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23

EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
April 19, 2007

**SUBJECT: OFFICE OF INSPECTOR GENERAL (OIG) AUDIT
ACTIVITIES REPORT**

ACTION: RECEIVE AND FILE

RECOMMENDATION

Receive and file OIG Audit Activities Report.

ISSUE

The Board of Directors requested the OIG to report on audit activities.

BACKGROUND

The OIG Charter states that the OIG was established to provide an independent and objective unit reporting directly to the Board of Directors. The OIG has numerous responsibilities as defined in the Charter, and the OIG Audit Unit has a broad responsibility for oversight in a cooperative support mode with MTA management for increased accountability and improvement of organizational performance.

A large measure of the OIG audit focus is to provide the Board of Directors and MTA management with independent analyses, evaluations, and appraisals of performance effectiveness, accuracy of information, efficient use of resources, and adequacy of internal controls. In addition, the Audit Unit is charged with the detection and analysis of those items indicative of fraud, waste, or abuse.

DISCUSSION

The OIG has recently issued the following reports:

- Analysis of Overtime Usage
- Earthquake Insurance Coverage
- Audit of MTA Miscellaneous Expenses, April 1 to June 30, 2006

Analysis of Overtime Usage

Our analysis focused on the “premium overtime” payroll earnings code because it accounted for more than half of the total overtime earned. During Fiscal Year 2006, MTA employees were paid \$18.2 million for 514,862 hours of premium overtime.

We identified several factors that contributed to overtime costs. Some of these factors such as seniority are mandated by union agreements and cannot be unilaterally changed by MTA. However in other areas, there are opportunities for reducing overtime from actions that management can take.

- More overtime occurred on weekends, and less overtime occurred during mid-week. For example, during FY 2006, 20.3% of overtime hours were worked on Saturdays, while 11.8% of overtime hours were worked on Tuesdays. Two rail divisions successfully reduced overtime through better workload planning, scheduling, and staffing changes. One of the divisions had reduced overtime costs from \$1,338,898 in FY 2003 to \$616,197 in FY 2006.
- Some employees worked significant amounts of overtime. In FY 2006, 203 employees worked at least 500 hours of overtime. The 203 employees represented 6.4% of the 3,173 employees who worked overtime during the year; however, they accounted for 30.4% of the overtime hours.
- Ten of 190 cost centers accounted for half of the overtime used. Staffing vacancies or shortages might exist at cost centers that have high overtime usage. MTA had not determined a break even point where it would be more cost effective to hire additional staff rather than pay for overtime.
- In FY 2006, 18 cost centers had exceeded their overtime budget by a combined total of \$3.5 million, or 38.8%. Oversight should be focused on cost centers with the highest over-budget amounts.

We met with the CEO to discuss the results of our analysis. The CEO was receptive to the issues in the report, and said he would be working to identify ways to improve controls over overtime and reduce costs. He advised us that the report was helpful, and contained useful information. He planned to meet with his staff to discuss the report and related issues.

Earthquake Insurance Coverage

We found that MTA needs to re-evaluate for clarity the earthquake insurance provision regarding compensable events in the contract for constructing the Metro Gold Line Eastside Extension.

Subsequent to the award of the contract, MTA staff determined that the contractor’s earthquake coverage did not meet requirements specified in the contract. The contractor disagreed that its

earthquake coverage did not meet contract requirements, but complied with MTA's request and purchased additional earthquake insurance coverage. Subsequently, the contractor filed a claim for \$1,123,308 for the purchase of additional earthquake insurance. On February 21, 2006, MTA and the contractor settled the cost for additional earthquake insurance for \$650,000.

Procurement and Risk Management staff told us that the intent of the Special Provisions of the contract was that the contractor purchase earthquake insurance coverage of \$25 million without exclusion. In their opinion, there should have been \$25 million of insurance in force to cover each and every earthquake.

The contractor, however, had a different interpretation of earthquake coverage requirements. In December 14, 2004, letter to MTA, the contractor stated it "was not responsible for earthquakes falling within certain parameters" under the compensable events section of the contract. The contractor also stated that the "language in the contract is ambiguous" and recommended that MTA "revise either one or both of these two contract provisions to explicitly set forth its intent with respect to compensation and insurance requirements for earthquakes."

We believe that the contractual language, as currently written, for compensable events could be subject to different interpretations. To preclude further misunderstanding and possible claims, MTA should re-evaluate and revise the contract's language concerning earthquake insurance for clarity.

MTA management concurred with the findings and recommendations in the report. Management's response stated "improvements in clarity are possible, and County Counsel along with Risk Management and Procurement will incorporate the minor refinements drafted by Counsel in future construction contracts where applicable."

Audits of MTA Miscellaneous Expenses

The audit found that the miscellaneous expenses reviewed generally complied with policies, were reasonable, and were generally adequately supported.

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Inspector General

