

Compliance With Statutes and Regulations

The MTA works within a framework that provides safeguards that actions of the Board and Management team are in compliance with the laws and regulations. The following is a list of important structural elements of this framework. It was not within the scope of this review to evaluate the effectiveness and degree of compliance associated with each of these elements. We did, however, see some of these in operation and have made comments as appropriate.

- The structure of the board whereby an independent Secretary/Attorney reports to the Board and sits with the Board at its meetings. The Secretary is called upon by the Board or management to render formal and informal opinions.
- Professional knowledge and judgement of the management team. The management team consists of individuals with years of experience in the transit industry.
- The oversight of the management and administration by McDonald corporate officers
- Metro's purchasing department relationship with MTA. Director of MTA purchasing is a Metro purchasing professional.
- The independent personal judgement and experience of the Board members.
- The ability of the Board to call upon Metro legal staff for advice as embodied on the Metro Charter.
- The intermittent oversight by FTA staff members of MTA actions arising from grant contracts.
- Operational and financial framework of internal controls.
- The annual financial audit conducted by the MTA's external auditors (Kraft CPAs). This audit includes tests of compliance with certain provisions of laws, regulations specifically related to presentation of financial results. Additionally, the Auditors issue a separate report related to compliance with OMB Circular A-133. This is essentially compliance requirements for federal programs.
- Triennial Review conducted by a third party contractor as mandated by FTA regulations. These reviews are sponsored by the FTA and consist of evaluating the compliance by grantees with a series of specific FTA requirements.

Conclusions

The existing protections against violations of law or regulations at the MTA are more or less standard for an organization of this size and scope. The institutional relationships, however, among the Metropolitan Government, the MTA Board, McDonald Transit Management, and Davidson Transit Organization does present a relatively complex operating environment which may represent a challenge to the experience of many MTA Board members. Having the DTO, for example, as the employer of the operating personnel

may provide unique complexity related to issues such as employee law, labor relations, health and welfare funds, etc.

The MTA Board expects that the management staff will be aware of and act according to any relevant laws and regulations relating to the activities of the MTA. We found no reason to question this expectation during the course of our review.

We did see evidence of financial and operating controls in place, e.g., money room counts, bank reconciliations, etc. Any issues noted related to these controls were noted in the appropriate sections of this report.

The board uses its attorney as an additional check on actions when seeking guidance for board action. The Metropolitan Government's attorney ruled recently that the MTA acted incorrectly in arranging for a line of credit. A careful reading of Code sections governing the MTA should have raised questions regarding the legal authority of the agency to secure this type of funding. This was a case where the safeguards did not work as intended.

There is no specific requirement that staff recommendations be reviewed and approved by the attorney in advance of Board action.

The FTA triennial audits provide the Board with a good, if infrequent, evaluation of the MTA's compliance with the regulations connected with FTA grants.

Management reporting to the Board is weak in our judgement. It is not well organized, consistent or presented at a level which will allow the board to fulfil its governance role. See sections on *Budget and Accounting* and *Governance*.

Recommendations

The Board should consider hiring an Executive Director. Among other things, this position would assist the Board in sorting important issues in the complex operating environment of the MTA. (See section on Governance.)

The Board reporting package should be revamped in order to provide the Board a broader, more coherent view of the operations of the organization. This will allow the Board to properly fulfil its Governance responsibilities.

The Board should require a review of each FTA audit as they are submitted, and require a monthly report from the staff until each criticism is remedied to the satisfaction of the Board

The Board should insist that Metro Legal be consulted any time there is a question raised regarding the legal foundation for an action based on the Metropolitan Code.

The Board should require the endorsement in advance of its attorney for all staff recommendations.

Cost Implications

The cost associated with the Executive Director's position is covered in the *Governance* section of this report.