$ 799,300	\$ 1,224,740	\$ 1,267,423	\$ 1,402,019	\$ 1,366,735	\$ 1,307,355	\$ 7,367,572
Surtax Uses:							
Transit Expenditures							
As Claimed and Adjusted (Schedule II)	\$ -	\$ 80,185	\$ 50,271	\$ 92,974	\$ 108,231	\$ 136,157	\$ 467,818
Transportation Expenditures							
As Claimed and Adjusted (Schedule II)	\$ 981,441	\$ 2,126,367	\$ 2,285,990	\$ 2,252,696	\$ 2,219,464	\$ 2,068,339	\$ 11,934,297
Less: MOE, as Revised (Table II)	847,476	847,476	847,476	847,476	847,476	847,476	5,084,856
Net Expenditures, As Adjusted	\$ 133,965	\$ 1,278,891	\$ 1,438,514	\$ 1,405,220	\$ 1,371,988	\$ 1,220,863	\$ 6,849,441
AMS Analysis:							
Transit Expenditures							
Required 20% Transit Minimum ¹	\$ 159,860	\$ 244,948	\$ 253,485	\$ 280,404	\$ 273,347	\$ 261,471	\$ 1,473,515
Qualifying Transit-Related Expenditures Applied	-	(80,185)	(50,271)	(92,974)	(108,231)	(136,157)	(467,818)
Unused Transit Funds	\$ 159,860	\$ 164,763	\$ 203,214	\$ 187,430	\$ 165,116	\$ 125,314	\$ 1,005,697
Transportation-Related Expenditures							
Remaining 80% Balance ¹	\$ 639,440	\$ 979,792	\$ 1,013,938	\$ 1,121,615	\$ 1,093,388	\$ 1,045,884	\$ 5,894,057
Qualifying Transportation Expenditures Applied	(133,965)	(979,792)	(1,013,938)	(1,121,615)	(1,093,388)	(1,045,884)	(5,388,582)
Unused Transportation Funds	\$ 505,475	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 505,475
Recommended Recapture or Rollover:							
Transit	\$ 159,860	\$ 164,763	\$ 203,214	\$ 187,430	\$ 165,116	\$ 125,314	\$ 1,005,697
Transportation	505,475	-	-	-	-	-	505,475
Total	\$ 665,335	\$ 164,763	\$ 203,214	\$ 187,430	\$ 165,116	\$ 125,314	\$ 1,511,172

¹ At least 20% of Transit 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.

Recommendation

Recapture \$1.5 million or allow for rollover in accordance with revised guidelines recently approved by Members of the Citizens' Independent Transportation Trust.

Auditee Response

The City of North Miami Beach will comply with all requirements for rollover in accordance with the revised guidelines approved by Members of the Citizens' Independent Transportation Trust, in regards to the \$1.5 million of Surtax proceeds.

Certification and Reporting Requirements

Although required, the City did not submit annual reports of qualifying expenditures, the FY 2003 Certification Letter, and the FY 2008 Five-Year Transportation Plan.

Recommendation

- Prospectively, the City should submit required reports to OCITT.
- Prospectively, OCITT should consider withholding funding if reports are incomplete or delinquent.

Auditee Response

The City of North Miami Beach will ensure that all annual reports of qualifying expenditures, the Certification Letter, and its Five - Year Transportation Plan are complete and all reports are submitted in a timely manner to ensure compliance with the reporting requirements of the Interlocal Agreement.

Execution of Revised Interlocal Agreement

Unlike most municipalities, the City has not executed a revised Interlocal Agreement. OCITT amended Interlocal Agreements to clarify reporting and other requirements, thereby assuring uniformity among all recipients.

Recommendation

OCITT should consider withholding future Transit Surtax Fund Receipts pending the City's execution of the Amended Interlocal Agreement.

Auditee Response

The Amended Interlocal Agreement will be executed by the City Manager and all necessary parties to assure uniformity among all Surtax Fund recipients.

Other Matter

In FY 2006, the City contracted with Chen & Associates (Chen) to provide engineering consulting services and the City’s former in-house Engineer was hired by Chen. This individual was designated as the City’s primary engineer in May 2006, and his duties included approving Chen invoices for payment of \$499,297 during the audit period (Table IV). Although payments to Chen from Transit Surtax funds totaled only \$21,332, a review of the competitive bid documents revealed that the Company was initially ranked fourth by the Selection Committee. After evaluating 15 Proposals and recommending the top three consultants be pre-qualified (excluding Chen), the Company was elevated from a ranking of fourth to first for undocumented reasons.

**Table IV
Payments to Chen & Associates and City Engineer**

Description	Fiscal Year ended September 30						All Years
	2003	2004	2005	2006	2007	2008	
Claimed Uses of Transit Surtax Proceeds							
Salary paid to City Engineer, as a City Employee ¹	\$ -	\$ 46,109	\$ 24,102	\$ 6,481	\$ -	\$ -	76,692
Chen & Associates, Inc.	-	-	-	6,500	9,270	5,562	21,332
Total Claimed	\$ -	\$ 46,109	\$ 24,102	\$ 12,981	\$ 9,270	\$ 5,562	\$ 98,024
Total Payments to Chen & Associates, Inc.							
City Engineer Services	\$ -	\$ -	\$ -	\$ 50,000	\$ 123,600	\$ 123,600	297,200
All Other Payments	-	-	-	47,210	58,400	96,487	202,097
Total Payments	\$ -	\$ -	\$ -	\$ 97,210	\$ 182,000	\$ 220,087	\$ 499,297

Source: Trial Balances, Vendor payment History Reports and Vendor Invoices

¹ Salary payments to the City Engineer, as a City Employee from October 1, 2003 through April 30, 2006

Recommendation

Vendor invoices for engineering and construction related services should be approved by someone not reporting to the Contracted employee provided by Chen. Greater discretion should be exercised when hiring former employees through vendor contracts to perform City services to avoid potential conflicts-of-interest. Also, the basis for changes to Selection Committee recommendations should be documented to avoid appearances of favoritism.

Auditee Response

Going forward all vendor invoices for engineering and construction related services will be approved by the Director and/or the Assistant Director of Public Works. The comment regarding hiring former employees is duly noted.

Attachments

CJ:zg

- c: Honorable Harvey A. Ruvin, Clerk of the Courts
- George M. Burgess, County Manager
- Robert A. Cuevas, Jr., County Attorney
- Ysela Llorc, Assistant County Manager
- Jennifer Glazer-Moon, Special Assistant/Director, Office of Strategic Business Management
- Charles Anderson, Commission Auditor
- Kelvin L. Baker, City Manager, City of North Miami Beach

**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,						Total
	2003	2004	2005	2006	2007	2008	
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 ¹	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
City of West Miami	113,307	173,613	185,212	202,961	194,190	184,561	1,053,844
	<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

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

Charter County Transit System Surtax - City of North Miami Beach
Summary of Claimed Surtax Expenditures and Adjustments
For the Six Fiscal Years Ended September 30, 2008

Description	Fiscal Year Ended September 30						Amalgam
	2003	2004	2005	2006	2007	2008	
Transit Expenditures							
Van Program and Circulator Operating Expenses	\$ -	\$ 92,932	\$ 158,534	\$ 184,836	\$ 167,700	\$ 176,628	\$ 780,630
Circulator Bus Purchase	-	54,699	-	-	-	-	54,699
Total before AMS Adjustments	-	147,631	158,534	184,836	167,700	176,628	835,329
AMS Adjustments:							
Estimated Non-Fixed Route Van Program Costs ¹	-	(67,446)	(108,263)	(123,373)	(115,509)	(118,369)	(532,960)
Reclassification of Bus Shelters Costs Charged to Transportation	-	-	-	31,511	56,040	77,898	165,449
AMS Adjustments, Net	-	(67,446)	(108,263)	(91,862)	(59,469)	(40,471)	(367,511)
Total, as Adjusted	\$ -	\$ 80,185	\$ 50,271	\$ 92,974	\$ 108,231	\$ 136,157	\$ 467,818
Transportation Expenditures							
Street Improvements and Maintenance Projects	\$ 473,538	\$ 1,481,266	\$ 899,707	\$ 913,824	\$ 851,763	\$ 1,145,931	\$ 5,766,029
Street Lights	556,223	552,592	756,761	746,944	811,307	932,262	4,356,089
Debt Service	-	145,019	709,121	695,882	691,603	693,112	2,934,737
Total before AMS Adjustments	1,029,761	2,178,877	2,365,589	2,356,650	2,354,673	2,771,305	13,056,855
AMS Adjustments:							
Columbia Pedestrian Bridge	-	-	-	-	-	(538,005)	(538,005)
Building and Other Ineligible Electricity Charges	(44,498)	(44,207)	(60,541)	(59,756)	(64,905)	(74,581)	(348,488)
Reclassification of Bus Shelter Costs to Transit Expenditures	-	-	-	(31,511)	(56,040)	(77,898)	(165,449)
Sidewalk Materials and Supplies	(3,822)	(4,442)	(10,847)	(4,865)	(7,871)	(6,175)	(38,022)
Debt Service Costs Other Than Principal and Interest	-	(3,861)	(8,211)	(7,822)	(6,393)	(6,307)	(32,594)
Total AMS Adjustments	(48,320)	(52,510)	(79,599)	(103,954)	(135,209)	(702,966)	(1,122,558)
Total, as Adjusted	\$ 981,441	\$ 2,126,367	\$ 2,285,990	\$ 2,252,696	\$ 2,219,464	\$ 2,068,339	\$11,934,297

Source: City of North Miami Beach Trial Balances and Vendor Invoices

¹ Non-Fixed Route Van Program costs were estimated using the FY 2006 Budgeted amounts.



City of North Miami Beach, Florida
FINANCE DEPARTMENT

November 13, 2009

Cathy Jackson, Director
Auditing and Management Services Department
One S.E. Third Avenue, Suite 1100
Miami, Florida 33131

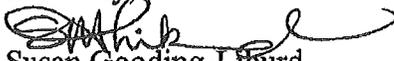
RE: Audit Report - Charter County Transit System Surtax Review – City of North Miami Beach

Dear Ms. Jackson:

The City of North Miami Beach appreciates you meeting with us and the assistance that was provided by Mr. Jerry Suarez, Audit Supervisor. Enclosed are the responses to the above captioned Audit Report that was discussed on October 22, 2009.

We look forward to working with your staff again. Thank you.

Sincerely,


Susan Gooding-Liburd
Director of Financial Services
City of North Miami Beach
17011 NE 19th Avenue
North Miami Beach, FL 33162
(305) 948-2930

FINDINGS AND RECOMMENDATIONS

General Fund Support

Recommendation

Require the City to certify a corrected MOE (maintenance of effort) of \$847,476 within 30 days.

Management Response

The City of North Miami Beach has reviewed the general fund support provided for transportation in the City's FY 2001-2002 budget and has concurred with the recommendation. The City has addressed a letter to the Citizens' Independent Transportation Trust (CITT) correcting its MOE from \$50,000 to \$847,476.

Use of Surtax Proceeds

Recommendation

Recapture \$1.5 million or allow for rollover in accordance with the revised guidelines recently approved by Members of the Citizens' Independent Transportation Trust.

Management Response

The City of North Miami Beach will comply with all requirements allow for rollover in accordance with the revised guidelines approved by Members of the Citizens' Independent Transportation Trust, in regards to the \$1.5 million of Surtax proceeds.

Certification and Reporting Requirements

Recommendation

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

Management Response

The City of North Miami Beach will ensure that all annual reports of qualifying expenditures, the Certification Letter, and its Five-Year Transportation Plan are complete and all reports are submitted in a timely manner to ensure compliance with the reporting requirements of the Interlocal Agreement.

Execution of Revised Interlocal Agreement

Recommendation

OCITT should consider withholding future Surtax Fund Receipts pending the City's execution of the Amended Interlocal Agreement.

Management Response

The Amended Interlocal Agreement will be executed by the City Manager and all necessary parties to assure uniformity among all Surtax Fund recipients.

Other Matter

Recommendation

Vendor invoices for engineering and construction related services should be approved by someone not reporting to the Contracted employee provided by Chen. Greater discretion should be exercised when hiring former employees through vendor contracts to perform City services to avoid potential conflicts-of-interest. Also, the basis for changes to Selection Committee recommendations during the competitive selection process should be documented to avoid appearances of favoritism.

Management Response

Going forward all vendor invoices for engineering and construction related services will be approved by the Director and/or the Assistant Director of Public Works. The comment regarding hiring former employees is duly noted.