




Florida Department of TRANSPORTATION

Office of Inspector General Memorandum

TO: Tom Byron, Assistant Secretary Intermodal Development
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FROM: Robert E. Clift, Inspector General 

DATE: July 28, 2017

SUBJECT: Central Office Oversight of 5311 Funding

COPY: Mike Dew, Secretary of Transportation
Shannan Schuessler, Chief of Staff
Robin Naitove, Comptroller

On February 12, 2015, the Florida Department of Transportation (department) Office of Inspector General (OIG) released Advisory Report No. 14I-9002, regarding Suwanee Valley Transit Authority (SVTA), a local transit agency selected by District Two (district) to be awarded federal 5311 grant funding¹ from the department. The report questioned \$190,340 in unauthorized payments to SVTA's management team. It also revealed substantial deficiencies in SVTA's accounting and recordkeeping practices.

Since that time the OIG has performed an extensive root cause analysis regarding what happened at SVTA. **We determined:**

- The department's losses at SVTA may have been substantially greater than those previously reported in Advisory Report No. 14I-9002, due to a practice known as cost shifting between services provided to the Medicaid and Transportation Disadvantaged (TD) programs versus the 5311 program. However, since SVTA did not maintain detailed records in accordance with federal standards, the exact extent of cost shifting cannot be determined, only that the grantee earned unexpected income in excess of expenses on Medicaid and TD-funded programs during the period in question.
- The department does not currently require 5311 grantees to provide it with accounting records to support grant payments at the level of detail necessary to

¹ The 5311 Program Formula Grants for Other than Urbanized Areas is a federally-funded, formula-based program that supports public transportation in rural areas, authorized by 46 United States Code (U.S.C.) 5311.

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ensure the department is only paying for its fair share of costs, rather than providing unauthorized subsidies to other programs.

- This lack of documentation places the department at risk of having its payments for services under the 5311 program declared improper² (and therefore subject to repayment to the federal government), whether or not cost-shifting has occurred.
- To take appropriate corrective action, the department should ensure persons with expertise in the complex accounting requirements associated with blended funding streams are assigned in Central and District Transit offices. Per our review of job descriptions, these knowledge, skills, and abilities have not been incorporated into currently assigned positions. The existing duties associated with current positions may preclude assigning additional responsibilities. As stated in e-mail correspondence we received from a department employee:

Transit Program Managers have 14 areas of federal program oversight to monitor in addition to the state requirements...By comparison the highway side of our Department has special sections that handle DBE program compliance, Title VI compliance, purchasing and contract compliance, budgeting, work program, and safety compliance. Teams of Department staff have responsibilities in individual areas. Transit Program staff manage and have oversight over all of those areas with no assistance. In addition Transit Program staff can be managing as many as 50+ open JPAs at any given time. Any solution or recommendations must take this into consideration.

- Department staff at the Central Office and district level have indicated many local transit agencies may require extensive training and technical assistance to come into compliance.

BACKGROUND

The 5311 Program

The 5311 Program Formula Grants for Other than Urbanized Areas is a formula-based program established by Title 49 Chapter 53 to provide funding to states to support public transportation in rural areas. The federal government allocated \$16,041,135 to the State of Florida for the federal fiscal year ended October 31, 2016.³ When the department is awarded funding, it allocates it in turn to its districts, who make the final selection of which local grant projects to fund.

² *Improper payment* includes...any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper. (2 CFR 200.53)

³ Excluding \$255,392 awarded under Section 5311(b) for non-operational support activities (e.g., training, technical assistance, research) under the Rural Transportation Assistance Program (RTAP) program.

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The federal government expects, and even encourages, 5311 funding to be blended with multiple other funding sources to sustain a single transit system. As stated in FTA Circular 9040.1G:

The Section 5311 program supports both the maintenance of existing public transportation services and the expansion of those services...encouraging and facilitating the most efficient use of all transportation funds used to provide passenger transportation in rural areas through the coordination of programs and services... (Section II.2)

It even allows other federal funding, including Medicaid, to be applied towards the program's 50% match requirement (normally a prohibited activity under federal grant regulations). However, it also expects services supported by blended funding to be made available to the general public (not just Medicaid clients):

Public transportation means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income. (Circular 9040.1G, Section I.1)

Blended Funding Considerations

Blended funding offers the following advantage: it allows multiple programs to share the burden of fixed operating costs, such as driver salaries, reducing the cost per rider. It can also help make otherwise insolvent programs sustainable, by absorbing the deficit costs of operating a fare-based service in rural areas with low ridership. In the State of Florida, both Medicaid and state-funded Transportation Disadvantaged programs reimburse transit agencies a flat fee per sponsored rider mile.

However, blended funding also offers the following challenge: because the same set of costs may be eligible for reimbursement by more than one funding stream, the opportunity exists for grantees to "double dip" by shopping the same set of receipts to multiple programs for reimbursement. Grantor agencies should insist not only on receiving copies of receipts, but copies of the following items as well:

- Cost allocation procedure used to determine its percentage share of costs;
- Calculation support for current period assessment; and
- Monthly financial statement for the program area supported by blended funding.

For all cost reimbursement sources, the net difference between revenues and costs on the monthly financial statement should be zero. For fee-based contracts, the grantee bears the risk that allocated costs may exceed standardized fees. Only the deficit costs (costs in excess of fare revenue) should be passed on to a cost-reimbursement funding source.

Changing Relationship to Medicaid

Prior to 2014, Florida's Agency for Health Care Administration (AHCA) contracted directly with local transit agencies for an overall flat fee for services to Medicaid clients in their region. After 2014, AHCA began contracting all Medicaid services (including transit) out to a statewide managed-care provider. The statewide provider began contracting with individual providers, including local transit agencies, to provide rides on demand for a fee-per-mile.

The department's Transit Office has interpreted this change to imply that Medicaid services no longer qualify as shared services open to the general public. Therefore, no Medicaid costs (deficit or otherwise) should be passed on to Florida's 5311 program (deficit or otherwise). This change in policy has not been clearly articulated and enforced at the district level.

Blended Funding at SVTA

Until its Medicaid contract with AHCA expired in the fall of 2014, the Medicaid and TD programs represented over 80% of operational revenues, as shown in the following tables:

Table 1: SVTA Operating Revenues for Fiscal Years Ended September 30

Description	FY2010	FY2011	FY2012	FY2013	FY2014
Charges for services*	2,996,551	2,985,218	2,539,199	2,371,925	1,411,403
TD program	581,027	556,971	573,988	686,932	661,518
5311 program	355,536	405,274	406,937	415,740	609,296
Other grants**	113	-	52,450	115,769	58,499
	3,933,227	3,947,463	3,572,574	3,590,366	2,740,716

*Primarily Medicaid.

**Including local county funding.

Table 2: SVTA Operating Revenues — Relative Percentages

Description	FY2010	FY2011	FY2012	FY2013	FY2014
Charges for services*	76.19%	75.62%	71.07%	66.34%	51.50%
TD program	14.77%	14.11%	16.07%	19.21%	24.14%
5311 program	9.04%	10.27%	11.39%	11.63%	22.23%
Other grants**	0.00%	0.00%	1.47%	2.82%	2.13%
	100.00%	100.00%	100.00%	100.00%	100.00%

*Primarily Medicaid.

**Including local county funding.

Nevertheless, the district routinely paid 50% of all invoices presented to it for payment. In the absence of any other guidance in the grant application, program manual, or contract, this represented the maximum allowable reimbursement percentage for the 5311 program. To achieve this percentage, ridership would need to be evenly split

between sponsored riders (e.g., allocable to Medicaid or TD) and members of the general public, or Medicaid and TD would need to be incurring substantial deficits.

We analyzed SVTA's accounting records for the fiscal year ended September 30, 2013 and determined SVTA earned over \$300K in profits on its human service contracts during that year, not accounting for unallowable costs (e.g., the \$190K in excess compensation identified in Report No. 14I-9003) or unmet match requirements for the TD program (of which we identified \$76K). Some of these excess earnings were applied to outstanding debt or capital purchases above and beyond SVTA's capital grant sources.

RECOMMENDATIONS

We recommend the department develop:

- a strategic plan to provide appropriate fiscal oversight for 5311 funding, including:
 - Review of current organizational support;
 - Assessment of gaps;
 - Revision of organization chart or job descriptions as needed.
- training plans for districts and local agencies;
- updated contract language to limit the department's reimbursement to its fair share of costs plus the deficit portion of any program specifically identified by the contract as eligible for deficit funding;
- updated invoicing procedures requiring grantees to submit ridership and cost allocation reports to verify the department is only reimbursing its fair share of costs; and
- ongoing oversight procedures to monitor grantees' understanding of and compliance with the new departmental guidance, or receive timely technical assistance to do so.

ACKNOWLEDGMENTS

We would like to thank the Transit Office and District Two for the full cooperation and technical assistance provided during this review.