
Secretary of State

State of Oregon
OREGON DEPARTMENT OF TRANSPORTATION
Rogue Valley Transportation District



Audits Division

Secretary of State

State of Oregon
OREGON DEPARTMENT OF TRANSPORTATION
Rogue Valley Transportation District



Audits Division



Auditing for a Better Oregon

The Honorable John Kitzhaber
Governor of Oregon
State Capitol
Salem, Oregon 97310

Grace Crunican, Director
Oregon Department of Transportation
Transportation Building, Room 135
355 Capitol Street NE
Salem, Oregon 97310

Board of Directors
Rogue Valley Transit District
3200 Crater Lake Avenue
Medford, Oregon 97504

The Secretary of State received information regarding the possible use of public resources by Rogue Valley Transportation District (RVTD) officials for personal gain, and contract mismanagement. The RVTD receives both federal and state funds through the Oregon Department of Transportation (ODOT). These funds are partially used to meet the transportation needs of individuals with disabilities in accordance with the Americans With Disabilities Act (ADA) of 1990. The RVTD contracts with three cab companies to provide the special transportation service through its Valley Lift Program. This report encompasses a review of selected activities and records of RVTD related to the specific allegations and other issues arising during the performance of our audit. These other issues centered on RVTD's management of the Valley Lift Program. Activities and records reviewed during the audit were from April 1994 through April 1997.

The objectives of our audit were to (1) investigate the specific allegations and other issues arising during the performance of the audit, and (2) determine whether activities reviewed were in compliance with applicable laws, rules, and regulations.

In performing our audit, we interviewed appropriate employees of RVTD and ODOT as well as other interested parties. We also analyzed pertinent records maintained by RVTD, the contract cab companies, and ODOT as necessary. We limited our audit procedures to those we considered necessary in the circumstances.

This audit reports that RVTD's former general manager and former senior planner entered into transactions or engaged in activities that may have resulted in personal benefit to themselves and relatives. Our audit also revealed weaknesses in the management of the Valley Lift Program resulting in approximately \$16,000 in questioned amounts. Our report recommends ODOT review these questioned amounts with RVTD and consult with legal counsel regarding initiating action to recover amounts determined unallowable or inappropriate. Our report also recommends ODOT assist RVTD in establishing appropriate procedures to ensure better management of state-funded programs and include in its assurances and certifications requirements that local agencies comply with ORS Chapter 244.

OREGON AUDITS DIVISION

John N. Lattimer
Director

Fieldwork Completion date:
May 22, 1997

T A B L E O F C O N T E N T S

	<u>Page</u>
SUMMARY	vii
INTRODUCTION.....	1
Background.....	1
Scope and Methodology.....	3
CHAPTER I: POTENTIAL USE OF OFFICIAL POSITION FOR PERSONAL FINANCIAL GAIN.....	5
Recommendation	7
CHAPTER II: MANAGEMENT OF THE VALLEY LIFT PROGRAM.....	9
I. Discontinuation of Discounts	9
II. Flat Rate Compensation	11
III. Van Usage	14
IV. Shared Rides Paid as Individual Rides	17
V. Inadequate Monitoring of Cab Driver Billing Logs	21
VI. Excess Payment not Identified by RVTD	23
Recommendations.....	23
REPORT DISTRIBUTION	25
COMMENDATION	25
APPENDIX A	27
OREGON DEPARTMENT OF TRANSPORTATION’S RESPONSE TO THE AUDIT REPORT.....	31
ROGUE VALLEY TRANSPORTATION DISTRICT’S RESPONSE TO THE AUDIT REPORT.....	35
OREGON AUDITS DIVISION’S FOOTNOTES TO RVTD’S RESPONSE LETTER.....	49

SUMMARY

PURPOSE

Through its Government Waste Hotline, the Audits Division received allegations of contract mismanagement and of possible use of public resources by Rogue Valley Transportation District (RVTD) officials for personal gain. The primary purpose of this audit was to determine the validity of the allegations and the extent of the possible loss of state-provided funds.

BACKGROUND

The RVTD is located in Medford, Oregon, and is managed by a 7-member elected board of directors. RVTD receives both federal and state funds. For fiscal year ending June 30, 1996, RVTD's intergovernmental revenues included approximately \$630,000 in state funds, \$513,000 in federal funds, and \$2,000 in local funds. For fiscal year ending June 30, 1997, RVTD's intergovernmental revenues included approximately \$576,000 in federal funds and another \$845,000 in state and local funds. State funds received by RVTD include a 2-cent cigarette tax allocation that it uses to partially fund its Valley Lift Program. This program was designed to meet the transportation needs of individuals with disabilities in accordance with the Americans with Disabilities Act (ADA) of 1990.

The RVTD contracted with three cab companies to provide the Valley Lift transportation service: Craig Transportation, Inc. (Yellow Cab), Cascade Taxi, Inc. and Metro Taxi, Inc. According to RVTD, the district has contracted the service since 1988, and has operated at an average cost of approximately \$250,000 per year in the last three fiscal years ending June 30, 1997.

RESULTS IN BRIEF

Our audit identified several instances where RVTD's former general manager and former senior planner entered into transactions or engaged in activities that may have resulted in personal benefit to themselves and/or relatives. These transactions and activities included:

- A May 1994 agreement between RVTD and a contractor represented by the senior planner's wife. The senior planner was responsible for selecting the contractor for this service.

- Also in 1994, RVTD paid \$1,542 for editing services to a business owned by the senior planner's wife. The senior planner selected the contractor to provide these services and determined the amount of services needed.
- In late 1993, the former general manager campaigned for a position on the Medford City Council. The senior planner confirmed that he used an RVTD computer and work time to type a list of approximately 50 names for the former general manager's campaign. Additionally, a photograph indicates the former general manager may have used his RVTD-owned vehicle to display his campaign sign.

These matters have been referred to the Government Standards and Practices Commission for review.

Weaknesses in contract management resulted in several conditions, including an estimated \$3,100 in discounts lost due to an oral agreement between RVTD's new general manager and Yellow Cab, one of the contracted service providers. Also, a change in contract terms from payment of actual fares to flat rate compensation, resulted in paying approximately \$10,800 more than the cost of services provided during the three-month period beginning early February through May 2, 1997. Furthermore, RVTD provided vans to Yellow Cab and Metro Taxi at no cost and without written lease agreements for Yellow Cab effective July 1, 1996. This may expose RVTD and its funding agencies to unnecessary financial risk and results in losing income that could help support the program.

We identified rides with fares totaling approximately \$2,500 that may have been shared rides billed as individual rides. Furthermore, the detailed billing logs submitted by Yellow Cab for payment contained numerous errors and omissions that should have resulted in their not being paid.

While summarizing payment data for analysis, we also identified a \$2,000 overpayment made to Yellow Cab on February 3, 1995, which had been overlooked by RVTD.

RECOMMENDATIONS In our recommendations to the Oregon Department of Transportation (ODOT), we recommended ODOT incorporate in its assurances and certifications obtained from local agencies a requirement that local agencies comply with ORS Chapter 244. In addition, we recommended that ODOT review questioned amounts, which total approximately \$16,000, with RVTD and consult with legal counsel regarding initiating action to recover amounts determined unallowable or inappropriate. ODOT should also assist RVTD in establishing appropriate procedures to ensure better management of state-funded programs.

AGENCIES' RESPONSES In its response, which is included in this report, the Oregon Department of Transportation generally concurred with our recommendations. The Rogue Valley Transportation District, whose response also is included in this report, did not.

INTRODUCTION

BACKGROUND

Through the Government Waste Hotline, the Secretary of State Audits Division received information regarding the possible use of public resources by Rogue Valley Transportation District (RVTD) officials for personal gain, and contract mismanagement. As a result, the Audits Division reviewed RVTD's related records to determine the validity of the allegations and the extent of the possible loss of state-provided funds. We performed our audit in cooperation with an investigator from the US Department of Transportation.

The RVTD, located in Medford, Oregon, is managed by a 7-member elected board of directors. RVTD receives both federal and state funds. For fiscal year ending June 30, 1996, RVTD's intergovernmental revenues included approximately \$630,000 in state funds, \$513,000 in federal funds, and \$2,000 in local funds. For fiscal year ending June 30, 1997, RVTD's intergovernmental revenues included approximately \$576,000 in federal funds and another \$845,000 in state and local funds. State funds received by RVTD include a 2-cent cigarette tax allocation from the state's Special Transportation Fund. These funds are provided to assist RVTD in meeting the transportation needs of individuals with disabilities in accordance with the Americans with Disabilities Act (ADA) of 1990. RVTD applies for the tax allocation through the Oregon Department of Transportation (ODOT), Public Transit Section. ODOT is responsible for reviewing and approving RVTD's application. Allegations of contract mismanagement associated with this state funding led to our audit.

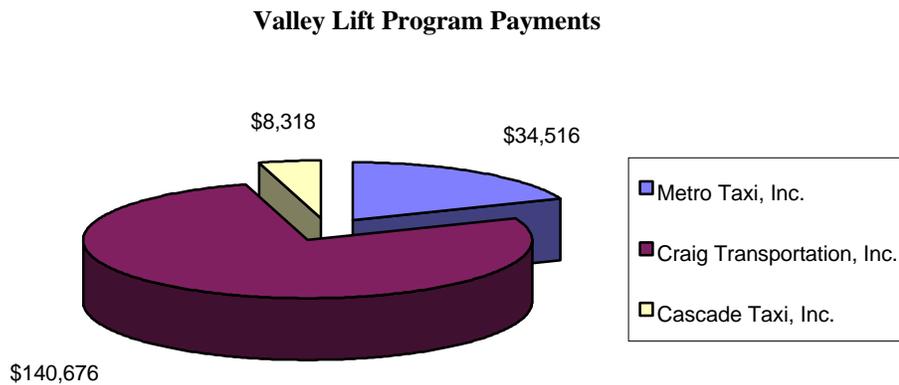
The ADA requires all transportation systems to be fully accessible to individuals with disabilities. RVTD uses buses along fixed routes to meet the transportation needs of local residents. The ADA requires that providers, such as RVTD, assure a level of service to individuals with disabilities that is equivalent to the level of service provided others who use the fixed route bus system. RVTD meets this requirement by providing paratransit service to origins and destinations within a one and one-half mile corridor surrounding each fixed route. This

service is provided through RVTD's Valley Lift Program. The program, which is funded largely by the cigarette tax allocation, relies on the use of taxi cabs and vans.

The district contracted with three cab companies to provide the special transportation service: Craig Transportation, Inc. (Yellow Cab), Cascade Taxi, Inc. and Metro Taxi, Inc. According to RVTD, the district has contracted for this service since 1988 and has operated at an average annual cost of approximately \$250,000 for the last three fiscal years ending June 30, 1997.

Yellow Cab and Metro Taxi also provide van service to RVTD's Valley Lift clients using seven vans purchased by RVTD. Five of the seven vans were purchased with state and federal funds paid through the Oregon Department of Transportation (ODOT); therefore, ODOT holds a security interest on these vans.

During a site visit on May 23, 1997, RVTD provided us with payment records for the three cab companies from July 1, 1996, through February 6, 1997. The following chart shows the distribution of payments made to the three cab companies for this period.



SCOPE AND METHODOLOGY

The scope of our audit included the following objectives:

- To investigate the specific concerns provided to us and other issues that arose during the audit. These concerns and issues centered on the use of public resources by RVTD officials for personal gain; management practices related to contracting; and other district activities.
- To determine whether activities related to state-provided funding were in compliance with applicable laws, rules, and regulations.

In performing our audit, we interviewed employees of RVTD and ODOT as well as other interested parties. We also analyzed pertinent records maintained by RVTD, the contract cab companies, and ODOT as necessary. This analysis included a review of selected cab driver billing logs and taxi cab dispatch logs for the period January 1996 through December 1996. Using RVTD payment records we also summarized and compared payments and actual fare amounts, as reported by the taxi companies, for the period February 1, 1997, through May 2, 1997. We further selected and reviewed contracts between RVTD and several contractors, as we deemed necessary in the circumstances.

CHAPTER I

POTENTIAL USE OF OFFICIAL POSITION FOR PERSONAL FINANCIAL GAIN

During our review, we identified several instances in which RVTD's former general manager, Mike Borwick, and former senior planner, Doug Pilant, entered into transactions or engaged in activities that may have resulted in personal benefit to themselves or their relatives.

- On May 27, 1994, RVTD entered into a telephone location agreement with TELCO West, Incorporated (TWI). As part of the agreement, TWI was to install two pay telephones on RVTD's properties. At the time of the agreement, the representative of TWI was Charlotte Riester, the wife of Doug Pilant. Both Mike Borwick and Pilant indicated that Pilant arranged for the contract with TELCO. Pilant also explained that he was not asked to get quotes for a contractor, but had taken the initiative to do so because the related project was at risk of failing. The signatures of Mike Borwick and Charlotte Riester appear on the TWI contract. In an interview with us, Borwick stated that there was no reason why he would have recognized the name Charlotte Riester. However, he had previously signed an RVTD contract dated August 14, 1992, with Charlotte Riester-Pilant. Charlotte Riester-Pilant received \$909 from RVTD as compensation for services rendered under this 1992 contract.

According to Borwick, RVTD's former finance director brought the 1994 potential conflict of interest to his attention. He then discussed the matter with RVTD's legal counsel, and subsequently brought the matter before the Executive Board. According to Borwick, the board directed him to write a letter of reprimand and place it in Pilant's personnel file for a year. Borwick further stated he told Pilant that any money received as a result of the contract would have to be paid back to TWI, and either Pilant or his wife would have to resign from their positions for the contract to remain in place. Borwick was unable to provide us with a copy of the reprimand letter, stating that he believed the letter was removed from Pilant's personnel file after the specified year had elapsed. At the time of the incident, Borwick did not confirm that any moneys received by the Pilants were returned to the TWI, nor that Charlotte Riester-Pilant had resigned from her position with the contractor.

- In 1994, RVTD obtained editing services from a business known as Complete Editing Services (CES). From April 7, 1994, through October 7, 1994, RVTD paid CES a total of \$1,542 for editing services. Pilant did not use a competitive bid process to secure the editing services for RVTD. When asked how the services were obtained, Pilant explained that he went to a Chamber Forum lunch where he sat across from an individual who said she had just started a new editing business. He also stated that her editing services were at a lower rate than a competitor that he had planned to use. Pilant further stated that he would personally call this individual when editing services were needed. We confirmed with RVTD's assistant planner that editing services were performed by CES, although he considered the resulting work to be insufficient to meet RVTD's needs. Our review of the Secretary of State, Corporation Division's records disclosed that the registrant for CES was Charlotte Riester. The records further showed an effective date of April 9, 1994, approximately the same time as RVTD's first check was issued to CES. Once we told Pilant we were aware of this information, he confirmed that CES was a business venture formed by his wife and the other individual.
- In August or September 1993, Mike Borwick campaigned for a position on the Medford City Council. Borwick stated that during that time he paid \$300 to Pilant to handle the placement of campaign signs. Pilant confirmed that he used an RVTD computer and approximately 20 minutes of work time to type a list of about 50 names to be used for campaign activities. Neither Borwick nor Pilant was able to provide us with a copy of the list of names. Borwick stated that when he realized RVTD resources had been used in preparing the list, he talked to Pilant about it. He further stated that Pilant did not use any other RVTD resources for campaign activities; this was an isolated instance.
- Borwick apparently used his RVTD vehicle to display one of his campaign signs. We were provided a photograph of the RVTD vehicle with what appears to be a campaign sign displayed in the rear window. Department of Motor Vehicle records confirm that the photographed vehicle is registered to RVTD; Borwick agreed that this was the RVTD vehicle provided for his use. Oregon Revised Statutes (ORS) Chapter 244, prohibit public officials, including employees, from using their offices for personal financial gain or avoidance of financial detriment through a means that is not available to the general public. This prohibition stands regardless of whether conflicts of interest have been announced or disclosed.

We have referred these specific matters to the Oregon Government Standards and Practices Commission.

RECOMMENDATION

We recommend the Oregon Department of Transportation (ODOT) incorporate in its assurances and certifications obtained from local agencies a requirement that local agencies comply with ORS Chapter 244.

CHAPTER II

MANAGEMENT OF THE VALLEY LIFT PROGRAM

Rogue Valley Transportation District contracts with primarily three cab companies to provide transportation services required by the Americans With Disabilities Act (ADA). Prior to February 1, 1997, RVTD's contracts with its two largest ADA service providers, Craig Transportation, Inc. (Yellow Cab) and Metro Taxi, Inc., based payments to the cab companies on metered fares, plus a "drop" fee for each trip. Effective February 1, 1997 through June 30, 1997, contracts were amended to provide for monthly flat rate payments regardless of the actual volume or length of trips. In either situation, the individual ADA clients paid a maximum of two dollars per ride; RVTD paid any remaining cost.

An authorized trip is defined in the contracts as authorized travel between two points. The contract provides for the contractor's dispatch personnel to authorize a cab driver to transport an RVTD client, and assign an authorization number for the trip. The contracts require the cab company dispatch logs to reflect for each trip the authorized trip number, actual and scheduled pick up and drop-off times, trip origin and destination points, and client identification (ID) number.

The trip authorization number assigned by the cab company dispatcher is then recorded on a billing log by the cab driver. In addition to the trip number, the cab driver billing logs are to contain the following information: trip date, cab company name, cab driver's name and/or cab number, client ID number, trip origin and destination points, and fare information. These cab driver billing logs are then submitted to RVTD as support for invoiced amounts. Although contract terms changed to pay the cab companies fixed weekly amounts, the cab companies were still required to submit the cab driver billing logs to RVTD.

RVTD leases vans to Yellow Cab and Metro Taxi for providing services to its ADA clients. The fares paid to the cab companies were at the same rates regardless of whether a taxi cab or an RVTD van was used.

Our review of contracts, leases, cab driver billing logs, and dispatch logs identified the following conditions.

I. DISCONTINUATION OF DISCOUNTS

The January and December 1996 cab driver billing logs submitted by Yellow Cab revealed that a 10 percent discount previously given to RVTD was eliminated in December 1996. Our further review of billing logs determined that Yellow Cab's 10 percent discounts were given through September 1996. Discount amounts were recorded but crossed off the cab driver billing logs for the first week of October 1996. From October 1 through December 31, 1996, approximately \$213 in discounts

were given. Using RVTD's database of paid rides, we estimate lost discounts of \$3,155 for this same period.

- The original contract, in effect through June 30, 1997, provided a 10 percent discount for RVTD's clients. In October 1996 this contract was amended, with changes shown as either an underlined section for revisions or a crossed-out section for deletions. The contract section relating to discounts did not change; however, when the amended contract was signed the discount rate was left blank. We therefore used the 10 percent discount provided for in the original contract in calculating our estimate of discounts lost.
- We interviewed the general manager of RVTD regarding the elimination of discounts. She stated that she had orally agreed that it was okay for Yellow Cab to discontinue giving RVTD discounts. The general manager said she did not know if Yellow Cab was giving discounts to the general public or not. She acknowledged that she was aware that if discounts were given to the general public they would be required to be given to federal funded programs as well. She also knew that discounts were required by the contract and that the contract was not formally modified to delete this requirement. The general manager explained that operating cutbacks made effective September 23, 1996, caused Yellow Cab's revenues to drop so low that she let the company discontinue the discounts. (When its September 1996 operating levy failed to secure voter approval, RVTD chose to reduce the number of fixed bus routes it was operating. Limiting the fixed routes also reduces the area in which RVTD is required to provide ADA services since the service area is defined as a corridor surrounding each fixed route.)
- The Yellow Cab owner also stated that the company's 10 percent discount for RVTD was discontinued in September 1996. However, he confirmed that Yellow Cab still gives discounts to several other programs. He further stated that Yellow Cab also gives a 10 percent discount to cash customers who are senior or disabled. Thus, the policy excluded giving discounts to RVTD's Valley Lift clients while continuing to benefit other similar cab customers.
- Metro Taxi, the other major cab service provider, continued giving discounts to RVTD. In an interview with us, Metro Taxi's owner confirmed that his company gave discounts to

seniors and handicapped passengers, and continued giving discounts to RVTD's Valley Lift clients during this cutback period.

RVTD is subject to the provisions of the Office of Management and Budget (OMB) Circular A-87. This circular establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local government and federally-recognized Indian tribal governments. According to OMB Circular A-87 (C)(1)(a), in order for a cost to be allowable under Federal awards, costs must be necessary and reasonable. OMB Circular A-87 (C)(2) states that a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In section 2, items to consider include the market prices for comparable goods or services.

We question the elimination of discounts, given that Yellow Cab continued giving discounts to other customers, including its senior and disabled passengers. Furthermore, the second cab service provider, Metro Taxi, continued to provide discounts to RVTD during this fiscal cutback period.

II. FLAT RATE COMPENSATION

In February 1997, RVTD began making flat-rate payments to cab companies for providing transportation services to Valley Lift clients. By comparing what the actual fares would have been to flat rate amounts paid, we determined that during the period beginning early February through May 2, 1997, RVTD overpaid Yellow Cab by approximately \$8,450 and Metro Taxi by approximately \$2,420. Furthermore, the flat fee arrangements negotiated between RVTD and the cab companies do not appear to comply with federal regulations.

- Under the terms and conditions of prior contracts, RVTD paid the cab companies based on a metered fare at \$1.90 per mile plus a "drop" fee for each authorized trip. Yellow Cab's drop fee was \$2 per ride, while Metro Taxi's drop fee was \$1.90. The new contracts, effective February 1, 1997, through June 30, 1997, provided the cab companies compensation in weekly, fixed amount payments. Yellow

Cab's weekly rate was \$4,700; Metro Taxi's rate was \$1,600. Although payments were at a flat rate, the new contract still required weekly submission of cab driver billing logs showing each client's ID number, the assigned trip number, trip origin and destination points, and fare information. The contract also provided that the terms of the contract would be re-negotiated if the actual fares for services provided would have exceeded the flat-rate compensation by 10 percent or more for four consecutive weeks. However, the contract did not provide for re-negotiation of the contract if the fares for actual services being provided were below the flat-rate compensation being paid by RVTD.

- Title 49 of the Code of Federal Regulations, part 18, section 36 (49 CFR 18.36) requires a cost or price analysis be made and documented in the procurement files for every procurement action. RVTD's general manager stated that there was no formal cost analysis supporting the change from paying actual cost to the flat weekly fee for these contracts.

Instead, the general manager said, she looked at the cab companies' billing histories for the prior year and considered past experience. The general manager said that she, the cab company owners, and RVTD's attorney were involved in negotiating the flat rates.

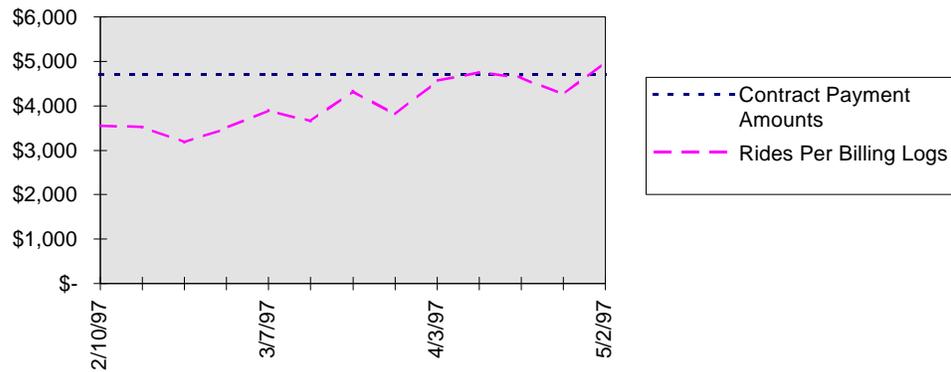
To evaluate the reasonableness of the flat rate amounts, we summarized payment information for both companies using available records from RVTD. Weekly fares paid by RVTD from July 11, 1996, through February 6, 1997, averaged approximately \$4,300 for Yellow Cab and \$1,114 for Metro Taxi. During this process, we noticed a sharp decline in weekly payments beginning in October 1996. According to both RVTD's general manager and the cab companies, this decline is likely related to service reductions made by RVTD after the September 1996 levy failure. RVTD's general manager explained that during this time, RVTD also implemented a 24-hour advance notice requirement for clients requesting service, which also would have contributed to the cost reductions.

- The general manager agreed that in the first few weeks of the new contract RVTD was paying the contracted cab companies more than actual services documented on the billing logs, but explained that this situation later reversed.

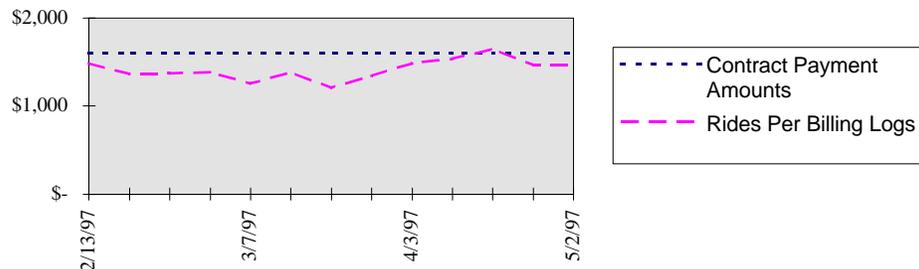
The general manager gave several reasons for this reversal. The 24-hour advance notice was changed to a 2-hour advance notice. This was later changed to make more accommodation for emergencies. The general manager also stated that RVTD's Board decided to reinstate the four fixed bus routes on a limited basis, which would have again increased the service area of the Valley Lift Program.

For the period beginning in early February through May 2, 1997, the following charts compare the flat rate payment amounts to actual fares as shown on trip logs submitted to RVTD by the cab companies.

**YELLOW CAB
COMPARISON OF CONTRACT PAYMENT AMOUNTS TO
RIDES PER BILLING LOGS**



**METRO TAXI
COMPARISON OF CONTRACT PAYMENT AMOUNTS TO
RIDES PER BILLING LOGS**



The fare amounts reflected by the cab companies on the billing logs did appear to be increasing over time. Whether this increase is attributable to the conditions explained by the general manager, or to some other factor, was not determinable. In the thirteen-week period evaluated, cost

exceeded the fixed rate payments only once for Metro Taxi and twice for Yellow Cab. In total, RVTD paid Metro Taxi approximately \$2,420 and Yellow Cab approximately \$8,450 more than actual services provided between February and May 1997.

III. VAN USAGE

Yellow Cab and Metro Taxi use both vans and taxi cabs to provide the contracted transportation services to RVTD's Valley Lift clients. RVTD provided seven vans to the cab companies for this purpose. According to lease agreements, these vans cost approximately \$293,800. Of this amount, \$56,450 was paid with RVTD's local funds; the remaining \$237,350 was paid by RVTD with federal and state funds. Because five of the vans were purchased with state and federal funds RVTD received from the Oregon Department of Transportation (ODOT), ODOT holds a security interest in the vans.

The purchased vans were equipped to meet the special needs of RVTD's Valley Lift clients. One of the cab company owners complained to us about the high cost of maintenance, stating that the vans had been modified but were not originally designed for commercial use.

Prior to July 1, 1996, RVTD leased the vans to the cab companies. Six vans were leased at \$120 per month. The seventh van was initially leased at \$88 per month; this amount was subsequently increased to \$120 per month. The general manager stated that these \$120 monthly lease payments were calculated to recapture only the local funds directly paid by RVTD. The lease payments were not intended to recover the state or federal contribution, or to reflect the market rate for leasing a similar vehicle.

A leasing company in Salem, Oregon, stated that for a 5-year lease of a similar van the monthly payments would range from \$300 to \$410. This company also indicated that daily rental fees would range from \$45 to \$50 per day. Yellow Cab subleases the RVTD vans to its cab drivers at a daily rate of \$60 or \$80 for a weekday. (The daily amount charged depends upon the location of the van's use.) Thus, Yellow Cab may be earning from \$1,200 to \$1,600 per month for each van.

RVTD eliminated the lease agreements for Yellow Cab and lease payments for Yellow Cab and Metro Taxi effective July 1, 1996. Furthermore, RVTD allows the cab companies to use its vans to transport other non-RVTD customers and retain any fares that are collected.

These discoveries raised the following specific concerns:

- The elimination of written lease agreements may expose RVTD, ODOT and the federal funding agencies to unnecessary financial risk.

Prior lease agreements required Yellow Cab to provide liability and collision insurance, and maintenance and servicing for the vehicles during the period of the lease. Since the written leases were eliminated, we asked RVTD for evidence of current liability and collision insurance for the vans, and records documenting van maintenance by both taxi cab companies. RVTD was unable to provide us with the requested documentation.

At our request, evidence of insurance was provided to RVTD by the taxi companies. Evidence of insurance was not provided for two of the vans; therefore, it appears the two vans may not have been insured.

Without a written contractual agreement clearly specifying the responsibilities of all parties, RVTD may have difficulty

holding Yellow Cab responsible for providing maintenance, liability and collision insurance, or for taking financial responsibility for van repairs or injuries incurred as a result of an accident.

- The elimination of monthly lease payments removes income that could be used to help defray program costs.

Title 49 of the Code of Federal Regulations (CFR), part 18, section 25, encourages grantees to earn income to defray program costs. According to this regulation, program income includes income from the use or rental of personal property acquired with grant funds.

- The elimination of written lease agreements appears to violate federal regulations.

The Federal Transit Administration (FTA) Master Agreement, with which RVTD is required to comply, requires the grantee to ensure the lessee of a project asset will use the asset appropriately, either through a “Lease and Supervisory Agreement” or other similar document.

- RVTD does not monitor actual van use. These grant-funded vans are reportedly being used to transport non-Valley Lift clients.

Circular FTA C 5010.1B allows incidental use of property acquired with FTA funds as long as use is compatible with the approved purposes of the project and does not interfere with intended use of project assets. The regulations do not, however, define the percentage of use that would reasonably be considered incidental use.

Without procedures to monitor non-program use, RVTD cannot ensure that such use is actually incidental to the purpose for which the vans were originally provided. Additionally, RVTD is not requiring income generated from this non-program use to help defray program costs. Furthermore, the additional miles placed on vans for non-program use increases maintenance costs.

Determining the exact amount of incidental use was not within the scope of our audit. However, while we were visiting one of the cab companies, at our request we were shown a fare summary for one 24-hour period. For this day, fares for RVTD's Valley Lift clients amounted to approximately 26 percent of the total fares earned. From examining only one day, we are unable to draw reliable conclusions; however, this example illustrates that the non-program use may be extensive. The owner of the second cab company estimated that his company's van usage was probably 80 percent for disabled passengers, including non-RVTD clients. He declined to provide records to support the amount of usage specifically for RVTD's Valley Lift clients versus other customers.

Causes

- Reportedly, the lease agreements and payments were discontinued due to the high van maintenance costs being incurred by the cab companies.
- The general manager stated that she does not monitor van usage because she believes that about 80 percent of the cab companies' total ridership is from the Valley Lift program.
- In addition, being able to use the vans for non-program use provides additional compensation that is incentive for the cab drivers. As explained by one cab company owner, drivers work on a percentage basis, and would quit if they had to wait for Valley Lift calls.

IV. SHARED RIDES PAID AS INDIVIDUAL RIDES

While reviewing the Yellow Cab cab driver billing logs for January 1996, we noted entries for two or more program participants with the same point of departure or destination on the same date but with different authorized trip numbers. The assignment of different trip numbers gave the appearance the rides were individual rides; therefore, each was charged separately to RVTD. In contrast, in December 1996, when shared rides were reflected on cab driver billing logs, two or more rides were shown with one authorization number and a single fare for the longest distance was charged to RVTD.

The owners of Yellow Cab and of Metro Taxi confirmed an increased emphasis on providing shared rides after the September 1996 financial cutbacks. The companies explained that RVTD instituted a requirement that clients call 24 hours in advance to request a ride so that more rides could be coordinated as shared rides. One of the owners stated that shared rides were started in September 1996, although he also stated that shared rides probably were given prior to that time on a random basis. The other owner stated that from the very beginning his company grouped rides when possible.

The owner of Metro Taxi also confirmed that a shared ride fare is basically the amount charged for the longest trip. This is consistent with information gathered during our interviews of cab companies in Salem and Portland. According to these interviews, the common business practice is to treat the shared ride as one continuous trip and charge for the longest destination.

For what appeared to be shared rides treated as individual rides on the billing logs, we examined the related Yellow Cab dispatch logs. Unlike the cab driver billing logs, the dispatch logs are designed to include client call-in or pick-up times. These times confirmed that, in some cases, what appeared to be shared rides were billed at separate fares. Therefore, we expanded our testing to include a review of February, March, August and September 1996 dispatch logs. After we identified what appeared to be shared rides billed separately, we categorized the rides into two classifications depending upon the specificity of information obtained from the dispatch log. This was necessary because pick-up and call times were often omitted from the dispatch logs making it difficult, and sometimes impossible, to determine whether particular rides were shared or not. Rides classified as “apparent” shared rides are those with the same cab driver, departure or destination locations, and pick-up or call times. “Possible” shared rides are those where pick-up times and call times were omitted from the dispatch logs, but the trips matched previously identified

patterns of “apparent” shared rides. The following table summarizes our results.

Apparent Shared Rides

Month, 1996	Number of Shared Rides	Fare Totals	Fare Paid ¹ by RVTD
January	20	\$ 499	\$ 408
February, March, August & September	52	\$ 1,693	\$ 1,317
December	0	\$ 0	\$ 0
TOTALS	72	\$ 2,192	\$ 1,725

Possible Shared Rides

Month, 1996	Number of Shared Rides	Fare Totals	Fare Paid ¹ by RVTD
January	4	\$ 102	\$ 78
February, March, August and September	7	\$ 248	\$ 206
December	0	\$ 0	\$ 0
TOTALS	11	\$ 350	\$ 284

For similar trips from two billing logs on separate days, we also compared the cost of the individual rides that appeared to be shared to the cost of rides actually billed as shared. The chart below shows the result of our comparison:

Total Fare Comparison

DATE	DEPARTURE POINT	DESTINATION POINT	INDIVIDUAL FARE CHARGED	TOTAL FARE	DIFFERENCE
October 25, 1996	B C	A A	N/A N/A	\$ 36.00	
August 2, 1996	B C	A A	\$ 30.00 \$ 14.50	\$ 44.50	\$ 8.50

¹ Fare Paid by RVTD is less the maximum \$2.00 drop fee paid by program participants and a 10 percent discount given prior to the end of September 1996.

The October 25, 1996, and August 2, 1996, billing logs show the same points of departure and the same destination; however, they are billed differently. In October, the rides were shown as a shared ride and one fare was charged. However, in August (prior to the September financial cutbacks), the same situation was billed as two individual trips. The total fare was \$8.50 higher when the trips were shown as separate trips.

We also found the \$30.00 fare for trip B to A and the \$14.50 fare for trip C to A, is consistent for similar trips with these begin and end points prior to rides being shown as shared. Therefore, the individually billed rides, which appeared to be shared rides, were not being charged at reduced rates. Charging individual fares to RVTD's Valley Lift clients who shared rides is not consistent with common business practices nor with applicable federal regulations.

Title 49, part 37, section 29 (c) of the Code of Federal Regulations (49 CFR 37.29) states:

Private entities providing taxi service shall not discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use taxi vehicles, refusing to assist with the stowing of mobility devices, and **charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons.** [emphasis added]

Causes

RVTD's review of cab driver billing logs needs improvement. RVTD does not periodically compare cab driver billing logs to dispatch logs. The general manager stated that she did not know how much time elapsed between each ride, nor did she check the cab company's dispatch documents to see if rides were actually shared. The cab driver billing logs currently provided to RVTD from the cab companies do not contain pick up or drop off times, which would aid in identifying shared rides. Furthermore, the contract between RVTD and Yellow Cab in effect during the period tested, did not address how shared rides would be billed.

**V. INADEQUATE MONITORING
OF CAB DRIVER BILLING
LOGS**

During our review of Yellow Cab's billing logs for January and December 1996, we identified errors and omissions that should have resulted in RVTD refusing to pay for the related trips. We expanded our testing to include additional cab driver billing logs from July 1, 1996 through November 30, 1996, and found additional errors and omissions. The errors and omissions are as follows:

- Duplicate numbering of trips (two cab drivers using the same authorized trip number). Each trip number is supposed to be a unique number assigned by the cab company dispatcher for every individual trip given to an ADA client.
- Missing pertinent information such as dates, trip numbers, trip locations, client numbers or identification of cab driver.
- Incorrect service dates entered by cab drivers onto the logs.

For all billing logs with errors or omissions, the related Yellow Cab dispatch logs were reviewed to evaluate whether the trip actually occurred. We were able to substantiate that most trips appeared to have taken place.

For ten trips, with fares paid totaling \$49, we were unable to substantiate that rides actually occurred. One January trip was paid twice as a result of a photocopied cab driver billing log being submitted for payment. Five additional January trips were either not reflected on dispatch logs or log information was insufficient to verify the trips occurred. Two December trips could not be identified on the dispatch log. A third December trip was on the dispatch log; however, the dispatch log did not reflect an authorized trip number or an RVTD client ID. As a result, it appears the trip was not actually for an RVTD client. The cab driver billing log did not reflect a trip number for one July 1996 trip. Further, we were not able to verify this trip to the dispatch log.

In all of these instances RVTD did not have sufficient information to conclude the trips were valid for payment.

The following table summarizes our results:

Payment For Inadequately Documented Trips

Month, 1996	Fare Paid by RVTD
<u>Unsubstantiated Trips</u>	
January	\$ 24
July	\$ 6
December	\$ 19
Subtotals	\$ 49
<u>Substantiated Trips</u>	
January	\$ 629
July - November	\$ 380
December	\$ 792
Subtotals	\$1,801
TOTALS	\$1,850

The contracts between Yellow Cab and RVTD in effect during this period required cab driver billing logs to be, “based upon the number of authorized passenger trips completed, as verified by the accurate comparison between the dispatcher’s authorized trip log and the driver’s log.” Furthermore, the contracts state that each driver must record complete trip information on the billing log for payment to be made.

Detail trip information is also required by the Master Agreement between RVTD and the United States Department of Transportation (USDOT), Federal Transit Administration (FTA). Section 7, Accounting Records, states:

All costs charged to the Project, including any approved services contributed by the Recipient or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges.

In addition, the Master Agreement states:

The recipient agrees to refrain from drawing checks ... against the Project Account until it has on file in its office a properly signed voucher describing in proper detail the purpose of the expenditure.

VI. EXCESS PAYMENT NOT IDENTIFIED BY RVTD

While summarizing payment data for analysis, we identified a \$2,000 overpayment made to Yellow Cab on February 3, 1995. Apparently a reimbursement request from Yellow Cab for \$3,513 was misread by an RVTD employee as \$5,513 resulting in the \$2,000 overpayment. When we shared this information, the general manager stated that she would probably deduct the \$2,000 overpayment from the next payment due Yellow Cab.

Payment approval procedures used by RVTD were inadequate to detect the overpayment. For each payment, a voucher request is prepared to show the amount to be paid for each type of service provided. This voucher request is then compared to billing information submitted by the contractor prior to payment approval. In this case, even if the approval process had identified the error the payment would have already been made. The check to Yellow Cab was dated February 3, 1995, while approval of the voucher request did not occur until February 8, 1995.

In early February 1995, RVTD attempted to reconcile the amount owed to the cab companies in January 1995, to the amount actually paid. As a result of this reconciliation, RVTD identified approximately \$550 in overpayments. Reconciliation procedures were not adequate to identify the \$2,000 error, however. Because the reconciliation used the amount requested by Yellow Cab as the amount paid, the difference between the amount owed and the amount actually paid would not be identified.

RECOMMENDATIONS

We recommend the Oregon Department of Transportation (ODOT):

- Review questioned amounts totaling approximately \$16,074 with RVTD and consult with legal counsel regarding initiating action to recover amounts determined unallowable or inappropriate. (The questioned amounts described in this chapter are summarized in Appendix A.)
- Assist and monitor RVTD management in ensuring that future contracts entered into with the cab companies comply with federal procurement regulations. **We further**

recommend that RVTD be required to perform a written cost analysis for all current contracts with the cab companies, including any flat rate contracts or van lease agreements. ODOT should review written cost analysis and compare the analysis to contracts entered into by RVTD.

- Require RVTD to enter into new written lease agreements for the vans. In determining lease amounts, RVTD should consider, in addition to maintenance costs, the market rate charged to lease similar vehicles and the amount of revenues the cab companies receive from non-program use. ODOT should also require RVTD to obtain evidence of liability and collision insurance, to review maintenance records on a regular basis, and to develop and implement procedures for monitoring non-program use. ODOT should also determine and communicate to RVTD, with assistance from Federal Transit Administration (FTA) officials, what level of non-program use would qualify as incidental use.
- Require RVTD to establish and implement procedures for monitoring taxi cab companies for shared rides. Procedures should include periodic review of cab company dispatch logs to ensure all information required by contract is included and whether they agree to the billing logs that have been submitted. In addition, ODOT should require RVTD to include in its contracts with cab companies specific language stating that they will not charge federal and state funded programs more than they charge their other customers for the same services. **We further recommend** that legal counsel be consulted to discuss initiating action to recover possible overpayments.
- Require RVTD to implement adequate reviews of cab driver billing logs. These procedures should include reviewing for duplicate trip numbers on the same day or missing trip information.

Even though RVTD entered into flat-rate contracts with Yellow Cab and Metro Taxi on February 1, 1997, the cab driver billing logs determine whether RVTD is paying a flat-rate fee in excess of the actual services provided. These logs also provide historical data for future rate negotiations.

REPORT DISTRIBUTION

This report is public record and is intended for the information of the Oregon Department of Transportation Department management, the Rogue Valley Transportation District, the governor of the state of Oregon, the Oregon Legislative Assembly, and all other interested parties.

COMMENDATION

The courtesies and cooperation extended by officials and employees of the Oregon Department of Transportation and the Rogue Valley Transportation District during the course of this audit were commendable and sincerely appreciated.

AUDIT TEAM

Sharron E. Walker, CPA, CFE, Deputy Director
Sandra Horst, CPA
Sylvia Gercke, CFE
Kelly Lake

QUESTIONED AMOUNTS

		Page Number
Estimated discounts lost	\$ 3,155	9
Overpayment related to fixed rate contract (Yellow Cab)	8,450	11
Overpayment related to fixed rate contract (Metro Taxi)	2,420	11
Unsubstantiated trips	49	21
February 3, 1995 overpayment to Yellow Cab	<u>2,000</u>	23
TOTAL	<u>\$ 16,074</u>	

AGENCIES' RESPONSES TO THE AUDIT REPORT

The Audits Division has footnoted several of Rogue Valley Transportation District's statements to provide clarity and our perspective. The footnotes begin on page 49.

OREGON DEPARTMENT OF TRANSPORTATION'S RESPONSE



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation
Transportation Development Branch
Mill Creek Office Building
555 13th Street NE
Salem, OR 97310

May 12, 1998

FILE CODE:

John Lattimer
State Auditor
Secretary of State Audit Division
Public Service Building, Ste. 500
Salem, OR 97310

Re: Rogue Valley Transportation District (RVTD) Audit

Dear Mr. Lattimer:

The Oregon Department of Transportation, Public Transit Section has reviewed the draft audit of the Rogue Valley Transportation District. ODOT would like to offer the following comments:

The audit centered on two issues:

1. Activities of RVTD staff and officers that may have resulted in personal benefit to themselves and/or relatives, and
2. Weaknesses in contract management related to two cab companies that provided para-transit services under agreement with RVTD.

In regard to the first issue, the employee was disciplined and both the General Manager and the employee who may have been involved have left RVTD. We note that the questionable activities involved actions that all public officials should know are inappropriate and that ODOT is attempting to make its grant agreements uniform and straightforward. Therefore, we will take action to ensure that grant recipients are aware of their responsibilities as public officials under ORS Chapter 244 and require appropriate guarantees in certifications and assurances.

In regard to the issue of contract management the audit notes several issues:

- a) Discontinuation of discounts,
- b) Flat rate compensation,
- c) Van Usage,
- d) Shared rides paid as individual rides,
- e) Inadequate monitoring of cab driver billing logs, and
- f) Excess payment not identified by RVTD.

May 12, 1998

Page 2

The first four of these issues relate to the methods used by RVTD to compensate the cab companies for providing para-transit services in compliance with Americans with Disabilities Requirements. The most significant problem was that RVTD was acting without adequate written agreements with the cab companies. All of RVTD's actions and agreements in this regard should have been in compliance with Federal Transit Administration (FTA) rules and practices. ODOT concurs in recommendations to bring RVTD's agreements into compliance.

However, whether the payments resulting from these actions were unallowable or inappropriate must be determined by the FTA based on its rules. Therefore, while ODOT does not disagree with the recommendation that it question the amounts with RVTD and consult with legal council about collection of those determined to be unallowable or inappropriate, we intend to consult with FTA before we proceed.

Regarding the recommendation that ODOT, "Assist and monitor RVTD management . . ." ODOT will review its monitoring program to assure that it is in compliance with state and federal requirements. It should be recognized that most of this activity would take place through third party compliance audits. Where necessary, ODOT will review cost analysis to the extent possible.

Regarding the remaining two issues, ODOT believes these may point to inadequacies in RVTD's financial control system and that RVTD should review its systems to ensure these problems do not continue. The mispayments, if they occurred, were from RVTD to the cab companies and should be repaid from the cab companies to RVTD. RVTD has primary responsibility to obtain repayment, but the Public Transit Section will monitor the progress on repayment and the strengthening of their financial control system.

In conclusion, with the clarifications noted above, we concur in the recommendations, which reflect good contract management and financial control practices.

Thank you for the opportunity to review this audit.

Sincerely

Mark Ford
Interim Manager
ODOT Public Transit Section

Cc: Grace Crunican
Vern Hahn
Sherrin Coleman

ROGUE VALLEY TRANSPORTATION DISTRICT'S RESPONSE

ROGUE VALLEY TRANSPORTATION DISTRICT'S RESPONSE STATE AUDITS DIVISION EXIT DRAFT AUDIT REPORT - MARCH 1998

INTRODUCTION

Rogue Valley Transportation District (RVTD) is the subject of the above referenced Draft Audit Report and as such is the responding agency. The document that follows constitutes RVTD's initial Response to the Draft Audit Report. This Response has been prepared in the short time frame given the agency by the auditors.

RVTD notes that the auditors first presented the Draft Audit Report to RVTD on March 13, 1998 and stressed that any response by RVTD should be submitted within ten (10) working days. The auditors were unable to cite any Oregon statute or administrative rule requiring such rapidity of response. Nevertheless, the auditors deemed a ten (10) day response period sufficient time for the audited agency to respond to the Draft Audit Report which was prepared over the better part of two (2) years during which literally teams of auditors and investigators expended considerable monetary and manpower resources in conducting the audit. RVTD reserves the right to further comment publicly on the Audit Report after its finalization and release as a public record.

1

FRAMEWORK OF RESPONSE

For ease of reference, this Response will address each Section of the Draft Audit Report (DAR) in sequential order. Therefore, for greatest understanding of the Response, the DAR should be read side by side with the Response. RVTD has, for the most part, limited its focus in the Response to correcting factual errors in the DAR and what it perceives to be misinterpretations or misapplications of the law cited by the auditors in the DAR. Additionally, where appropriate, RVTD has attempted to point out what appear to be misunderstandings on the part of the auditors of how transportation districts and their systems operate. Finally, RVTD has limited its comments on the DAR's recommendations to ODOT only to those that are directly relevant to its operations.

DRAFT AUDIT REPORT

SUMMARY

PURPOSE

RVTD has no comments on this paragraph as it sets forth matters wholly within the purview of the State Audits Division.

BACKGROUND

This paragraph is factually accurate as far as it goes in describing the limited aspects of RVTD's operations which it addresses.

RESULTS IN BRIEF

RVTD does not intend to comment on the propriety of the actions of RVTD's former General Manager and former Senior Planner either here or elsewhere in the Response as it believes those are determinations for bodies other than RVTD to make. Later in the Response, RVTD will clarify the actions it took when the particular fact situations at issue with respect to the Senior Planner arose within the District.

As to the alleged weaknesses in contract management of the Valley Lift Program, RVTD disagrees, in the main, with the factual, fiscal/accounting and legal conclusions of the DAR, as will be more fully set forth below. In brief, out of the **QUESTIONED AMOUNTS (APPENDIX A)** in the sum of \$16,068.00, RVTD believes there are only two (2) entries that have any shred of substance: 1) \$2,000.00 overpayment to Yellow Cab (this amount has been recovered) which was due to a clerical error that, in the opinion of RVTD's auditor, shows merely that no system of internal controls is capable of catching every human error; 2) \$43.00 **possible overpayment** of some nine (9) cab company trips that the auditors were unable to substantiate out of 122 trips studied. Aside from these entries, RVTD finds no basis for the DAR's criticisms of its management. ²

RECOMMENDATIONS

RVTD has no comment on the DAR's recommendations to ODOT concerning changes in its funding agreements with local agencies. As to the recommendation that ODOT review the amounts questioned by the DAR with RVTD, we welcome any review that ODOT may deem appropriate but, as stated above, this agency will start from the premise that it believes the only entry of any even doubtful merit is the one for \$43.00 briefly addressed in the paragraph directly above. 2

INTRODUCTION

BACKGROUND

There are factual inaccuracies in the statements made regarding the Valley Lift Service vans on Page 2, Paragraph 3 of the DAR. The auditors report that the private cab companies hold title to the seven (7) vans at issue. In point of fact, none of the titles to the vans are held by any of the private cab companies. RVTD jointly holds title to the five (5) vans originally purchased with state and federal funds along with the Public Transit Section. The other two (2) vans, originally purchased with federal funds, are titled alone to RVTD. The cab companies' usage is by virtue of written agreements with RVTD. 3

SCOPE AND METHODOLOGY

RVTD has no comments on this Section as it takes the DAR's drafters at their word in this area.

CHAPTER I

POTENTIAL USE OF OFFICIAL POSITION FOR PERSONAL FINANCIAL GAIN

TWI CONTRACT

RVTD affirms that it did place a letter of reprimand in Mr. Pilant's file upon conclusion of its investigation into the matters relating to the TWI Contract. Additionally, the District required that either Mr. Pilant resign his position with RVTD or that Mrs. Pilant resign from any position(s) she may have held at TWI. Mrs. Pilant subsequently resigned from TWI. Lastly, RVTD resolved that any and all monies that either of the Pilants may have realized from the TWI Contract be returned to the District. Later investigation revealed that neither benefited financially and so there were no funds to recover from them. The public received the pay telephone services for which the contract was let.

CES CONTRACT

At the time the initial allegations of improprieties with respect to the CES Contract were made in February 1996, sixteen (16) months had passed since RVTD had last received services from CES. RVTD's investigation at the time did not turn up any personal connection between Mr. Pilant and CES. The District's good faith belief was that CES was a dba of one Margaret Beekman. RVTD has no further comment on this contract except to say, once again, that the public received the services for which RVTD contracted.

BORWICK ALLEGATIONS

RVTD has no comment on the alleged actions of its former General Manager as set forth in the DAR.

RECOMMENDATION

As stated above, RVTD has no comment on the DAR's recommendation to ODOT concerning changing the terms of its funding agreements with local agencies. We leave any response in this area to ODOT.

CHAPTER II

MANAGEMENT OF THE VALLEY LIFT PROGRAM

On Page 9 of the DAR, there appear several introductory paragraphs which attempt to describe the Valley Lift Program. RVTVD desires to point out two (2) omissions that, if they remained unaddressed, could give readers some misimpressions. First, the last two (2) sentences of the first paragraph on Page 9 fail to include the discontinuation date (July 1, 1997) of the flat rate payment program. This omission potentially makes a short term agreement (February 1, 1997-July 1, 1997) appear to be an ongoing process. Secondly, RVTVD actually contracts with three (3) cab companies for the Valley Lift Service Program, not just two (2) as might otherwise appear to be the case from these introductory paragraphs. The third company, Cascade Taxi, is a much smaller provider and does not utilize any of the vans at issue, but it does participate in the Valley Lift Service Program via cab service. 4

As a final preliminary matter before responding to each specific area of the DAR's analysis of RVTVD's management of the Valley Lift Service, RVTVD has a comment about the original purchase of the vans at issue and the applicability of federal regulations to them as such is assumed by the auditors. RVTVD points out that all of the vans now in service are of either 1993 or 1994 vintage. All of them were purchased long before the operational periods under review in the DAR. The original grant agreements under which they were purchased were similarly all closed out well before the operational periods under review. Since 49 CFR 18.25(b) defines program income as "gross income received by the grantee...directly generated by a grant support activity, or earned only as the result of the grant agreement during the grant period." then, at least to the extent that the DAR purports to be concerned with RVTVD's obligations under the original purchase grant agreements, its observations with respect thereto are irrelevant. For purposes of RVTVD's Response, we will presume that the DAR refers to obligations generated by other grant agreement obligations, albeit not clearly so stated by the DAR. 5

I. DISCONTINUATION OF DISCOUNTS

In the first paragraph of this Section the DAR refers to a review of the January and December 1996 cab driver billing logs submitted by Yellow Cab. RVTVD presumes that the logs reviewed were ones from **December 1996 and January 1997** as otherwise the reference to the January 1996 logs makes no sense in this context. By way of background, RVTVD has never received any discounts from Cascade Taxi at any point in that company's participation in the Valley Lift Service Program as, due to the small size of its participation, such was not feasible. At some time prior to the period under review, Yellow Cab actually was giving a 20% discount before negotiating a 10% discount rate. Metro Taxi's discount rate had always been 10%. 6

In October 1996, RVTD, Yellow Cab and Metro Taxi held a meeting during which the parties discussed the discounts. Because of severe budgetary cutbacks, Valley Lift ridership had dropped to an all time low. RVTD's proposed levy had recently failed and service levels were cut back which directly affected ridership. Yellow Cab subsequently informed RVTD that it could no longer afford to offer the discounts. The discount rate was left blank on the contract because there was no longer a discount. This action (leaving the discount rate blank) was not, as the DAR implies, an oversight or an attempt to create an ambiguous situation.

The DAR makes much of the fact that Yellow Cab continued to offer discounts to the general public. The fact that two out of the three cab companies did not offer RVTD discounts during this period shows that RVTD complied with the OMB Common Rule requiring that "...all procurement transactions will be conducted in a manner providing full and open competition." This is because the agreement to eliminate the discount as to Yellow Cab was consistent with open competition.

The budgetary driven service reductions had reduced revenues to Yellow Cab to a point where it was no longer cost effective for it to continue service to RVTD with a discount program in place. The DAR cites to OMB Circular A-87(C)(1)(a) for the proposition that in order for a cost to be allowable under federal awards it must be necessary and reasonable. The DAR further recites that a cost is reasonable under OMB Circular A-87(C)(2) if it meets what is commonly known as the "prudent person" rule. Other than these citations, the DAR provides no cited violations of OMB rules nor does it make other pronouncements as to any alleged violations of other law in discontinuing the discount program. Therefore, we are left with the prudent person rule alone and, under that standard, RVTD would submit that it took the only action a "prudent" person would do under circumstances where a major provider of service cannot continue that service to the clients in need of service without elimination of a discount program.

II. FLAT RATE COMPENSATION

RVTD entered into an agreement in February 1997 with Yellow Cab and Metro Taxi to provide service on a flat fee basis rather than metered fare as had been the case previously. This was done at the direction of the Board so that RVTD would be able to receive service at a constant rate from one period to the next. Again, this decision must be viewed against the backdrop of the financial crisis then facing the District. A severe budgetary crisis had put RVTD in a position where it needed to fix its costs wherever possible in order to gain some predictability of costs for greater budgetary and fiscal control. The decision was not made without careful consideration and was wholly reasonable under the circumstances as then known to District Management.

The DAR states that this flat fee arrangement does not comply with federal regulations. RVTD would note, however, that the OMB Common Rule, Section 22(a)(1) does allow for fixed price contracts. The DAR's only justification for its suggestion that RVTD was out of compliance is its allegation that the General Manager did not make a cost or price analysis as required by 49 CFR 19.45. The DAR goes on, however, to detail the cab company billing history review of the prior

year and other past history that the General Manager conducted. RVTB submits that the analysis performed by the General Manager, an experienced person in the field, fulfilled the requirements of the cited regulation. Moreover, RVTB finds it ironic that the team of trained auditors authoring the DAR performed the same type of analysis as the General Manager had done when they reviewed the agreements in question. This leads one to the inevitable conclusion that the auditors have validated RVTB's methodology by engaging in the same type of analysis in their audit.

8

Based on the above factors, RVTB does not feel that there is any justification for the position that the cab companies were "overpaid" on the flat rate system as opposed to the prior metered rate system. In fact, the auditors themselves admit that fare amounts were increasing over time and that they were unable to determine the causes, *i.e.*: whether the increases were for the reasons cited by the General Manager or otherwise. (DAR Page 14). As the burden of proof falls on the auditors as the ones making a charge, the fact that they cannot determine the reasons for increasing fare revenues over the time period of the flat rate compensation contracts the presumption then is in favor of the General Manager's position that the program was leveling out as time went on. This presumption makes the original suppositions all the more reasonable and supportable. Therefore, the DAR's suggestion that the cab companies were "overpaid" is not sustainable by the auditors' own arguments, even when viewed without regard to RVTB's own opinion on the matter.

9

III. VAN USAGE

On Pages 14-15 the DAR again incorrectly states that the cab companies "hold title" to the vans; see discussion above at Page 4 of this Response. The DAR's statements on the above referenced pages that the vans purchased were standard passenger vehicles modified to meet the special needs of the clients to be served are in error. In fact, the vans were procured from a manufacturer which supplies ADA approved vehicles for use in public transportation paratransit programs.

3

10

The auditors fault RVTB for eliminating lease payments in July 1996. The DAR goes on to state that similar van rentals from a Salem leasing company would cost between \$300.00-\$410.00 monthly. The auditors fail to recognize that the cab companies continue to be responsible for maintenance, upkeep and insurance. RVTB opines that these costs no doubt well exceed the compared Salem rental fees, particularly so as the vans are aging and maintenance/upkeep costs are rising. In any event, comparing a commercial rental agency with RVTB is not a fair like to like comparison. Further, the lease payments were never intended to recover federal dollars expended but only the local contribution. Therefore, the DAR's citation to 49 CFR 18.25 is misplaced. In any event, the CFR Section cited merely states that grantees are "encouraged" to earn income to defray program costs. The drafters of this Section could have used words such as "mandated" or "required" but obviously chose "encouraged" for a good reason.

11

Another issue of concern to the auditors surrounds an allegation that RVTD has “eliminated the lease agreements”; this is a false statement. RVTD has written lease agreements with each of its service providers. The General Manager denies that she told the auditors, as alleged on Page 17 of the DAR, that the lease agreements had been discontinued.

The final issue of concern to the auditors with respect to van usage surrounds the concept of “incidental non-program use” of the paratransit vans, although the DAR does not quantify the possible non-program use with which the auditors are apparently concerned. In fact, the auditors admit on Page 16 of the DAR that federal regulations do not quantify the amount of permissible incidental use. Essentially, however, the DAR suggests that RVTD needs to do more monitoring of the incidental van usage. RVTD submits that the auditors simply fail to understand the workings of transit districts and the regulations under which such operate.

The OMB Common Rule states that:

“...equipment shall be used in a program or project for which it was acquired as long as needed whether or not the project or program continues to be supported by federal funds. *The grantee shall also make equipment available for use in other projects currently or previously supported by the federal government as long as such use does not interfere with work on other projects or programs funded by the federal government.*” (emphasis added).

Federal transportation programs for the elderly and disabled include the general population as well as those living within a transit service area. Therefore, van usage that provides service to the elderly and disabled individuals outside of RVTD’s service area is also a qualified federal program. Also, the ADA requires that there may be “no capacity restraints”; 100% of RVTD’s eligible clientele is served by the Valley Lift Program and, in addition, RVTD benefits from the fact that its clients are often served by other vehicles owned by the cab companies at no additional cost to RVTD. The only conclusion that one can draw from these citations is that, far from being stingy with allowing incidental use, the federal policy is to allow such usage to the extent that it is used for those for which its use is intended, here that would be the elderly and disabled.

Applying this federal “philosophy” to the current case, we must first examine the overall usage of the vans. RVTD estimates that 80% of total van usage may be traced to the Valley Lift Service Program. The other 20% which would fall into other usage categories is assuredly used to a large degree by the general elderly and disabled population groups in the cab companies’ service areas. Accordingly, even were there a federal regulation quantifying the amount of permissible incidental usage (there is not one as the DAR itself states) RVTD submits that there would be no problem here and no additional monitoring would be required by RVTD.

IV. SHARED RIDES PAID AS INDIVIDUAL RIDES

The DAR makes much of what it considers to be a shared ridership problem. This situation can theoretically occur when two or more eligible riders are simultaneously transported, but the cab company reports the trip as two separate trips. The DAR suggests that “RVTD does not review for completeness [of records submitted by the cab companies]” (Page 20, Causes) and suggests that it inadequately monitors cab driver billing records. RVTD **does** review for completeness, but does not compare each cab driver billing record to the dispatch logs. Its plan, developed prior to the issuance of the DAR, has been to implement periodic spot check reviews as an additional check and balance control in the existing monitoring systems. RVTD wishes to state, however, that it does not perceive there to be a shared ridership problem in any case.

14

V. INADEQUATE MONITORING OF CAB DRIVER BILLING LOGS

The auditors aver that RVTD does not adequately monitor cab driver billing logs. The auditors examined 122 trips and were able to substantiate 113 of them, leaving a total of nine (9) trips in question. Their findings indicate that **perhaps** RVTD overpaid \$43.00 which overpayment, if proven, will be recovered from the cab company. The OMB Common Rule provides that “Grantees will use their own procurement procedures which reflect applicable state and local laws”, which would include a system of internal control to assure receipt and approval of appropriate invoices and other supporting documents prior to payment. RVTD believes that the fact that only a possible \$43.00 error was discovered, in a very detailed audit conducted by a team of presumably well trained auditors, demonstrates that RVTD’s system of internal controls is operating as designed and, furthermore, that it would not be cost effective to substantially increase internal controls.

15

VI. EXCESS PAYMENT NOT IDENTIFIED BY RVTD

The DAR notes that RVTD made an overpayment to Yellow Cab in the amount of \$2,000.00 due to clerical error. The error occurred due to a misreading of \$3,513.00 on an invoice as \$5,513.00. This overpayment has been recovered. RVTD would note that its internal reconciliation process was sufficient to catch a \$550.00 error in a January 1995 reconciliation. It obviously could not catch the \$2,000.00 overpayment as the amount paid matched the amount posted as being requested. In RVTD’s estimation, all that this shows is that no system of internal controls is capable of catching everything.

15

The auditors’ concern with the date of the \$2,000.00 check (February 3, 1995) in relation to the approval of the voucher request (February 8, 1995) indicates the auditors’ lack of knowledge of the workings of smaller local governments. The auditors make the incorrect assumption that the check was mailed prior to approval of the voucher. In Districts such as RVTD, it is common to obtain final approval of routine payments at the time the check is signed. Therefore, the accounting staff reviews the expenditure, receives preliminary approval, if necessary, and the check is then

printed. The check and related invoice, voucher request or other documentation is then presented to the authorized signer who is also the individual to give final approval for payment, after which time the check is then mailed.

RECOMMENDATIONS

ODOT REVIEW OF QUESTIONED AMOUNTS

As stated elsewhere in this Response, RVTD does not believe that any amounts listed in **QUESTIONED AMOUNTS (APPENDIX A)** need to be reviewed by ODOT, even the possible \$43.00 overpayment to Yellow Cab discussed above. ODOT is certainly welcome, however, to conduct its own review, although RVTD believes that the issues have already been quite thoroughly enough explored at taxpayer expense.

2

ODOT ASSISTANCE WITH CAB COMPANY CONTRACTS/LEASES

RVTD is confident that it can negotiate and enter into legally binding contracts with the cab companies in accordance with all applicable law without the assistance of ODOT. It also believes that it is capable of conducting any cost analyses that may be required by federal regulations without the assistance of, or necessity for subsequent review by, ODOT.

ODOT ASSISTANCE WITH CAB COMPANY MONITORING PROCEDURES

RVTD is of the opinion that its current monitoring systems are more than adequate. As part of its ongoing review and evaluation of all internal control systems, the District will examine, in due course, the procurement procedures currently in place with respect to its agreements with the cab companies. This will occur as staff time and resources permit. We do not feel that any usage of ODOT's resources is necessary or justifiable to assist RVTD in these routine reviews.

CONCLUSION

The above constitutes RVTD's Response to the Draft Audit Report. RVTD will continue to cooperate in any reasonable manner with the State Audits Division and/or ODOT with respect to the matters contained in the Draft Audit Report.

OREGON AUDITS DIVISION'S FOOTNOTES TO RVTD'S RESPONSE LETTER

1. As was explained to RVTD, the Audits Division routinely requests agencies to respond to draft reports within ten working days. This policy is to minimize the risk of having to release a draft report to a public records request before the agency's responses can be included.

RVTD states that this audit was conducted by "...literally teams of auditors and investigators." As stated in the report, we performed parts of our audit in conjunction with an investigator from the US Department of Transportation. In addition, the U.S. Department of Transportation, Federal Transit Administration (FTA), contracted for an onsite review of RVTD's procurement system during September 1997. This review was performed by a private firm for the FTA and was not a part of our audit.

2. These amounts were in the draft report. Due to a revision, the amounts are now \$16,074 and \$49, and ten (10) cab company trips.
3. This statement was removed from the final report after we reviewed Driver and Motor Vehicle title records again.
4. As explained on page 12 of the audit report, the new contracts were effective February 1, 1997, through June 30, 1997. The June 30, 1997, date also has been added to page 9 of the audit report as requested.
5. As stated in the audit report, the Oregon Department of Transportation holds a security interest in five of the vans; therefore, RVTD's obligations have not ended.
6. We did review the January 1996 cab driver billing logs submitted by Yellow Cab. These logs revealed that a 10% discount was being given in January 1996, but had been eliminated by December 1996. As a result, we scanned other months' billings to identify when the discounts were stopped. Our further inquiries and reviews of the contracts determined that the contracts had not been properly amended. Additionally, the cab companies told us that they continued giving discounts to non-RVTD senior and disabled customers. As stated in the audit report, OMB Circular A-87 requires costs to be necessary and reasonable, and includes such specifics as consideration of the price of comparable goods or services. Therefore, charging higher prices to federally-funded programs (through charges to program participants) than are charged to other similar customers would not be allowable. We estimated the lost discounts from October 1 through December 31, 1996, totaled over \$3,100.
7. The contract amendment between Rogue Valley Transportation District and Craig Transportation, Inc. (Yellow Cab), signed in October 1996, states: "An underlined section indicates an amendment to the original document. A ~~section~~ indicates deletion from the original." Neither changes were made to the section of the contract pertaining to discounts. In addition, as stated in the report, the general manager told us that she had

orally agreed that it was okay for Yellow Cab to discontinue giving RVTD discounts. Two auditors were present during this February 28, 1997, interview.

8. We did not validate any methodology that RVTD may have used in determining flat rate contract amounts. There was no formal cost analysis documented as being performed by the general manager. Such an analysis is required by federal regulations. Our analysis was an independent comparison of cab company billing logs and payments.
9. For the period reviewed, RVTD's payments to Yellow Cab and Metro Taxi exceeded services actually provided. The FTA procurement system review report, dated October 1997, states:

The General Manager stated that even though the contract calls for set weekly payments, the grantee has a verbal agreement with the companies that it **will pay only the actual amounts incurred** from providing the paratransit rides. The General Manager said the amounts listed in the contracts are for budget purposes only and are designed to set a limit on the amount of weekly compensation the grantee will be liable for under the contracts. [emphasis added.]

The general manager's comments about the verbal agreement with the taxi cab companies appear to validate our conclusion that the \$10,870 paid in excess of services provided represents overpayments.

10. The statement that the vans were apparently standard passenger vehicles that had been modified to meet the special needs of RVTD's Valley Lift clients was removed from the final audit report. However, as stated in the audit report, one of the cab company owners attributed the high van maintenance costs to the vans having been modified since they were not originally designed for commercial use.
11. The audit report does state that prior lease agreements required Yellow Cab to provide liability and collision insurance, and maintenance and servicing for the vehicles during the period of the lease. The same requirements were included in the lease agreements with Metro Taxi.

On April 20, 1998, we received from RVTD a summary of maintenance costs prepared by each of the cab companies. Metro Taxi's summary was not totaled and because of the difficulty in reading some of the numbers, we were unable to analyze the information. Based on Yellow Cab's summary, its monthly van maintenance costs for each van ranged from a low of approximately \$390 to a high of \$590. In a note attached to the maintenance summary, Yellow Cab stated that the figures for labor hours were conservative, since time spent on vans is sometimes not logged if repair parts are not used. We have not audited documentation supporting the maintenance costs claimed by Yellow Cab and do not know the reliability of this data.

To provide justification for giving the cab companies free use of the vans, RVTD states in its response that maintenance costs no doubt well exceed the comparative rental fees cited in the report. When we inquired about this, however, RVTD did not have

documentation of actual maintenance costs on which to base its decision to no longer require lease payments from the cab companies. Furthermore, RVTD's response does not address the \$60 to \$80 daily rate being charged by Yellow Cab when subleasing each van to its contract drivers. Thus, as stated in the report, Yellow Cab may be receiving from \$1,200 to \$1,600 per month from leasing RVTD vans.

12. The response states that the general manager denies she told auditors that the lease agreements had been discontinued and the statement that lease agreements were eliminated "is a false statement."

During the audit, we were not provided with lease agreements between RVTD and Yellow Cab that were effective after July 1, 1996.

On March 21, 1997, an auditor called the general manager asking for the missing agreements. The general manager told the auditor that from July 1, 1996 to March 21, 1997, there were no van lease agreements with Yellow Cab.

In an interview with another auditor on May 23, 1997, the general manager stated that the former general manager had canceled the leases because van maintenance costs were high. She also stated that it was a mistake to not have lease agreements, and she wanted to have them even if the lease was for only \$1.00 per year. As a follow-up to this conversation, the auditor called the general manager again on May 29, 1997. During this conversation, the general manager stated that the lease agreements would probably not be written until July 1, 1997, since she wanted RVTD's attorney to review them.

Additional documentation provided by RVTD on April 20, 1998, is consistent with our previous conversations with the general manager. The documentation did include lease extensions to June 30, 1997, for four vans leased by Yellow Cab. However, these extensions do not appear valid for two reasons. First, the lease extensions were not signed by RVTD's general manager as necessary to show agreement by both parties to the contract. Second, these lease extensions require lease payments of \$120 per month, yet RVTD was not collecting any lease fees.

In April 1998, RVTD also provided copies of its leases for the year ending June 30, 1997. However, these leases were not signed by Yellow Cab until August 8, 1997, after the end of the contract period. Furthermore, the general manager had not signed these lease agreements until June 30, 1997, the last day of the contract period.

In addition to the vans leased to Yellow Cab, two vans were formerly leased by Metro Taxi. These vans were returned to RVTD in March 1997 and were subsequently given to Yellow Cab. Written lease agreements also did not exist for these vans from March 20, 1997 through June 30, 1997. The lease agreements provided to us were signed by Yellow Cab on August 8, 1997. RVTD's general manager signed the agreements on June 30, 1997, the same as those previously described.

Amendments to lease agreements with Metro Taxi for the year ending June 30, 1997, eliminating the \$120 monthly lease payments, also were not signed until June 30, 1997.

13. RVTD, in its response, estimates that 80% of total van usage may be traced to the Valley Lift Service Program with the remaining 20% used to a large degree by the general elderly and disabled populations in the cab companies' service areas. However, documentation provided by RVTD on April 20, 1998, does not support this estimate. According to information provided for Yellow Cab, 74% of trips in 1997 and 85% of trips in 1998, were for rides given through the Valley Lift Program, Senior and Disabled Services, and other programs subsidized with state or federal funds. This combined percentage is significantly less than the approximately 100% for elderly and disabled services estimated in RVTD's response. Data for the estimated 80% for Valley Lift Program rides was not provided separately, but is instead part of the combined 74% and 85% given above.

RVTD did not provide a summary of van usage for Metro Taxi. The summary that was provided did not specify whether or not it included taxi cab rides. Since RVTD's general manager did not know, we called the owner of Metro Taxi on April 29, 1998, for clarification. He explained that the summary provided to RVTD was a comparison of all rides to the number of Valley Lift rides. Thus, the Metro summary did not reflect the van usage ratio as requested.

14. The statement that "RVTD does not review for completeness" was removed. Although, as stated in our audit report, we noted a problem with RVTD paying for trips with missing pertinent information, this statement is not applicable to the shared rides issue being addressed in this section.
15. The \$2,000 overpayment occurring and not being detected was a result of the system of internal controls not being properly designed. The reconciliation was an adding machine tape, with amounts labeled as "amount we paid." However, these amounts were taken from Yellow Cab's reimbursement request rather than from actual payments. Further, the system of internal controls is not operating as designed, since we also found that payments were being made based on incomplete and inaccurate billing data. Regarding the \$43 [this amount was in the draft report; due to a revision, the amount is now \$49] we reviewed selected billings; we did not perform a comprehensive audit of all billings. By making two simple changes of comparing actual payments to billings and not paying on incomplete and inaccurate billing logs, RVTD can greatly improve the design and effectiveness of its internal control system and lessen the likelihood that erroneous payments will again be made in the future.

FACTS ABOUT THE SECRETARY OF STATE AUDITS DIVISION

The mission of the Audits Division is to “Protect the Public Interest and Improve Oregon Government.” The Oregon Constitution provides that the Secretary of State shall be, by virtue of his office, Auditor of Public Accounts. The Audits Division exists to carry out this duty. The division reports to the elected Secretary of State and is independent of the Executive, Legislative, and Judicial branches of Oregon government. The division audits all state officers, agencies, boards, and commissions and oversees audits and financial reporting for local governments.

DIRECTORY OF KEY OFFICIALS

Director

Deputy Director

Deputy Director

John N. Lattimer

Catherine E. Pollino, CGFM

Sharron E. Walker, CPA, CFE



This report, which is a public record, is intended to promote the best possible management of public resources.

If you received a copy of an audit and no longer need it, you may return it to the Audits Division. We maintain an inventory of past audit reports. Your cooperation will help us save on printing costs.

Oregon Audits Division
Public Service Building
Salem, Oregon 97310

503-986-2255

We invite comments on our reports through our Hotline or Internet address.

Hotline: 800-336-8218

Internet: Audits.Hotline@state.or.us

<http://www.sos.state.or.us/audits/audithp.htm>

Auditing to Protect the Public Interest and Improve Oregon Government