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[Misuse of Federal Mass Transit Funds by a Federal Employee]. CED-78-78; B-169491. March 30, 1978. 13 pp.

Report to Rep. John L. Burton, Chairman, House Committee on Government Operations: Government Activities and Transportation Subcommittee; by Elmer B. Staats, Comptroller General.

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Authority: Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601). Housing Act of 1950 (12 U.S.C. 1749). Government Corporation Control Act (31 U.S.C. 841). Accounting and Auditing Act of 1950 (31 U.S.C. 66). General Accounting Office Act of 1974. P.L. 93-604. 31 U.S.C. 65.

The Urban Mass Transportation Administration's (UMTA's) accounting, auditing, and administrative controls were reviewed because of the diversion of Federal funds by an employee. The review also involved the approval of UMTA's accounting system and UMTA's hiring practices. During 1977, a Federal employee diverted more than $856,000 of Federal mass transportation funds by placing his name on official payment vouchers authorizing the U.S. Treasury to issue checks. Inadequate review of the vouchers at the time of certification and the employee's access to all pertinent documents directly contributed to the diversion of funds. In addition, the employee was permitted to work unscheduled and unsupervised hours; he was authorized to act as a special messenger for the accounting division; and he was assigned continuous responsibility for the same grant projects. The employee pleaded guilty to one count each of mail fraud and forgery and was sentenced to 6 years in prison. Cash and other assets acquired with the misused funds were recovered. UMTA is not considered an executive agency under 31 U.S.C. 65a and is excepted from accounting systems approval by GAO. The Department of Transportation has acted in accordance with requirements by the Civil Service Commission for the hiring of rehabilitated offenders and in promoting such employees. (RRS)

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

RELEASED
5/1/78

B-169491

The Honorable John L. Burton
Chairman, Subcommittee on
Government Activities and Transportation
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

Your September 16, 1977, letter stated that the accounting and auditing procedures of the Urban Mass Transportation Administration (UMTA) appeared to contribute to the misuse of Federal funds by a Federal employee. You asked us to review UMTA's accounting, auditing, and other administrative controls particularly as they related to the conditions which enabled the funds to be diverted. You also expressed concern that UMTA's accounting system was not approved by us. You further inquired about UMTA's personnel practices, particularly as they related to hiring employees with both ability and integrity.

In carrying out our review, we interviewed appropriate UMTA and Department of Transportation officials and reviewed relevant documents. We also met with Secret Service officials who investigated the case and with the Assistant U.S. Attorney in charge of the criminal proceedings.

The following sections address

--the diversion of Federal funds, the weaknesses which permitted the diversion, and the actions taken or planned to correct those weaknesses;

--the approval of UMTA's accounting system; and

--UMTA's hiring practices.

THE DIVERSION OF FEDERAL FUNDS

During the spring and summer of 1977, a Federal employee diverted more than $856,000 of Federal mass transportation funds by placing his name on official payment vouchers authorizing the U.S. Treasury to issue checks. As a result, six Treasury checks were issued bearing the employee's name and home address.

The diversion of funds was discovered when officials at the Maryland bank, where the employee established himself as a contractor for the Department of Transportation, became suspicious of the employee's personal check activity (both in terms of payees and amounts involved) and notified the Secret Service. After contacting the Department and finding that he was not entitled to these funds, the Secret Service began the investigation which led to his arrest.

Inadequate review of the vouchers at the time of certification and the employee's access to all pertinent documents directly contributed to the diversion of funds.

Procedures for payment of mass transit funds

UMTA, one of seven operating administrations of the U.S. Department of Transportation, carries out the Federal mandate to improve urban mass transportation. UMTA provides Federal financial assistance to urban areas (and to some excent, nonurban areas) to help plan, develop, and improve comprehensive mass transportation systems. The agency is authorized to make grants or loans to State and local public bodies and agencies. Most of UMTA's assistance involves capital grants which assist in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for mass transportation services.

After a capital grant is awarded, the grantee generally submits a request for funds on a periodic basis until all grant funds are disbursed, which may take several years. The majority of UMTA's disbursements reimburse the grantee for expenditures made.

From May through July 1977, an UMTA employee diverted capital grant funds totaling $856,557.72. During this time, the UMTA requisition cycle for the disbursement of such funds was composed of three parts--UMTA's Office of Grants Assistance, UMTA's accounting division, and the Department of the Treasury. The requisition cycle included the following steps.

UMTA's Office of Grants Assistance:

--The grantee's capital grant requisition package was forwarded to this office.

--A clerk time stamped the grantee's letter and the requisition form, logged in the requisition,

assigned a 7-working-day suspense period for completion of all actions by the office, and handcarried the forms to the project management specialist responsible for the geographic area involved.

--The project management specialist reviewed the requisition package and the project folder, which included the grant contract, to insure that (1) the requestor was entitled to the payment, (2) the costs appeared reasonable, and (3) the forms were mathematically accurate.

--The geographic division chief, or the Director of the Office of Grants Assistance for requests of $1,000,000 or more, reviewed the requisition package and approved payment by signing and attaching a requisition package cover memo.

--The requisition package was returned for the clerk to date stamp the cover memo, log out the requisition, and forward it to the accounting division.

UMTA's accounting division:

--A clerk stamped the date received on the cover memo amd gave the requisition to the appropriate financial assistant (the position held by the employee).

--The financial assistant pulled the project history folder and reviewed the requisition package. He checked for the appropriate signature from the Office of Grants Assistance, determined that the request did not exceed the grant balance, made certain that the requisition reflected the terms of the grant contract, confirmed the mathematical accuracy of the forms, and made sure that the requisition number for the grant was correct. He then posted the new grant balance in the project history folder and handcarried the requisition package, including the project folder, to the certifying officer.

--The certifying officer reviewed the package to insure that all appropriate actions had been taken up to that point and that approval of the request would result in a legal payment. He

initialed the requisition cover memo and returned the package to the financial assistant.

--The financial assistant grouped capital grant requisitions (up to 10 could be included on each SF 1166 "Voucher and Schedule of Payments"), ran a tape total, and handcarried the requisition (without the project folder) and the tape to the clerk/typist.

--The clerk/typist prepared an SF 1166 (which consisted of an original and four copies) listing approved payees, the amount due each payee, and the total of all payments on the voucher. The clerk/typist also ran a tape total and handcarried the tapes, the SF 1166, and the corresponding requisitions to the certifying officer for signature.

--The certifying officer performed a cursory review of the SF 1166 and supporting documents, including grantee requisitions and Office of Grants Assistance cover memos. He then signed the SF 1166, which authorized the Treasury to issue checks to each payee, and took all material to the clerk/typist. (A certifying officer must be sure that each item he certifies for payment is legal, proper, and correct as required by 31 U.S.C. 82(c)).

--The clerk/typist distributed the SF 1166. The original and the first copy were mailed to the Treasury. However, if there was a reason to expedite the payment, the original and first copy were given to a financial assistant who would deliver the forms to the Treasury and return the first copy to UMTA. The other three copies were (1) used for input to UMTA's automated information system, (2) retained in an "at Treasury" file, and (3) retained in the typing file.

--When UMTA received the "paid" copy of the SF 1166 from the Treasury, the clerk/typist compared its schedule number with the copy filed in the "at Treasury" file. The "at Treasury" file copy was destroyed as confirmation that payment had been made. The "paid" copy was placed in the SF 1166 folder and filed.

Department of the Treasury (Washington Disbursing Center):

--A clerk forwarded all SF 1166s to the special payments section where a voucher examiner reviewed the form for completeness.

--The SF 1166 was electronically scanned. As this was done, the information was recorded on magnetic tape. The magnetic tape was the basis for issuing a check in the amount specified to every payee listed on the voucher.

--The original SF 1166 was stamped "paid" and retained for filing.

--The copy, also stamped "paid," was returned to UMTA by mail or by messenger.

--A Treasury check was mailed directly to the address listed and in the amount on the SF 1166.

In addition, UMTA submitted a SF 224 "Statement of Transactions" to the Treasury Department on a monthly basis. This form, which listed all UMTA disbursements for that period, was compared by Treasury officials to their records and attempts were made to reconcile differences.

How the diversion was accomplished

The employee diverted the funds by placing his name and home address on six SF 1166s which authorized the Treasury to issue a check to each payee listed (including himself) in the amount listed. The dates and amounts of the checks were:

Date	Amount
5/16/77	$ 55,916.47
6/07/77	97,869.31
6/17/77	99,612.00
6/29/77	99,783.60
7/18/77	187,602.34
7/29/77	315,774.00
	$856,557.72

The possibility that the employee forged the certifying officer's signature was dismissed because the certifying officer told Secret Service agents that each of the six SF 1166s bore his signature. A Secret Service examination of the six SF 1166s confirmed this.

It is unclear at what point the employee's name was typed on the SF 1166. In each instance, it may have been on the voucher when signed by the certifying officer or it may have been added after the voucher was signed. The employee stated in court that, in each instance, his name appeared on the SF 1166 when signed by the certifying officer. However, the court records noted that there was circumstantial evidence to the contrary. The doubt arose because the employee's name was not perfectly alined with the payees listed above it, indicating that he may have added it after the form was signed. Nevertheless, the diversion succeeded due to an inadequate review of the six SF 1166s by the certifying officer.

It is equally unclear what supporting documentation was submitted to the certifying officer for the approval and authorization of each payment. However, altered requisitions for payments previously approved were found as support for three of the six transactions.

Further, although not done uniformily, the employee attempted to camouflage some of his illegal diversions by altering certain UMTA file copies of the SF 1166s (including those returned by Treasury). These altered copies showed the Metropolitan Atlanta Rapid Transit Authority as payee. However, the employee's actions did not divert any funds due the authority because, while the authority has been awarded UMTA capital grants, it had not requested these particular payments.

Weaknesses which permitted the diversion to occur

UMTA's grant payment procedures and related system of accounting controls contained weaknesses which permitted the six vouchers to reach Treasury with an invalid payee on each schedule. The following factors directly contributed to the diversion:

--The employee had access to all capital grant records within UMTA's accounting division and to the SF 1166s before and after being signed by the certifying officer. As a result, he had the opportunity to type the SF 1166s and to alter, substitute, and manipulate all payment documentation.

--In six instances the certifying officer either did not detect the employee's name listed on a SF 1166 submitted to him for review and signature or did not detect the incompleteness and overstated total on the voucher, thus permitting the employee to add his name and the desired amount to an authorized SF 1166 without otherwise altering the document.

In addition, the following may have contributed to the diversion:

--The employee was permitted to work unscheduled and unsupervised hours.

--The employee, as well as the other financial assistants, was authorized to act as a special messenger for UMTA's accounting division. As such, he was permitted to handcarry SF 1166s to the Treasury and handcarry "paid" copies of SF 1166s back to UMTA.

--The employee was assigned continuous responsibility for the same grant projects.

--A comparison of the payees on the "paid" copy of the SF 1166 returned from the Treasury with those listed on the "at Treasury" copy was not required or performed.

Actions taken to correct system weaknesses

The Department of Transportation's Office of Audits initiated a review to determine what weaknesses in UMTA's grant payment procedures and related system of accounting controls may have permitted or facilitated the diversion. Their review resulted in a September 1977 report which highlighted many of the above weaknesses.

In response to the Office of Audits' report, UMTA made a number of changes to prevent a similar occurrence in the future. These changes include:

--Establishing an accounting control unit to monitor the financial documents entering the accounting division. Its duties include manual recordkeeping for all incoming requisitions and outgoing SF 1166s, entering data into UMTA's automated information system, and comparing payees listed on the "paid" copy of each SF 1166 returned by the Treasury with those listed on the "at Treasury" file copy retained at UMTA.

--Hiring a new certifying officer whose sole responsibility is to authorize payments. At the time of the diversion, the former certifying officer had other duties as chief of the fiscal services branch in UMTA's accounting division. He was relieved of his certifying duties but continues to perform other functions.

--Having the certifying officer personally mail or handcarry, if necessary, all SF 1166s to the Treasury Department.

--Revoking authorization for financial assistants to act as special messengers.

--Disallowing paraprofessional or clerical employees to work after normal hours without a supervisor present.

An interim report on a second phase of this review is scheduled for completion by the end of March 1978. This second phase is to determine if any additional funds were diverted from 1973 through 1977 (the period the employee worked for UMTA).

In addition, the Department's Office of Management Systems conducted an indepth review of UMTA's grant payment activity to determine the adequacy of the internal controls and the corrective actions taken. The results of that review were reported to UMTA's Administrator in early February 1978. An Office of Management Systems official said that discussions with UMTA on the contents of the report will continue.

Legal and administrative actions resulting from the diversion

The Department of Justice started both criminal and civil actions against the employee. The employee pleaded

guilty to one count each of mail fraud and forgery (making false statements on Government documents) and was sentenced to 5 years in prison. Cash and other assets acquired with misused funds were recovered through the civil action.

Our Office has recently taken exception to the accounts from which the improper payments were made. Under 31 U.S.C. 82(c), a certifying officer can be held liable for any erroneous payments made pursuant to improperly certified vouchers and not otherwise recovered.

Conclusions

UMTA has made and is making changes which should strengthen its grant payment procedures The actions taken and contemplated, along with a thorough review by the certifying officer before approving payment documents, should correct the major weaknesses in its accounting and related controls which permitted the diversion to occur as it did.

ACCOUNTING SYSTEM APPROVAL

Your September 16, 1977, letter, expressed concern that UMTA's accounting system had not been approved by us. UMTA's accounting system is not subject to our approval.

UMTA was established as part of the Department of Transportation by section 3 of the President's Reorganization Plan 2 of 1968, effective July 1, 1968. This plan transferred most of the functions and programs under the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), from the Department of Housing and Urban Development to Transportation.

The general provisions section, section 12(a) of the act (49 U.S.C. 1608(a)), incorporates by reference, section 402 of the Housing Act of 1950 (12 U.S.C. 1749 et seq.). As of 1972, UMTA was subject, under section 12(a), to the Government Corporation Control Act (31 U.S.C. 841 et seq.) for auditing and budgetary purposes.

Section 66(a) of the Accounting and Auditing Act of 1950 (31 U.S.C. 66(a)) authorizes the Comptroller General to prescribe principles, standards, and related requirements for accounting to be followed by executive agencies. Section 66(b) further requires that accounting systems developed by

the executive agencies be approved by the Comptroller General. However, section 65a, in defining executive agencies states that this term "shall not include any Government corporation or agency subject to the Government Corporation Control Act * * *."

In 1972 we determined that, because UMTA was subject to the Government Corporation Control Act for auditing and budgetary purposes, UMTA was not considered an executive agency under 31 U.S.C. 65a and therefore was excepted from the accounting systems approval provisions of 31 U.S.C. 66(b).

In 1975, the Housing Act of 1950 was amended in part by section 705(b) of the General Accounting Office Act of 1974 (Public Law 93-604, January 2, 1975). As a result, UMTA is now subject to the Accounting and Auditing Act of 1950 for auditing purposes but still remains subject to the Government Corporation Control Act for budgetary purposes. In our opinion, as long as UMTA remains subject to the Government Corporation Control Act for budgetary purposes, UMTA's accounting system is not subject to our approval.

UMTA HIRING PRACTICES

Your letter also asked us to review UMTA's personnel practices for insuring that applicants have the ability and integrity for the desired position. Although we did not review all UMTA personnel practices, as agreed with your office, we did obtain general information on (1) UMTA's hiring practices and (2) the circumstances surrounding the hiring of the Federal employee in question.

An UMTA personnel official said that an applicant's competency is determined by using the requirements listed in the Civil Service Commission Manual X-118 "Qualification Standards for White Collar Positions Under the General Schedule." The manual notes, in particular, the testing, academic training, and experience required for each position. In addition, each agency may establish other qualification requirements. Finally, UMTA's Office of Personnel contacts each applicant's former employers to obtain general information about the applicant's competency, such as the ability to make sound decisions and the ability to communicate orally and in writing.

Former employers are also contacted to assess the applicant's integrity. For example, each employer is asked questions relating to the applicant's overall character. This inquiry is made whether the position is sensitive or nonsensitive, a determination made by each employing agency for each position. For sensitive positions, UMTA requires a Civil Service Commission background check on each applicant.

Should an applicant have a criminal record, as was the case of the employee in question, the Commission has additional criteria to help determine the applicant's integrity.

The Commission directed that, for all positions, each case must be judged on its own merits. The Commission and appointing officials must consider the following factors:

--Nature and seriousness of the offense.

--Circumstances surrounding the offense.

--How long ago the offense occurred.

--Person's age at the time of offense.

--Contributing social conditions.

--Whether the offense was an isolated or repeated violation.

- Any evidence of rehabilitation.

--The kind of position for which the person is applying.

These factors were designed to implement the Federal Government's policy to hire, carefully and selectively, rehabilitated offenders for jobs where they are needed and for which they are qualified by education, training, and competitive examining procedures. Civil Service Commission policy permits the hiring agency to make the final decision of whether a rehabilitated offender is right for a job.

The Federal employee in question was convicted of housebreaking in 1966 in Maryland and sentenced to an 8-year prison term. He was released on parole in March 1972. In April 1972, he was hired as a clerk/typist for a professional society in Washington, D.C., and also worked as a short-order cook.

He applied for the position of clerk/typist at UMTA in May 1973. At that time, UMTA's hiring was done by the personnel office in the Office of the Secretary of Transportation. The Department was fully aware of the applicant's criminal record because it was noted on his application forms. A strong recommendation from his parole officer was a prime factor in establishing the individual's integrity. Also, high scores on the Commission's test for the position were critical in determining his competency.

In accordance with Department policy regarding nonsensitive positions, no personal background investigation other than the standard reference check was made. The application was, however, discussed with the Department's Office of Investigations and Security. Furthermore, the former Chief of the Department's Personnel Operations Division said that the Commission's factors for hiring a rehabilitated offender were considered, but not documented.

The Department concluded that the individual was competent and possessed the integrity to perform clerk/typist duties. In September 1973, the applicant was hired as a GS-3 clerk/typist. Because his work was satisfactory, he was promoted to GS-4 clerk/typist in April 1974, and in June 1975 he was promoted to a GS-5 financial assistant. This was the position he held when he diverted the funds.

Department of Transportation and UMTA officials said that a rehabilitated offender is treated the same as all other agency personnel when being considered for a promotion unless his prior offense relates to the desired position.

Conclusions

In this instance, the Department of Transportation's Office of Personnel appears to have acted in accordance with Civil Service Commission requirements for the hiring of rehabilitated offenders and the Department's policy regarding background investigations. Further, UMTA's Office of Personnel appears to have followed Department policy when promoting the Federal employee in question.

At your request, we did not take the additional time to obtain written comments from the Department of Transportation. However, we discussed the matters in the report with responsible officials and considered their comments where appropriate. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Elmer B. Staats

Comptroller General
of the United States