

**DRAFT AUDIT COMMITTEE
MINUTES**

December 4, 2014

10:00 AM

Board Room

1372 East Main Street, Rochester NY

Committee Members Present: Michael Jankowski, Commissioner and Committee Chairman
Frank Vitagliano, Commissioner
Jim Redmond, Board Chairman

Others Present: Robert Fischer, Commissioner
Henry Smith, Jr., Commissioner
Bill Carpenter, CEO, RGRTA
Scott Adair, CFO, RGRTA
Christopher Dobson, VP of Finance, RTS
Mike Burns, Director of Accounting, RTS
Sharon Muir-Eddy, Manager of Budget Analysis, RTS
Alan Walther, Partner, Bonadio
Jon Miller, Principal, Bonadio
Michelle Pyzik, Audit Manager, Bonadio

The meeting was called to Order by Committee Chairman Michael Jankowski at 10:00am.

Scott Adair, reviewed the agenda with the committee:

- External Auditor Preliminary Conference
- Financial Projection Update
 - RGRTA
 - Ontario
- Update on Office of the State Comptroller Activities
- SWAP Update

Scott Adair introduced Alan Walther, the Engagement Partner for the audit team from the Bonadio Group. Alan is taking over the audit engagement from Kristen Clark who is rotating off our audit based on the Firm's Policy.

Scott Adair turned it over to Alan to go over the External Auditor Preliminary Conference. Alan introduced his team of Jon Miller and Michelle Pyzik. The Bonadio Group reviewed its service team, scope of services timeline, audit responsibilities and audit approach.

- *Commissioner Jankowski asked what portion of the Other Postemployment Employee Benefit (OPEB) has currently been accrued for in the Authority's Financial Statements.*
- *In response to a question from Committee Chairman Jankowski about the Authority's OPEB liabilities being amortized, Scott Adair said that we have amortized our liability by about half to three-quarters. Mr. Walther of Bonadio stated that RTS is a little further ahead than other government agencies that they deal with.*

At this time the Audit Committee went into executive session with the Auditors to discuss the upcoming audit (Management was excused). On motion of Chairman Redmond, seconded by multiple Commissioners, the Committee moved to executive session by unanimous vote.

Upon return from executive session Chairman Jankowski noted that no action was taken while in Executive Session.

Commissioner Jankowski asked Scott Adair to review the financial projection update for RGRTA and Ontario.

Scott provided an update based on the October financial results and projections through the end of the fiscal year for both RGRTA (without Ontario County) and a separate presentation on Ontario County.

- *In response to a question from Commissioner Smith about the mortgage recording tax, Scott Adair stated that we started the year with a budget at 8.1 million dollars. It was not a significant increase from our prior history. We've certainly seen a decline in the refinancing mortgage and a reduced number of sales. We are trying to stay on top of it as we project for next year's budget.*
- *In response to a question from Committee Chairman Jankowski, Scott Adair stated that in the '15-'16 Authority Budget that Ontario will be included in the consolidated budget. Commissioner Jankowski stated that he felt it was appropriate to not include Ontario in the current year financial projection (projection versus budget) for RGRTA, but that it should continue to be shown separately because the budget approved as part of the Comprehensive Plan did not include Ontario.*

Being no further financial projection questions Commissioner Jankowski then asked Scott Adair to provide an update on Office of the State Comptroller Activities.

The three audits for the committee to review were the Final Report of the Selected Aspects of Discretionary Spending 2012-S-152, Fuel Purchases Draft Report 2014-S-20, and Performance Incentive Program Draft Report 2014-S-2.

Scott inquired of the Audit Committee if they had any questions on Report 2012-S-152 and there were none. He noted that a 90 day follow-up letter was required to be filed and that would need to be completed by the calendar year end.

The Audit Committee was informed that we would be discussing in open session the two draft audit reports because our research and a conversation with OSC Representatives concluded that there was no basis for Executive Session for discussion of an audit that is still in draft process.

The Audit Committee reviewed Report 2014-S-20:

- *In reference to the Fuel Audit Chairman Redmond asked how much the Authority spends on fuel. Scott Adair responded that the Authority spends about 7 million dollars annually on fuel.*
- *In response to a question from Commissioner Smith on how the independent contractor that provides our fuel is selected, Scott Adair responded that through our normal procurement process is how we would select that vendor*

The Audit Committee reviewed Report 2014-S-2:

Each Commissioner stated that they had questions and Commissioner Jankowski asked Chairman Redmond to start the conversation.

- *The Performance Incentive Program Draft Report raised concerns from Chairman Redmond. The draft report claims that the Performance Incentive Program must be directly tied to the services which each employee renders. After Chairman Redmond read through the opinions that the Comptroller cited in the Draft Report he found not one word about being tied directly to the services that each employee renders. A previously issued State Comptroller's Report, 2009-S-103, encouraged RGRTA to expand the program, five years ago. Scott Adair stated that he had reread that particular report and saw that exact same reference. In that report on overtime costs for the Authority the Comptroller felt that RGRTA should be providing financial incentives to employees to control overtime costs. Chairman Redmond stated that the 2007 legal opinion (referenced in the Draft Report) that then Attorney General Andrew Cuomo wrote regarding the Long Island Power Authority, stating that the performance of LIPA employees and of LIPA itself are evaluated annually in terms of whether certain benchmarks, established beforehand, have been met. An employees' total compensation for the year included a base salary and an incentive payment, based on how they did in the pre-established goals. Chairman Redmond asked if that is what we do at the Authority. Scott Adair stated that is exactly what we do at the Authority.*
- *Chairman Redmond commented that the Comptroller's draft report takes issue with the amount of the incentive payments available. Chairman Redmond asked if the program is aimed primarily at management. Scott Adair responded it is a program that is aimed for as many people as we*

can cover. In this past year the Authority shrunk the pool of employees eligible for the program. Chairman Redmond asked in terms of payments that are potentially available, does a bus driver get paid the same amount as the CEO? Scott Adair responded no they don't. Management would get paid more than labor employees.

- *Chairman Redmond mentioned that the Attorney General noted that LIPA's rates are at the lowest level of comparable power authorities, consistent with sound fiscal and operating practices of the Authority, which provides for safe and adequate service. Chairman Redmond stated that sounds like RGRTA's fares, which are among the lowest in the country. Scott Adair, CFO commented that he would agree with that.*
- *Chairman Redmond stated that the draft audit states, "An Authority may establish a performance evaluation program, under which specific performance criteria are set forth and disclosed to the Executive Director prior to the performance of services, for corresponding dollar amounts of additional compensation established from meeting the criteria". Chairman Redmond asked if that is the process that the Authority follows with the annual adoption of the incentive criteria, and that's included in the Comprehensive Plan that's voted on prior to the start of the new fiscal year. Scott Adair responded that is correct.*
- *Chairman Redmond stated that the Comptroller's draft references comments made by union leadership. Did the Comptroller's staff speak with any member of the Board of Commissioners? Scott Adair responded not to his knowledge and that was a question asked during the exit conference with them.*
- *Chairman Redmond noted that the CEO doesn't set his own salary. Since the Board sets the CEO's total compensation package, including available incentives if goals are met, wouldn't it be good auditing practice to speak with the people who are actually involved in the decision making? Scott Adair, CFO responded that in his previous professional experience, that absolutely would be.*
- *Chairman Redmond asked if the Transit Authority in Rochester has a national reputation of benchmarking and innovation. Scott Adair responded that it does.*
- *Chairman Redmond referenced the draft audit stating that it compares RGRTA compensation with that of other upstate transit authorities. As the CFO of an 82 million dollar organization, would it be fair to say that you could be the CFO of a transit authority in Ohio, Florida, or California? Scott Adair responded given the opportunity, yes, that is probably a true statement. Chairman Redmond responded that when we had the CEO position open four years ago, weren't some of the final interview candidates from California and Oregon? Scott Adair responded yes, they were. Chairman Redmond asked, so we are competing nationally for executive talent, not just in upstate New York? Scott Adair stated that that observation is correct.*
- *Chairman Redmond asked if the Authority benchmarks total compensation against something like 10 other transit authorities nationwide. Scott responded yes that is his understanding.*

- *Chairman Redmond next had a question about the work of the independent auditors hired by the Board to audit the performance incentive program. Did management dictate how the audit would be conducted, or did, in fact, the auditors consult with and then report their findings directly to the board through the Compensation Committee, and the Audit Committee? Scott Adair responded that the auditors were hired and directed by the Board, and this is one of the audit comments that he takes personal exception, based on the professional responsibilities of both the Board and the independent auditors. In any agreed upon procedures engagement, the agreement is between who is directing the audit, which is the Audit Committee, and the auditors, and not management. In their report, they specifically reference the fact that management directed this audit, and he knew firsthand that that is not the case. Chairman Redmond responded for the draft report to claim that the independent audit of the Performance Incentive Program was dictated by management, the draft report would be wrong? Scott Adair, CFO answered that's correct, yes.*
- *Chairman Redmond stated The Board of Commissioners has set maintaining the financial health of the organization, on time performance and customer satisfaction as its primary goals this year. As a member of the executive management team who's eligible for an incentive payment, isn't the net effect of this compensation system to put a portion of your pay at risk, if you and the organization don't meet the Board's priorities? Scott Adair responded that the comment was true. Chairman Redmond asked if management doesn't work on what the Board wants, everybody on the team loses a portion of their pay? Scott Adair responded yes.*
- *Chairman Redmond stated that in reading the draft report, it's seems clear that the Comptroller's office doesn't like the compensation system we have, but they can't show that it is wrong, even with their own documents that they cite, is that correct? Scott Adair answered that's true.*
- *Chairman Redmond stated that the Comprehensive Plan is mailed to hundreds of people in the community. It has details of everything the Authority is working on for the coming year. The Board has independent auditors look at the incentive system annually. Despite all of this, the Comptroller seems to make a leap of logic, based on this information, to reach his conclusions? Scott Adair responded that he can only say yes to that, and that would be my personal opinion, yes.*
- *Chairman Redmond asked if the Authority will have a strong response to this draft report. Scott Adair responded that he anticipates such.*
- *Commissioner Vitagliano asked how the Comptrollers report could be so far off? Scott Adair responded that in his personal opinion there was a necessity to understand what the Authority is doing. It took them an extraordinarily long time to get that understanding, and there was a late push to finish this up, to get this report out.*
- *Commissioner Smith asked if the response from RGRTA will be coming from CFO Scott Adair. Scott Adair responded that is a topic that is up for discussion. In the past we've had a variety of people respond to draft*

reports. We don't have a written procedure regarding who the response needs to come from.

- *Committee Chairman Jankowski stated that he thinks Chairman Redmond should be the one to sign off on the response.*
- *Committee Chairman Jankowski asked that CFO Scott Adair respond to a statement made in the report on page seven under the Audit Findings and Recommendations. Scott Adair, CFO responded that we were required to go back three, four or even five years to personnel files looking for documentation that was supposed to be signed off,, not every piece of paper got filed back where it should have nor was it always signed off on.. These are forms that should be signed off stating that an employee met all goals that were inside of the TOPS scorecard. We did note that we can document that the payments were appropriate but the form needing to be signed was not always completed.*

Being no further questions on the OSC Activities update, Scott Adair introduced the last item on the agenda to the Committee, the SWAP Update.

- *Committee Chairman Jankowski stated that the purpose of the SWAP is stability, not to make money. Scott Adair agreed.*

There were no further questions on the SWAP.

The Audit Committee went into executive session to discuss a personnel matter. On motion of Chairman Redmond, seconded by Commissioner Vitagliano, the Committee moved to executive session by unanimous vote. Bill Carpenter, Scott Adair, and Chris Dobson were asked to stay for this session.

Upon returning from Executive Session Committee Chairman Jankowski noted that there will be a matter referred to the full Board.

On a motion from Chairman Redmond and a second by multiple Commissioners the meeting was adjourned.



THE BONADIO GROUP
CPAs, Consultants & More

Regional Transit Service

**Audit Committee Planning Meeting
December 4, 2014**



Agenda

- Your Client Service Team
- Scope of Our Services
- Timeline
- Audit Responsibilities
- Audit Approach
- Fraud Risks and Responsibilities
- Accounting and Auditing update

Client Service Team



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Scope of Our Services

We have been engaged to provide the following services for the year ending March 31, 2015:

- Audit of the financial statements of Rochester-Genesee Regional Transportation Authority
- Perform an audit under OMB Circular A-133 (Single Audit) on the schedule of expenditures of federal awards
- Audit of the Schedule of State Transportation Assistance Expended in accordance with Government Auditing Standards and the New York State Codification of Rules and Regulations
- Certification of National Transit Database (NTD) Report
- Agreed-upon procedures related to the Rochester-Genesee Regional Transportation Authority Incentive Plan
- Internal control observations and recommendations, if applicable
- Observations related to overall performance

Timetable



Preliminary audit fieldwork	December 10 – 12, 2014
Year-end audit fieldwork/weekly status meetings with RGRTA personnel	April 27, 2015 – June 5, 2015
Preliminary meeting with management	Early June 2015
Audit Committee meeting	June 2015
Issuance of final audited financial statement and Single Audit	On or before June 30, 2015
Board of Commissioners Meeting	August 2015
NTD Certification	October 2015



Audit Responsibilities

Bonadio Responsibilities:

- Form an opinion as to whether your financial statements have been presented fairly in accordance with GAAP.
- Plan and perform the audit to obtain reasonable, but not absolute, assurance that the financial statements are free of material misstatements, whether caused by fraud or error.
- Consider internal control over financial reporting as a basis for designing audit procedures, but not for the purpose of expressing an opinion on internal control.
- Perform the audit in accordance with Government Auditing Standards (Yellow Book) and OMB Circular A-133 (Single Audit):
 - Report on internal control over financial reporting and on compliance
 - Report on internal control over compliance and provide an opinion on compliance
- Communicate significant matters related to the financial statement audit to the Audit Committee and Board of Commissioners.
- Maintain open lines of communication and responsiveness throughout the year.



Audit Responsibilities

Management's Responsibilities:

- Fairly present the financial statements in conformity with GAAP
- Adopting acceptable accounting policies
- Establishing and maintaining effective internal control over financial reporting
- Compliance with provisions of laws, regulations, contracts, and grant agreements
- Providing the auditor with a letter that confirms certain representations during the audit
- Adjusting the financial statements to correct material misstatements



Audit Responsibilities

Audit Committee Responsibilities:

- Select and evaluate audit firm
- Oversee the financial reporting process
- Oversee the system of internal controls over financial reporting
- Evaluate management's process for the identification of fraud risk and its internal controls established to prevent, deter, and detect fraud
- Promote corporate governance and appropriate ethical standards



Audit Approach

- Our audit approach is risk based. In developing our audit approach, we will gain an understanding of key controls, including entity level controls, information technology controls, and monitoring controls over financial reporting, as well as operational activity and strategic issues affecting RTS.
- Our approach is based on our significant knowledge of, and experience with RTS and the government sector in Upstate New York.





Audit Approach

Corporate governance	We will gain an understanding of the Board of Commissioners', the Audit Committee's, and management's level of awareness and actions concerning internal controls. We will review governance policies including conflicts of interest, whistleblower, executive compensation, and travel and entertainment policies.
Information technology	We will perform a general controls review of your information technology system. We will also discuss certain applicable laws and regulations.
Key controls over significant transaction cycles <ul style="list-style-type: none">• Passenger fare revenue and receivables• Government grant revenue and receivables• Purchases, payables, and accruals• Payroll and human resources• Capital assets	We will determine the control objectives, risk, and control activities associated with each of the cycles identified in order to determine the nature, timing, and extent of auditing procedures necessary for expressing our opinion on the financial statements. We will perform "walk-throughs" of key controls in order to ensure that our documentation and understanding of the process is accurate.
Reasonable accounting estimates	We will gain an understanding of significant accounting estimates. We will evaluate the reasonableness of the assumptions used and perform testing on calculations.
Sound accounting policies	We will assess the adequacy of accounting policies through audit testing and through discussions with management. We will facilitate the implementation of new accounting pronouncements.



Fraud Risks and Responsibilities

Fraud is perpetuated in two ways:

- Misappropriation of Assets
- Fraudulent Financial Reporting
- Auditors are required to gain an understanding of the risk of material misstatement due to fraud and develop audit procedures to respond to the fraud risks identified.

Approach

- We will begin with an internal “brainstorming” meeting with our engagement team members to assess the risk of material misstatement due to fraud.
- We will make inquiries of the Audit Committee, RTS’ CEO and other members of management regarding their knowledge of fraud or fraud risk. Our inquiries extend beyond the accounting and finance offices and we look for corroborating evidence in detecting fraud.

Fraud Risks and Responsibilities



Approach (Continued)

- We will identify risks of material misstatement due to fraud from information gained from the inquiries above, results of analytical procedures, and results of our testing of controls.
- We will evaluate the programs and controls that RTS has put in place to address the risk of material misstatement due to fraud.
- We will review a sample of journal entries in order to address the risk of management override.
- We will focus on the risk of fraud relative to revenue recognition.
- **Management is responsible for the design and implementation of controls to prevent, deter and detect fraud.**



GASB Update

- GASB Statement No. 67, “Financial Reporting for Pension Plans – an amendment of GASB Statement No. 25”
 - Effective for fiscal years beginning after June 15, 2013
- GASB Statement No. 68, “Accounting and Financial Reporting for Pension – and amendment of GASB Statement No. 27”
 - Effective for fiscal years beginning after June 15, 2014
- GASB Exposure Draft on “Accounting and Financial Reporting for Postemployment Benefits Other Than Pension.”



OMB Uniform Guidance

- Uniform Guidance consolidates administrative requirements of OMB Circulars A-102 and A-110 into a uniform set of administrative requirements for all Federal award recipients
- Increases audit threshold from \$500,000 to \$750,000 in Federal expenditures annually
- Creates five prescriptive procurement methods
- Clarified Federal expectations and consolidates pass-through responsibilities and subrecipient monitoring guidance from A-87, A-133 and the Compliance Supplement into one location
- Creates internal control requirements
 - Non-Federal entities must establish and maintain effective internal control that provides reasonable assurance that entity is managing Federal award in compliance with Federal statutes, regulations, and terms and conditions of Federal award.
 - Internal controls should be in compliance with:
 - COSO (Internal Control Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission), and
 - Green Book (Standards for Internal Control in the Federal Government, issued by the Comptroller General of the United States)
- Consolidates cost principals from three circulars into one
- Charges for personal services increases emphasis on internal controls and must be based on records that accurately reflect the work
- Requires federal agencies to use negotiated indirect rates for all awards, unless limited by law or regulation, or where a limitation is approved by the agency head based on documented justification
- Standards in Subpart F (Audit Requirements) effective for fiscal years beginning on or after December 26, 2014 (Fiscal 2016)

THOMAS P. DNAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

Mr. James H. Redmond
Chairman
Rochester-Genesee Regional Transportation Authority
1372 East Main Street
Rochester, NY 14609

Re: Fuel Purchases
Report 2014-S-20

Dear Mr. Redmond:

According to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of Public Authorities Law, we examined the fuel purchases by the Rochester-Genesee Regional Transportation Authority (Authority) for the two years ended March 31, 2014. Specifically, we audited whether the Authority is purchasing the correct type of fuel, paying the proper amount for the fuel purchased, receiving the correct amount of fuel, and keeping accurate records of the supply and distribution of fuel.

Background

The Rochester-Genesee Regional Transportation Authority (Authority) provides public transportation services in Monroe, Genesee, Livingston, Orleans, Wayne, Wyoming, and Seneca counties. The Authority consists of the following eight Regional subsidiaries:

- Regional Transit Service, Inc. (RTS)
- Lift Line, Inc. (LL)
- Batavia Bus Service, Inc. (BBS)
- Livingston Area Transportation Service, Inc. (LATS)
- Orleans Transit Service, Inc. (OTS)
- Seneca Transit Service, Inc. (STS)
- Wayne Area Transportation Service, Inc. (WATS)
- Wyoming Transit Service, Inc. (WYTS)

RTS is the Authority's largest subsidiary, maintaining an operating fleet of about 250 buses providing fixed-route service throughout the Greater Rochester area. LL provides para-transit

service in Monroe County to people with disabilities who cannot use RTS's fixed-route service. The Authority's six other subsidiaries provide a range of fixed-route, dial-a-ride, para-transit, and shuttle services to residents living in the six other respective counties. During our scope period, the Authority had contracts with private fuel companies to supply diesel and unleaded regular gas for RTS and LL buses. In addition, the Authority had separate agreements with four counties, a school district, and a private company to supply fuel to its six other regional subsidiaries.

The Authority spent over \$7.5 million and \$7.3 million on fuel in fiscal years 2012-13 and 2013-14, respectively. RTS uses approximately 81 percent of the total fuel purchased by the Authority.

Results of Audit

We found the Authority generally had adequate controls and accountability over fuel procurement, delivery, storage, and usage. However, we identified certain weaknesses in subsidiaries' fuel purchasing and monitoring practices. Further, while we found the Authority purchased the correct type of fuel for buses, it paid more than necessary for fuel at two subsidiaries. We make four recommendations to address the control weaknesses that we identified.

Controls Over Fuel

We found the Authority has established adequate controls over its fuel purchases, deliveries, and storage at RTS and LL, which combined accounted for about 88 percent of the Authority's fuel purchases during our scope period. Both subsidiaries had strong security controls over stored fuel and automated systems in place to track fuel usage. We also found controls were adequate at BBS and OTS. However, we determined fuel procurement and disbursement controls could be improved at LATS, STS, WATS, and WYTS.

Public Authority Law Section 2931 requires State authorities to establish and maintain internal control systems and a program of internal control review. The program should be designed to identify internal control weaknesses, identify actions needed to correct these weaknesses, monitor any corrective actions, and periodically assess the adequacy of ongoing internal controls. To this end, the Authority has developed formal Procurement Guidelines, which require that responsible employees ensure goods are actually received before vendors are paid.

The Authority relies upon each subsidiary to account for its own fuel usage and confirm the accuracy of fuel supplier invoices before payment. However, while LATS, BBS, and OTS reconcile buses' daily fuel consumption logs to the corresponding fuel supplier invoices, STS, WATS and WYTS do not perform such reconciliations. Furthermore, the manager at LATS who does the reconciliation also has access to the fuel pumps, an inadequate separation of duties that limits the reconciliation's effectiveness. Based upon our discussions with STS, WATS, and WYTS managers, they did not seem to know they were responsible for verifying the accuracy of fuel supplier invoices.

When we attempted to reconcile subsidiaries' fuel consumption logs to fuel supplier

invoices ourselves, we found some inconsistencies. For example, STS fuel consumption logs for March 2013 through February 2014 indicate STS buses consumed about 1,660 gallons more fuel than the amount the Authority was actually billed for. When discussing our reconciliation results, STS management indicated that the fuel supplier had to use estimates when billing the Authority because the fuel pump gauge was faulty. Without a precise way to measure fuel dispensed, they expect such differences will continue to occur because STS employees use the same faulty gauge to account for daily bus refueling amounts.

In another case, WATS fuel consumption logs for January through March 2014 showed that one diesel bus used both gas and diesel. During this time, the logs show this bus consumed 289 gallons of diesel and 1,191 gallons of gasoline costing approximately \$978 and \$3,606, respectively. When we brought this matter to WATS management's attention, they replied that the dual entries were a mistake. Specifically, they said that two fuel pump keys, one for gas and one for diesel, were misclassified under the same diesel bus in the fuel log. Furthermore, they stated that the correct bus has been identified and that the fuel card was reclassified for this bus. Based on additional supporting documentation maintained by WATS (i.e., Daily Driver log), there is assurance that the fuel for the three-month period was used for business purposes.

Before paying invoices, officials from the Authority's central office indicated that Finance Department employees match fuel invoices for subsidiaries to any backup documentation provided by the fuel supplier. However, the employees assume subsidiary staff already have compared invoices to the on-site fuel consumption logs; central office does not periodically test that subsidiaries actually do so. When discussing our findings, central office officials did not know that all of the subsidiaries were not doing the reconciliations. Unless such reconciliations occur, the Authority lacks adequate assurance that it does not pay for more fuel than was actually used by its subsidiaries.

Fuel Rates

The Authority's Procurement Guidelines emphasize securing the best goods at the lowest available price, consistent with quality requirements and delivery needs. While we found the Authority had paid a reasonable amount for fuel for six of its subsidiaries, this did not always appear to be the case for LATS and WYTS.

During our audit period, the Authority had two separate fuel agreements with suppliers for LATS: one with the local county and another with a private company. We sampled invoices from the private company for seven entire months in our audit period. We found that based on the amount of fuel LATS received from the vendor and the rates charged, the Authority could have saved approximately \$10,385 by using the New York State Office of General Services (OGS) contract vendor instead.

When we attempted to do a similar analysis of rates paid for WYTS's fuel, officials told us the Authority did not have any formal agreements with WYTS's fuel supplier (Wyoming County) during our audit period. Therefore, we could not determine whether the Authority paid the proper amount when buying fuel for WYTS. However, based upon our review of four months of

invoices, we determined approximately \$560 could have been saved if the Authority purchased WYTS's fuel from the OGS vendor.

When discussing our findings, officials were unsure why there was no formal agreement with WYTS's fuel supplier. Furthermore, they explained that it was more efficient for LATS buses to fuel at the private vendor's location due to the large geographic area LATS bus routes cover. However, management did not maintain evidence that the Authority explored options other than the private company for obtaining fuel. By not exploring all available options, the Authority may not be obtaining the best available rate for fuel.

Recommendations

1. Ensure subsidiaries accurately log daily fuel consumption for each bus. Periodically verify that subsidiaries reconcile the logs to the corresponding fuel supplier invoices.
2. Work with the supplier to ensure the fuel pump gauge used by STS functions properly.
3. Re-evaluate the fuel agreement for LATS with the private vendor to determine if a more competitive rate is available.
4. Establish a contract between the Authority and Wyoming County for WYTS fuel procurement aimed toward obtaining fuel at the lowest available price.

Audit Scope, Objectives, and Methodology

We audited the Authority to determine whether it is purchasing the correct type of fuel, paying the proper amount for the fuel purchased, receiving the correct amount of fuel, and keeping accurate records of the supply and distribution of fuel. The audit period covers the period April 1, 2012 through March 31, 2014.

To accomplish our audit objectives, we assessed the Authority's internal controls through inquiry, analytical procedures, observations, and reviews of fuel inventory records and delivery and disbursement reports. In this process, we tested selected transactions to determine whether controls were functioning as intended. In addition, we interviewed Authority management and staff, and reviewed applicable guidelines. We also reviewed Board and Committee meeting minutes.

We reviewed a sample of 101 fuel purchases totaling approximately \$564,000 for the eight subsidiaries. We selected every purchase for the two months of February and March 2014 and a random sample of purchases from April 2012 through January 2014. For the samples, we assessed whether the Authority paid a reasonable amount for the fuel based on contracted rates. We also compared the rates paid by the Authority to the OGS fuel contract rates. In addition, we tested the reliability of the Authority's fuel tracking system by comparing system reports to source delivery documents.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Reporting Requirements

Preliminary findings were provided to Authority officials for their review and comment. The Authority declined to respond to the preliminary findings. Therefore, we could not consider their response when writing the draft report. We request that Authority officials submit a formal written response to our findings and recommendations within 30 days of the date of this draft report. Those comments will be considered in preparing the final report and will be attached in their entirety at the end of that report.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Authority's Chairman shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Major contributors to this report were Brian Reilly, Mark Ren, Kathleen Hotaling, James Boudreau, and Robert Horn.

We thank the management and staff of the Authority for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

John F. Buyce
Audit Director, CPA, CIA, CFE, CGFM

cc: W. Carpenter, RGRTA Chief Executive Officer
S. Adair, RGRTA Chief Financial Officer
NYS Division of the Budget



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Performance Incentive Program

**Rochester-Genesee Regional
Transportation Authority**

DRAFT



Executive Summary

Purpose

To determine whether the Rochester-Genesee Regional Transportation Authority's Performance Incentive Program uses reasonable criteria to measure employee performance and whether incentive awards are warranted and justified. Our scope period covers April 1, 2011 through March 31, 2014.

Background

The Rochester-Genesee Regional Transportation Authority (Authority) provides public transportation services in Monroe, Genesee, Livingston, Orleans, Wayne, Wyoming, and Seneca counties. Since 2005, the Authority has had a Performance Incentive Program (Program) to reward its employees for meeting performance goals. A series of legal opinions and directives issued by various State oversight agencies provide guidance for public authorities regarding performance incentive programs which, among other things, must be directly tied to the services each employee renders. Over the three fiscal years 2011-12 through 2013-14, the Authority distributed a total of \$1.8 million for almost 1,000 incentive awards.

Key Findings

- The Program, by design, directed the bulk of incentive awards to upper management. Upper management received about \$1 million, or a 57 percent share, of the total awards while accounting for less than 3 percent of the workforce.
- Over the scope of our audit, the Authority progressively transitioned the Program to one based exclusively on collective performance. Upper management's incentives were not linked to specific work they performed. Further, for the employees sampled for review, we often found that the Authority did not maintain documentation supporting how the employees met or exceeded performance criteria.
- In comparison to other Upstate New York transportation authorities, the Authority awarded its executives the largest incentive awards by far, even though it already compensates its executive team at levels that often exceed those of its peers. Based on our comparison of these authorities' ridership and financial statistics, we identified no compelling reason for the Authority's higher incentive payments.
- During our audit, we provided preliminary reports to Authority officials that questioned the justification for upper management's large incentive awards. Executive management refused to provide a written response to our findings. Subsequent to our fieldwork, we learned the Authority has scaled back the Program for 2014-15, but continues to direct most of the funds to upper management.

Key Recommendations

- Establish performance measures for Program award eligibility that are clearly differentiated from employees' normal job duties and are tied to individualized effort, not collective performance.
- Ensure any Program policy decisions are supported by appropriate comprehensive research and empirical data, including analysis of operating trends and comparison with other transportation organizations. For transparency purposes, make this information available for public scrutiny.

Other Related Audit/Report of Interest

Rochester Genesee Regional Transportation Authority: Management of Employee Overtime (2009-S-103)

DRAFT

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

Mr. James H. Redmond
Chairman
Rochester-Genesee Regional Transportation Authority
1372 East Main Street
Rochester, NY 14609

Dear Mr. Redmond:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Performance Incentive Program*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of Public Authorities Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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Background

The Rochester-Genesee Regional Transportation Authority (Authority) provides public transportation services in Monroe, Genesee, Livingston, Orleans, Wayne, Wyoming, and Seneca counties. The Authority employs roughly 835 employees. Over half of the Authority's annual budget comes from government subsidies, which totaled about \$45 million for the 2012-13 fiscal year, \$33 million of which came from the State. The Authority is governed by a 13-member Board of Commissioners (Board) appointed by the Governor. The Board is responsible for monitoring the Authority's overall management; overseeing the actions of its Chief Executive Officer (CEO); and establishing policies related to qualifications, duties, and payment of salaries and other compensation for all Authority executive employees. The CEO heads the Executive Management Team, which is responsible for the Authority's overall administration, management, strategic planning, and operation.

The Public Authorities Law (PAL Title 11-B, Section 1299-GG) gives the Authority power to prescribe employees' duties and qualifications and to fix and pay their compensation. Since 2005, the Authority has had a Performance Incentive Program (Program) in place to reward employees who meet performance goals with payments in excess of their normal salary or wages. Presently, there are no direct provisions in State Law that specifically allow public authorities to implement performance incentive programs. In fact, under Article VII, Section 8(1) of the State Constitution, additional pay to public employees for work already rendered and fully compensated (e.g., a bonus) constitutes a gratuity and an improper gift of public moneys. However, this constitutional provision only applies directly to State agencies, and not to public authorities.

Guidance for public authorities regarding performance incentive programs has instead developed through the application of a series of legal opinions and directives issued by various State oversight agencies. The Authority cites these Opinions as the guideline it follows for structuring its Program. Specifically:

- In 2000, State Comptroller's Opinion #2000-9 was issued based upon a request for interpretation pertaining to a local industrial development agency. This Opinion, upon which succeeding Opinions and directives have been based, concluded that an industrial development agency does not have statutory authority to make gifts to its officers and employees.
- Similarly, New York Attorney General Opinion 2007-F4 states that the ability to make gifts of assets would not directly relate to the powers, duties, or purposes of an authority.
- Finally, a subsequently issued Recommended Practice from the Authorities Budget Office (ABO) cites the Attorney General Opinion in concluding that authority funds may not be spent in support of the private or personal interests – or to the benefit of – directors, management, or staff.

These Opinions include the premise that additional pay will not be considered a gift if it is actually a pre-determined amount withheld until the end of a pre-specified work period (e.g., quarterly) and then paid as a reward for meeting certain performance criteria. Under these circumstances,

the Opinions indicate additional pay is allowed if paid under a formal employee performance incentive program that meets certain specific criteria, as follows:

- Employees' total compensation, including their salary or wages and additional pay, should be directly tied to the services they each render.
- A performance evaluation process with specific, fixed performance criteria must be in place prior to the start of the specified service period;
- These criteria must be disclosed to all eligible employees beforehand;
- Eligible employees must also be made aware of the corresponding dollar amounts of additional pay for meeting the criteria; and
- The appropriate supervisors should then determine at the end of the work period whether the employees met the specified performance criteria and, if so, whether they are eligible for all or a portion of the additional pay.

Under the Authority's Program, employees' performance goals are set at the department level, with the exception of the CEO and upper management, which is comprised of the Executive Management Team and department heads. Eligibility goals for these employees are set by a Compensation Committee of the Board and by the CEO, respectively. Authority employees' quarterly and/or annual incentive award eligibility are generally tied to collective organizational goals developed as part of the Authority's five-year capital program plan, the development of which is also required under the PAL. Under this planning process, the Authority must annually develop goals and benchmarks for several performance measures including ridership, on-time performance, and operating revenue-to-cost ratios. To this end, each year the CEO and Executive Management Team also develop goals for financial stability, customer satisfaction, service quality, and employee success. Once approved by the Board, these goals are formalized as the Authority's Transit Organization Performance Scorecard (TOPS) objectives and issued in its annual Comprehensive Plan (Plan) for the Authority.

During our audit period, the Program used a sliding scale of incentive payment award levels keyed to a percentage of base salary for most participating employees. However, some employees (e.g., certain unionized staff in the lowest tier) were only eligible to receive a flat award amount. For the three years ended March 31, 2014, the Authority paid a total of \$1.8 million in incentive awards to roughly 315 to 350 employees each year: \$629,776 in 2011-12; \$584,638 in 2012-13; and \$594,848 in 2013-14. Two of the Authority's employee unions do not participate in the Program at all, one of which accounts for more than half of all Authority staff.

Audit Findings and Recommendations

We examined payments made under the Authority's Program, which totaled \$1.8 million over the three-year audit period. Our tests showed that the payments were made to eligible Program participants who met the established Program criteria, and that the payments were calculated in a manner consistent with Program provisions. However, management has designed the Program in such a manner as to direct a disproportionate share of funds to a small number of executives who already appear to be fairly compensated. Further, although we determined that the Program met most of the attributes required under the various Opinions, we found that in recent years the design of the Program has incrementally strayed further from the goal of rewarding exceptional individual performance.

During our audit scope period, encompassing the 2011-12 through 2013-14 fiscal years, the Authority experienced losses in ridership and net profits, yet distributed a total of \$1.8 million in performance rewards. Furthermore, upper management awarded themselves approximately \$1 million of this amount, resulting in a 57 percent share of all funds being allocated to less than 3 percent of the workforce. Over the period of our audit, the Authority has also progressively transitioned the Program to one based exclusively on collective performance as defined by the Authority's TOPS goals, and not individual performance, as noted in the Opinions. Further, for the employees sampled for review, we often found that the Authority did not maintain documentation supporting how the employees met or exceeded performance criteria.

Over half of the Authority's annual budget comes from Federal, State, and local subsidies, which totaled approximately \$44.7 million for 2012-13; State funds account for 74 percent of this amount (\$33.3 million). Given this dependence on substantial government funding, the Board and Executive Management Team have a fiduciary responsibility to ensure spending is reasonable, necessary, transparent, and in the best interest of the Authority and that State funding is used effectively and efficiently. Management was often unable to provide sufficient documentation supporting individual award decisions, and with this lack of transparency there is little assurance that public moneys were used in compliance with the guidance provided in the Opinions about additional pay.

Distribution and Amount of Bonuses

As detailed in Table 1, over the three fiscal years ended March 31, 2014, the Authority distributed a total of \$1.8 million for almost 1,000 incentive award payments to employees. Upper management of the Authority, who comprise about 3 percent of staff, received a disproportionate share of these payments: about \$1 million, or 57 percent of the funds distributed. By contrast, unionized employees, who make up over 70 percent of the workforce, received a total of \$302,109, or about 17 percent of the total.

Table 1

Award Range	FY 2011-12		FY 2012-13		FY 2013-14	
	Upper Mgmt.	All Other Staff	Upper Mgmt.	All Other Staff	Upper Mgmt.	All Other Staff
> \$35,000	3	0	3	0	1	0
\$25,000 to \$35,000	4	0	2	0	3	0
\$15,000 to \$25,000	3	0	1	0	4	0
\$15,000 to > \$7,500	4	0	8	0	8	2
\$7,500 to > \$5,000	3	2	3	0	6	3
\$5,000 to > \$2,500	1	23	8	18	0	25
\$2,500 to > \$1,000	2	65	1	82	0	52
≤ \$1,000	1	205	0	209	0	243
Subtotals	21	295	26	309	22	325
Total No. Awards	316		335		347	

Two of the Authority's employee unions do not participate in the Program, one of which represented 487 employees in 2012-13 – more than half of all Authority staff. In previous public statements, union leaders have expressed concerns about Authority upper management's large incentive awards and questioned the merit behind them.

We examined awards paid to 21 employees, including 17 upper management employees who received the largest annual Program awards. We examined Program case records and documentation related to these awards, which totaled \$716,911 (40 percent of all Program awards), to determine whether the Opinions' guidelines for additional pay had been met prior to payment. We found that over 90 percent of the awards sampled were tied directly to collective TOPS goals, not to individual performance. Contrary to the 2012 Program guidance, which recommended that outstanding grades be given only for exceptional individual performance, most awards – even in the earlier years – were made solely because the Authority had reached specific collective TOPS goals.

While reviewing sampled awards, we found that the type of performance criteria used had been inconsistently applied among Program participants during the first two years of our audit period. Specifically, while some employees' awards were tied to a combination of specific tasks and collective goals, Executive Management Team awards were exclusively linked to collective TOPS goals every year. By 2013-14, all of the sampled awards were tied to TOPS goals, and none included specific tasks that were clearly differentiated from employees' normal job duties. We also noted that 90 percent of the time employees received the largest award for which they were eligible.

In many cases, sampled employees' performance evaluations only documented the specific

TOPS scores that award eligibility was based upon and the calculation of the award amount. The evaluations did not indicate exactly how the employees' efforts impacted the TOPS score(s). In addition, we often found that the Authority did not maintain documentation supporting how the sampled employees met or exceeded the performance criteria, and in numerous cases did not maintain evidence that the performance criteria were discussed with employees prior to the start of the award period, as the Opinions require. Authority officials stated that, due to changes in the administration during our audit period, they had problems locating Program documentation supporting employees' awards for the earlier years.

Award Eligibility Criteria

Ideally, incentive award eligibility should be based on individual merit, as measured and supported by employee performance evaluations. To this end, the Opinions require that employees' incentive awards be linked to meeting clearly defined performance goals beyond the expected job duties for which they are already compensated. As such, evaluations should contain a statement of work activities to be rewarded and the amount of financial reward associated with those activities. However, we found Program awards, particularly those paid to upper management, were not linked to specific work the employees performed. Furthermore, throughout the course of our audit period, the Executive Management Team significantly changed Program policies and procedures, each year straying further from the Opinions' advice on additional pay.

We found that the Authority did not have formal Board-approved procedures in place governing its Program until April 2013. Instead, at the beginning of our audit period in 2011, specific eligibility and award instructions were contained in less formal Program guidelines that followed earlier informal policies originally developed in 2005. These guidelines required that specific performance criteria be disclosed to employees prior to the eligibility period; the performance goals be challenging, yet attainable and measurable; and award payment only occur after supervisors verified that employees' work met the criteria. A March 7, 2011 memo to department heads from the Chief Administrative Officer supported these guidelines, and reinforced the intent that exceptional individual performance be the basis for awards. The memo discouraged department heads from giving all employees the same wage increase, noting that all employees do not contribute the same way, and suggested outstanding grades be given only to those employees who "truly perform at the highest levels."

The following year, in 2012, the Authority implemented the new four-tier structure, which established award amounts tied to employees' base salary. Under the Tier structure, eligible employees could receive incentive awards at different levels based upon their job title and function, as detailed in Table 2. A 2012 policy issued by the Executive Management Team indicates that the goal of the new Tier structure was "to reward those whose work most directly influences the achievement of company goals."

Table 2

Tier	Class of Employee	No. of Eligible Members*	Available Incentive
1	Executive Management Team	5 to 7	20 to 25% of Base Salary
2	Leadership Team (e.g., Department Heads)	14 to 20	10 to 15% of Base Salary
3	Key Decision Makers	about 50	10% of Base Salary
4	Other Contributors	225+	Union Contract Amount or Flat Rate up to \$500/yr.

*Range of eligible employees across the three years audited.

By the end of our audit period three years later in 2014, the Program policy had been revised to establish collective achievement of TOPS goals as the primary basis for awards to the almost total exclusion of individual performance. In fact, a June 20, 2013 addendum to the Program guidelines specifically states that employees should receive incentive awards if their relevant TOPS goals are met “regardless of their individual performance.” At the same time, the Program, by design, directed the bulk of incentive awards to upper management.

In our discussions, officials maintained their position that the Authority follows State requirements for incentive programs. They emphasized that these State requirements are vague and, in their opinion, do not prohibit the Authority from making awards tied to attaining collective organizational goals. In June 2013, Authority management hired an independent accounting firm to evaluate administration of the Program for the year ended April 30, 2013, and the consultant reported no exception to its design. However, we found the extent of this firm’s review of the Program was limited to performing a set of agreed-upon procedures dictated by management, and it accordingly disclaimed any opinion on the sufficiency of those tests.

Specifically, we found that the firm’s review of the Program design was limited to reading the Program description outlined in the Authority’s most recent Comprehensive Plan in comparison to the gift prohibitions contained in the State Constitution and certain of the Opinions. We also note that Authority management dictated the specific Program aspects that would be tested for compliance; that the firm did not evaluate the appropriateness of the Program’s methodologies for calculating award payments; and that it conducted very limited testing related to upper management’s Program awards.

Given the Program’s goal of “rewarding those whose work most directly influences the achievement of company goals,” we agree that organizational goals could be a factor in determining award eligibility for upper management. However, TOPS goals should not be the sole determinant of award eligibility, especially for the majority of employees whose individual efforts do not tangibly

impact TOPS' critical success indicators.

TOPS, by design, is not intended to account for individual employee performance. Rather, the Authority uses this system to track and report its progress in attaining specific financial and non-financial strategic goals in its annual Plan. TOPS assigns performance metrics and point values for financial sustainability, customer service, service performance delivery, and employee success, which are measured based on one or two specific "critical success indicators." For example, net income is the critical success indicator for financial sustainability, and ridership growth is the critical success indicator for customer service. While upper management's decisions and individual work efforts likely had an influence on TOPS' critical success indicators, the connection is still not clear in terms of how and to what extent. Some individual members of upper management may have done extra work that impacted the indicators, while some may not have done additional work.

Authority performance data indicates that between 2011-12 and 2012-13 annual ridership declined by 1.3 percent, operating revenue declined by \$100,000, and operating expenses increased by \$3.4 million. As documented in the minutes from the November 9, 2011 Board meeting, the Board eased a number of TOPS goals for 2012-13 after failing to meet them the year before – including goals related to net income and ridership growth. The Board determined the goals were not met because they were either too high, not realistic, or inappropriate. Despite these negative trends, the Authority reported that 2012-13 marked its fifth consecutive year of exceeding performance goals and, as a result, distributed \$584,638 in Program awards.

The 2013-14 Plan projected the Authority's revenue growth would continue lagging behind expenses for the next four years, in large part because of slow economic growth within the region. As such, the Plan projected the Authority's net deficit will continue to increase, reaching a high of \$10.4 million in 2016-17. In light of the challenging economy, it is understandable that companies experience losses. However, considering the difficult financial environment RGRTA is working under, we question the appropriateness of awarding large bonuses to executives based solely on TOPS goals.

Comparison With Other Upstate New York Transportation Authorities

The Authority's large incentive awards to upper management could possibly be justified if it was found that comparable authorities paid their own upper management more in base salary and incentives, and the Authority used the performance incentives as a means to make its management's compensation competitive with that of their peers. Therefore, to assess the reasonableness of the Authority's awards, we compared them with those of the three other Upstate New York transportation authorities: Central New York Regional Transportation Authority (CENTRO), Niagara Frontier Transportation Authority (NFTA), and Capital District Transportation Authority (CDTA). We found that the Authority awarded its executives the largest incentive awards by far, even though it already compensates its executive team members at levels that often exceed those of its peers.

An analysis of executive management salaries commissioned by the Authority in 2012, and including a comparison of base salary rates at similar-sized transit authorities nationwide,

showed that in 2011 the Authority paid its executives similarly as its peers. This analysis also compared 2011 Program payments with those of local tax-exempt organizations and they too compared favorably, although we question the usefulness of such a comparison given that public authorities and not-for-profits are distinctly different entities. Instead, it is more valid to assume that the responsibilities and compensation packages of the Authority's upper management are more comparable to those of other Upstate New York transportation authorities than to private corporations.

We compared the Authority's awards with those made by CENTRO, NFTA, and CDTA. Based on data reported to the State's Public Authorities Reporting Information System (PARIS) for 2011-12 and 2012-13, no CDTA or CENTRO employee received an award of more than \$1,500. Further, no NFTA employee received an incentive award over \$5,000. Instead, most NFTA incentives were small payments to operational staff. We also compared the salaries of ten of the highest paid management positions at the Authority and similar positions at CENTRO, NFTA, and CDTA, and found the Authority almost always paid these employees higher base salaries. Therefore, it seems highly unlikely the Authority used the performance incentives as a means to make its management compensation package competitive with that of its peers.

When discussing the large differences in awards given by the Authority compared with the other three authorities, officials suggested that we needed to consider other important performance indicators, such as available cash on hand. However, they could not provide any statistical data to support that the Authority significantly outperformed these peers. Based upon our review of all four authorities' reported ridership, on-time performance, and operating revenue-to-cost statistics, we identified no reason for the great disparity in performance awards given by the Authority compared with those by CENTRO, NFTA, and CDTA. Generally, the Authority's performance was consistent during the period and similar to that of the other three authorities. Without compelling research and performance documentation to support the Authority's basis for incentive award eligibility, the Program's award process is not transparent, which ultimately calls into question the propriety of awards.

Conclusion and Subsequent Events

During our audit, we provided preliminary reports to Authority officials in which we questioned, among other things, the Authority's justification for upper management's large incentive awards in light of several important factors, including:

- The vast difference in base pay and incentive payments provided to Authority staff compared with their Upstate counterparts;
- The Authority's declining net income trends and its continuing fiscal challenges; and
- The Program's reliance on collective organizational goals to the virtual exclusion of individual performance in determining award eligibility.

Executive management refused to provide a written response to any of our findings or discuss these matters in detail as part of our exit conference. As a result, absent proper justification for upper management's large awards, it is not apparent how they represent payments for

performance that is above and beyond the work for which these employees had already been fully and fairly compensated, as would be required under the Opinions. We also conclude the Board and Executive Management Team have failed to responsibly fulfill their fiduciary duties for managing and overseeing the Program, and ensuring that spending is transparent, reasonable, and necessary.

In late August 2014, subsequent to our exit conference, news reports announced that the Authority had significantly scaled back its incentive award program for 2014-15. Under the revised Program (entitled the Annual Variable Pay Plan [or Plan]), the Authority has reportedly eliminated eligibility for roughly 75 percent of staff who formerly participated. Lower-level staff participation has been all but eliminated, except for certain unionized staff as mandated by contracts. Instead, the Plan continues to focus payments primarily at higher level management employees, although the amount of the potential awards had been reduced, as illustrated in Table 3.

Table 3

Tier	Class of Employee	Potential Incentive Award	
		Prior Years	2014-15
1	Executive Management Team	20 to 25% of base salary	12% of base salary
2	Leadership Team (department heads)	10 to 15% of base salary	5 to 7% of base salary
3	Key Decision Makers (managers)	10% of base salary	4% of base salary
4	Other Contributors	Flat Rate	Flat Rate

Although the Plan appears to have been approved by the Board in April 2014, officials never shared this document with our auditors, who were on site into August 2014 (or four months after the Plan was approved by the Board). We view this as another example of management's lack of transparency surrounding Program payments.

Recommendations

1. Establish performance measures for Program award eligibility that are clearly differentiated from employees' normal job duties and are primarily tied to individualized effort, not solely to collective performance.
2. Ensure that Program policy decisions are supported by appropriate comprehensive research and empirical data, including analysis of operating trends and comparison with other transportation organizations. For transparency purposes, make this information available for public scrutiny.

Audit Scope and Methodology

We audited whether the Authority's Performance Incentive Program uses reasonable criteria to measure employee performance and whether incentive awards are warranted and justified. Our audit covered the period April 1, 2011 through March 31, 2014.

To accomplish our audit objectives, and determine whether associated internal controls were adequate over the authorization and payment of incentive awards, we interviewed Authority management and staff, examined Program records and Board and Committee minutes, and reviewed relevant State laws and legal opinions. We reviewed all relevant Program descriptions, internal memorandum, policies, and procedures provided by the Authority. Also, we compared source payroll records with Program payment database information to verify the reliability of incentive payment information. To determine whether awards were similar among the Authority, CENTRO, NFTA, and CDTA, we compared all four authorities' PARIS and National Transit database payroll and performance data.

In addition, we sampled 21 employees who received incentive awards from 2011-12 through 2013-14 to determine whether their incentive payments were warranted and justified. Our sample included 17 employees who received the largest annual awards, along with four other random employees who received awards. We reviewed awards to the 21 employees totaling \$716,911 over our three-year audit scope period. We examined Program case records and other documentation to determine whether: the sampled employees were notified in advance about the Program's eligibility requirements and performance expectations; their post-period performance evaluations were approved by their supervisors; and work was assigned in addition to normal job duties. We also noted when incentive awards were made but evidence of actual performance was missing. In addition, we assessed whether incentive award amounts were proper based upon Program procedures and the evidence of work performed. To determine whether Program payment records adequately account for all incentive awards, we also sampled ten employees who received large other compensation or extra payments during our audit period. We reviewed Authority records to confirm that these payments were not actually employee incentive awards.

As is our practice, we requested that auditee officials submit a letter of representation. The purpose of the letter of representation is to affirm that all relevant records and related data have been made available for audit. Officials further affirm that either all applicable laws, rules, and regulations have been complied with, or any exceptions and material irregularities have been disclosed to the auditors. The letter of representation is also intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. However, Authority officials have not provided a representation letter in connection with this audit. We therefore question the reliability of the information we received during the course of our audit. As previously noted, Authority officials did not provide us with the Annual Variable Pay Plan (approved by the Board in April 2014), although auditors were on site into August 2014.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient,

appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

Our audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of Public Authorities Law.

Reporting Requirements

Preliminary reports of the matters presented in this report were provided to Authority officials for their review and comment. However, the Authority declined to provide written responses to our preliminary reports, and gave very limited verbal feedback about our findings. At the audit's closing conference, officials indicated the Authority would defer any comment and provide feedback only in response to our draft report.

We request that Authority officials submit a formal written response to our findings and recommendations within 30 days of the date of this draft report. Those comments will be considered in preparing the final report and will be attached in their entirety at the end of that report.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Rochester-Genesee Regional Transportation Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.