

SUBRECIPIENT MONITORING FOR THE CEDAR AVENUE BRT PROJECT REPORT

PROGRAM EVALUATION AND AUDIT



INTRODUCTION

Background

The Cedar Avenue Corridor Bus-Rapid Transit (BRT) Project will provide station-to-station service along a 16-mile length of Cedar Avenue from the Mall of America to Lakeville. Bus shoulder lane improvements, the construction of transit stations and park-and-ride lots, and the acquisition of buses with guidance systems have and are being implemented to provide the more rapid travel times promised by BRT.

Funding for the project originates from federal, state, regional, and local sources. Federal and state funds impose, through law and funding agreements, requirements upon the recipients and subrecipients of those funds. The Met Council, as the Federal Transit Administration's designated transit authority, is the recipient for much of the federal grants for the Cedar Avenue Corridor BRT Project. Metropolitan Transportation Services (MTS) has operational responsibility for administration of the federal and state grants. The subrecipients of the grants are Dakota County, Dakota County Regional Railroad Authority, and Minnesota Valley Transit Authority (MVTA).

Project work began in 2005 using state bond money. BRT service is scheduled to begin in 2012 with a fleet of 7 buses. Future BRT stations and park-and-ride lots are planned to be constructed through 2030 until the corridor has 13 BRT stations and at least four park-and-ride lots. Stage 1 construction (2009 – 2012) is anticipated to cost \$118.1 million.

Purpose

This audit was to evaluate the processes by which the Council and MTS monitors subrecipient compliance for the Cedar Avenue Corridor BRT Project. In addition the audit was to identify potential risks and weaknesses in monitoring, as well as identify solutions to mitigate risks and strengthen monitoring.

Scope

The audit focused on the processes followed by MTS beginning in 2005 for monitoring subrecipient compliance for the Cedar Avenue Corridor BRT Project. This audit included an evaluation of the effectiveness of the monitoring of subrecipient compliance with federal, state, and Council requirements.

Methodology

To understand the implementation and impact of subrecipient compliance monitoring process and practices, the following methods of inquiry were used:

- *Review grant agreements between the Council and subrecipients.*
- *Review of processes followed by MTS to monitor subrecipient compliance.*
- *Review reports submitted by subrecipients.*
- *Interview Council Finance, Metro Transit, and MTS personnel.*
- *Interview subrecipient personnel.*

Assurances

This audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and the U. S. Government Accountability Office's *Government Auditing Standards*.

OBSERVATIONS

Monitoring is any action taken by a grantee throughout the life of a grant to ensure legal compliance and program performance. Various federal rules summarized in the “2012 Triennial Review Workbook,” including FTA Circulars 5010.1D (Grant Management), 4220.1F (Third Party Contracts), and 4702.1A (Title VI) dictate the legal obligations under which the direct recipients of federal transit grants and the subrecipients must adhere. The state bonding bills and state law provide the legal requirements that fall on recipients and subrecipients of state bonding funds. Finally, the grant agreements between the Met Council and the federal or state agencies outline the grant requirements.

The Met Council’s project managers have responsibility for monitoring subrecipient compliance to the legal and contractual conditions of the grant. Several documents outline the processes by which Council project managers are to monitor subrecipients of federal and state grants for transit projects. The Council’s “Managing Federally Funded Projects” guide explains to both project managers and subrecipients the processes for awarding, administering, and closing Federal Transit Administration (FTA) grants. Regional Administration (RA) Finance’s “Procedure – Processing Grants (sub-grants) / Loans” assist project managers to understand the processes by which to award, administer, and close grants and loans to subrecipients. The subrecipient grant agreements between the Met Council and the subrecipients outline the contractual obligations for both the Met Council and subrecipient.

GRANT AWARD

Organizational Capacity

Organizational capacity is a measure of an organization’s ability to deliver a project on time and at budget. FTA Circular 5010.1D holds the recipient of a grant responsible to “demonstrate legal, financial and technical capacity to carry out the program.” The grantee is responsible for funds that pass through to a subrecipient.

The Met Council procedures outline various methods by which to assess the organizational capacity of a subrecipient prior to awarding the grant. These methods include: sending a grant notification letter to the subrecipient with the conditions of the FTA grant, requiring the subrecipients to provide certifications and assurances prior to awarding the subgrant, and requiring the subrecipients to provide a copy of the A-133 (Single Audit) report prior to awarding the subgrant.

Met Council continues to assess the subrecipients’ organizational capacity during the project by requiring submission of audited financial statements, certifications and assurances, and periodic progress reports.

Subrecipient grant agreements contained required federal and state flow-down clauses.

Grant agreements between the Metropolitan Council and the Federal Transit Administration (FTA), as well as the state General Obligation (G.O.) Bond agreements, require that the conditions placed upon the Met Council flow-down to the subrecipients. A review of the subrecipient grant agreements found

that all agreements contained language and exhibits that stated that the federal and state grant requirements flow down to the subrecipients.

Certifications and assurances had not been collected consistently from subrecipients.

Certifications and assurances are required for any projects funded with FTA grants. MTS staff sent Audit staff copies of the certifications and assurances in MTS' possession since 2005. The certifications and assurances were available from MVTA for the years 2011 and 2012. The certifications and assurances were not collected from Dakota County. Dakota County closed out its most recent FTA grant in 2009.

The Federal Transit Administration requires all grant recipients to annually file the certifications and assurances. FTA recommends grant recipients "assure validity" of the subrecipients' certifications and assurances. Part of assuring the validity of subrecipients' certifications and assurances is to obtain annually a copy of the certifications and assurances. The subrecipient grant agreements for FTA funded projects require that the Met Council receive copies of the certifications and assurances annually.

Audited financial statements of subrecipients had not been consistently reviewed.

Most governmental entities receiving federal funds are required to have an annual audit performed in accordance with OMB circular A-133. A-133 prescribes how audits dealing with federal funds are to be conducted. The use of the most current regulations and requirements is required. Also, testing of internal controls and their effectiveness is required, to safeguard federal monies. Dakota County Regional Railroad Authority's comprehensive annual financial reports (CAFRs) have not been collected by MTS staff. MTS staff had reviewed the comprehensive annual financial report for MVTA, but has not asked for MVTA's A-133 audit reports. MTS staff did not obtain Dakota County's A-133 reports.

FTA Circular 5010.1D states:

"A grantee must monitor grant supported activities to ensure compliance with applicable Federal requirements. This includes the administration and management of the grant in compliance with the Federal regulations, Grant Agreement, and applicable FTA circulars. A grantee is also responsible for funds that "pass through" to a subrecipient".

The Circular continues:

"The grantee's responsibilities include but are not limited to actions that:
(1) Demonstrate legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program".

The 2011 State Auditor's "Management and Compliance Report for the Metropolitan Council of the Twin Cities Area" found that procedures to review A-133 reports of subrecipients were deficient.

Reviews of financial statements, audits, and management letter comments help the grantee assess the financial capacity of the subrecipients, and address any potential control problems, as they arise.

AWARD MAINTENANCE

Reporting

The subrecipient grant agreements specify reporting requirements by the subrecipients. Disadvantaged Business Enterprise (DBE) monthly progress reports are required for some projects for which DBE goals are assigned. Quarterly written progress reports are required from subrecipients. MTS tracks project performance by the Capital Project Number, rather than by Grant Number. Reports are therefore provided by capital project instead of by grant.

In addition to quarterly reports, MTS staff and project managers stay apprised of progress with the monthly project management team meetings of MTS and subrecipient staff. MTS' project manager is in frequent communication with Dakota County Regional Railroad Authority's project manager, as well as with MVTA staff. The MTS project manager also uses the monthly reimbursement requests from the subrecipients to further track the progress of the work.

Quarterly progress reports have not been submitted by the subrecipients to MTS consistently.

Quarterly progress reports from subrecipients are required by MTS for all grant programs. A review of quarterly progress reporting since 2009 showed that 40 percent of reports were not submitted to MTS. MTS contractually requires subrecipients to submit quarterly progress reports for projects within MTS' Authorized Capital Program. This includes projects funded with either federal or state funds.

MTS processes are in place to send quarterly email notices to the subrecipients' project managers to submit the quarterly progress report. Submittals are tracked by an MTS Researcher in a MS Excel spreadsheet. There are no procedures in place to follow-up with subrecipients that do not submit a quarterly report.

Some Disadvantaged Business Enterprise progress reports were not available from the early years of the project.

DBE progress reports are required to be submitted with every invoice for projects that have been assigned a Disadvantaged Business Enterprise (DBE) goal. A percentage of the contract value is determined as the minimum amount that must be used to pay DBE subcontractors. Three subgrants had DBE goals. A random sample of 13 invoice submittals from 2007 to 2012 found that 11 DBE progress reports, or 85 percent, had been submitted. Copies of two DBE progress reports were not found for invoices submitted in 2007 and 2008.

The Office of Equal Opportunity's processes for monitoring subrecipient compliance with DBE goal requirements have strengthened over the past few years. The two missing DBE reports were reported to have been the result of inadequate processes in force in 2007 and 2008. Today the closeout process includes verification of the payments received by DBE companies.

Financial Management

MTS at the time of the audit had disbursed over \$28 million in pass through funding from the FTA, state, and CTIB to the subrecipients.¹ The Met Council's project management procedures require at a minimum quarterly invoices from subrecipients for reimbursement on a cost basis. The project (grant) manager is to review the invoices for allowable expenses and send a Request for Reimbursement form to RA Finance Accounts Payable.

The project manager was found to have reviewed all invoices submitted. There have been no denials of reimbursement. The lack of denials has been attributed to the ongoing communication between the Met Council's project manager and DCRRA's project manager with regards to allowable expenses.

Some reimbursement payments to subrecipients have exceeded the Council's 30-day payment timeframe.

Some payments to subrecipients for expenses incurred for this project have exceeded the Council's requirement to make payment within 30 days. A review of a random sample of reimbursement payments to subrecipients found that 6 out of 27 payments exceeded 30 days from the date of receipt.

Met Council's Accounts Payable (A/P) Procedures requires that vendor payments be made within 30 days of the date of receipt of a complete invoice. The procedures state that,

“Unless special circumstances exist, payment terms are always set to net 30 days and the Metropolitan Council must pay invoices according to the directives in Minnesota State Statute 471.425. A municipality must pay each vendor obligation according to the terms of the contract or if no contract terms apply, Subd.2 (a) states that for municipalities who have governing boards which have regularly scheduled meetings at least once a month, the standard payment period is defined as within 35 days of the date of receipt”.

In five out of these six instances the Request for Reimbursement Form was submitted by MTS to A/P close to and after the payment deadline. The last late payment attributed to MTS occurred in March, 2011 at the time that MTS began to centralize the processing of subrecipient invoices. The cause of the other delay was not clearly specified.

GRANT CLOSEOUT

The closeout of the subrecipient grant agreements occurs when the project work is completed and the grant money has been expended or is no longer needed. The grant closeout process for FTA funds includes the submittal of the final milestones report and deactivation of the Notice of Grant Award (NOGA). Metro Transit Grants Office will coordinate the closeout of FTA grants. In all cases the closeout will prevent the drawdown of funds from the grant.

¹ UPA grant money in the amount of \$12,530,000 had been disbursed through Metro Transit to the subrecipients for Cedar Avenue BRT. The UPA grant had been previously audited.

Grant Closeout Forms were not submitted to Regional Administration Finance.

RA Finance's procedures require that subrecipient grant agreements upon closeout have a Subgrant Closeout Form submitted to the subgrant files. All 12 subgrants' associated blanket purchase orders were found to have been closed within WAM and TXbase procurement modules. This prevents any expenses from being charged against these closed grants. In addition, the two grants with FTA funding were found to have the Notice of Grant Award deactivated as per Council procedures for managing federally funded grants.

MTS project staff persons reportedly were not aware of the requirement to submit a grant closeout form to RA Finance.

CONCLUSIONS

1. *MTS staff has been monitoring the subrecipients' compliance with required federal, state, and Council requirements through frequent communication with subrecipient project staff and review of invoice. However, monitoring is not consistent. Current processes have not ensured that quarterly progress reports are consistently reviewed from subrecipients, audited financial statements are not consistently reviewed, and certifications and assurances have not been submitted to the Met Council by all subrecipients.*
2. *In recent years internal processes have been improved to ensure greater oversight of DBE goal compliance and to reduce the risk of making late payments to subrecipients.*

RECOMMENDATIONS

Program Evaluation and Audit recommendations are categorized according to the level of risk they pose for the Council. The categories are:

- **Essential** – Steps must be taken to avoid the emergence of critical risks to the Council or to add great value to the Council and its programs. Essential recommendations are tracked through the Audit Database and status is reported twice annually to the Council's Audit Committee.
- **Significant** – Adds value to programs or initiatives of the Council, but is not necessary to avoid major control risks or other critical risk exposures. Significant recommendations are also tracked with status reports to the Council's Audit Committee.
- **Considerations** – Recommendation would be beneficial, but may be subject to being set aside in favor of higher priority activities for the Council, or may require collaboration with another program area or division. Considerations are not tracked or reported. Their implementation is solely at the hands of management.
- **Verbal Recommendation** – An issue was found that bears mentioning, but is not sufficient to constitute a control risk or other repercussions to warrant inclusion in the written report. Verbal recommendations are documented in the file, but are not tracked or reported regularly.

1. **(Essential) Procedures must be established to ensure that all subrecipients of federal transit funds annually submit copies of certifications and assurances to the Met Council.**

Recipients of federal transit grants must file their certifications and assurances to the FTA. Requiring subrecipients to submit copies of the certifications and assurances to the Met Council, as well as review by MTS of the submission, help to ensure that the subrecipients have filed their assurances and certifications.

Management Response: MTS management recognized this need in 2010. Currently MTS requests, collects and maintains certifications and assurances (C&As) for its subrecipients annually. This function has been centralized to ensure that all C&As are in one location and are readily accessible by anyone requesting them.

Staff Responsible: MTS's Assistant Director of Contracted Services or her assigned designee oversees the requesting, collection and maintenance of these C&As on an annual basis.

Timetable: This internal process was implemented in 2010.

2. **(Essential) Procedures must be established to ensure that all audited financial statements from subrecipients are reviewed by the appropriate Met Council staff.**

MTS, or in collaboration with other Met Council offices, should annually seek and review its subrecipients' comprehensive annual financial reports, accompanying management letter comments,

and A-133 audits. It is the responsibility of MTS to verify its subrecipients have promptly resolved audit issues as they concern federal transit dollars. Utilizing the subrecipients' websites and the Federal Audit Clearinghouse could be considered.

Management Response: MTS recognizes and understands the need to monitor subrecipient financial condition and internal control processes. To better monitor these items MTS will work with RA Finance to collect and review the above mentioned documents. MTS will request these documents and provide them to RA Finance for their review. RA Finance will document their review and work with MTS staff to resolve any outstanding issues or concerns raised during review of the subrecipients' audits. All review and follow-up will be maintained in the subrecipient files.

Staff Responsible: MTS's Assistant Director of Contracted Services or her assigned designee will request the audited financial statements, accompanying management letter comments and A-133 audits on an annual basis. It will be the responsibility of the Manager of Accounting and Financial Reporting or their assigned designee to review all financial documents. Any required follow-up to these reports and findings will be facilitated by MTS so that project managers are aware of ongoing or potential issues as it pertains to the federal grants.

Timetable: This internal process and the corresponding reviews will be implemented by January 31, 2013.

3. (Essential) Procedures must be established in Metropolitan Transportation Services to ensure that subrecipients submit all required progress reports.

Procedures should be revised to include follow-up processes for receiving quarterly progress reports. MTS should continue to notify subrecipients quarterly to submit progress reports. Consideration should be made toward informing subrecipient of the necessity for submitting progress reports.

Management Response: MTS recognizes and understands the need to monitor its subrecipients' ongoing operations through the collection of quarterly progress reports. Since this level of monitoring is needed at the project management level, additional project management staff training will be provided to ensure that all required reporting documents are collected and included in the files.

Staff Responsible: MTS's Assistant Director of Contracted Services or her assigned designee will provide project manager training to the appropriate staff to ensure that project managers understand the requirements and expectations regarding grant monitoring.

Timetable: This project management training will be provided to appropriate project managers by January 31, 2013.

4. (Significant) RA Finance should continue to inform managers of the procedures for awarding grants.

RA Finance should continue to ensure that managers are aware of the procedures for executing grants. Consideration should be given to documenting RA Finance's grant procedures in a grants management guide, such as the "Managing Federally Funded Projects" guide. This guide outlines the Council's process that project managers should follow when managing FTA grants. RA Finance has provided instruction of the grant processing procedures previously to managers. Council Policy 3.3.1 Grant/Loan

Approval Policy gives RA Finance responsibility for training individual grant managers in grant accounting processes.

Management Response: In May 2012, the Council kicked off a Grants Management Information System project which when fully implemented will greatly aid in efforts to standardize tracking, monitoring, and reporting of Council subrecipient grantees. The project plan calls for a phased implementation beginning in April 2013.

As an interim step, in October 2012, a Grants Management Checklist and updated Quarterly Milestone/Progress report was rolled out to MTS grant managers. The Grants Management Checklist was already in use in Metro Transit and provides a format for documenting completion of monitoring requirements (e.g. review of financials, site visits, meetings, etc.)

The “Managing Federally Funded Projects” guide is in process of review/update by cross functional team (Grants, Procurement, Diversity, and Finance) to assure best practice guidelines are available and understandable.

Staff Responsible: Mary Bogie, Chief Financial Officer, in coordination with division staff

Timetable:

- Managing Federally Funded Projects manual update, December 2012.
- Project Manager Structured Training with phased system implementation, April 2013.
- Grants Management Information System, phased implementation beginning April 2013.



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