

Washington State Auditor's Office
Accountability Audit Report

**Central Puget Sound Regional Transit
Authority
(Sound Transit)
King County**

Report Date
September 16, 2005

Report No. 69827

Issue Date
December 9, 2005



Washington _____
State Auditor

Brian Sonntag



**Washington State Auditor
Brian Sonntag**

December 9, 2005

Board of Directors
Sound Transit
Seattle, Washington

Report on Accountability for Public Resources

Please find attached our report on the Sound Transit's accountability for public resources and compliance with state laws and regulations and its own policies and procedures.

Sincerely,

BRIAN SONNTAG, CGFM
STATE AUDITOR

Table of Contents

**Sound Transit
King County
September 16, 2005**

Audit Summary.....	1
Description of the Authority.....	2
Audit Areas Examined.....	4
Schedule of Audit Findings	5

Audit Summary

**Sound Transit
King County
September 16, 2005**

ABOUT THE AUDIT

This report contains the results of our independent accountability audit of the Sound Transit.

We performed audit procedures to determine whether the Authority complied with state laws and regulations and its own policies and procedures. We also examined Authority management's accountability for public resources. Our work focused on specific areas that have potential for abuse and misuse of public resources.

Areas examined during the audit were selected using financial transactions from January 1, 2004, through December 31, 2004.

RESULTS

In most areas examined, the Authority complied with state laws and regulations and its own policies and procedures. However, we identified one condition significant enough to report as a finding.

- Sound Transit lacks documentation to demonstrate that \$104,425 paid to employees is allowed by state law.

We also noted certain issues that we communicated to the Authority's management. We appreciate management's commitment to resolving these issues.

RELATED REPORTS

The Authority contracted to have its financial statements and federal programs audited by a private certified public accounting firm. The financial statements and audit report prepared by that firm are available from the Authority.

CLOSING REMARKS

We thank Authority officials and personnel for their assistance and cooperation during the audit.

Description of the Authority

Sound Transit King County September 16, 2005

ABOUT THE AUTHORITY

In 1992, the Washington State Legislature authorized King, Pierce and Snohomish counties to create a single agency to plan, build and operate a high-capacity transit system within the region's most heavily used travel corridors. During 1993, the Central Puget Sound Regional Transit Authority was established under the name Sound Transit.

In 1996, the Authority proposed and the voters adopted a ballot measure that created the 10-year regional transit system plan. This plan included two new rail systems (electric light-rail and commuter rail), regional express bus routes and a high-occupancy-vehicle expressway.

In 1999, the Authority began its transition from a planning to an operational agency by establishing regional bus routes linking Pierce and King counties. In addition, locomotives and passenger rail cars were purchased for the heavy rail system and sites were secured for rail station locations and the Authority's administrative offices.

The Authority is supported primarily through sales taxes, state motor vehicle taxes, rental car taxes, passenger fares, bond proceeds and grant funding from federal and state agencies. The Authority's 2004 budget totaled approximately \$823 million, and included approximately \$691 million in capital outlay. The Authority has approximately 370 employees.

The Authority is governed by an 18-member Board of Directors, appointed by the executives of member counties and confirmed by the Council of each member county. Membership is based on the population from that portion of each county within the Authority's service area.

AUDIT HISTORY

We audit the Authority annually. We have not reported findings in the last five audits of the Authority. We are reporting one finding in this report.

ELECTED OFFICIALS

These officials served during the audit period:

Board of Directors:

Chair

Vice Chair

Vice Chair

John Ladenburg, Pierce County Executive

Greg Nickels, City of Seattle Mayor

Mark Olson, Everett City Council Member

Fred Butler, Issaquah Deputy Council President

Jack Crawford, Kenmore City Council Member

David Enslow, Sumner City Council Member

Doug MacDonald, WSDOT Secretary

Connie Marshall, City of Bellevue Mayor

Richard McIver, Seattle City Council Member

Julia Patterson, King County Council Member

Dwight Pelz, King County Council Member

Kevin Phelps, Tacoma City Council Member

Larry Phillips, King County Council Chair

Aaron Reardon, Snohomish County Executive

Ron Sims, King County Executive

Jack Start, Mill Creek City Council Member

Claudia Thomas, Lakewood City Council Member

Pete von Reichbauer, King County Council Vice Chair

APPOINTED OFFICIALS

Chief Executive Officer

Deputy Chief Executive Officer

Chief Financial Officer

Joni Earl

Vernon Stoner

Hugh Simpson

ADDRESS

Authority

401 S. Jackson St.

Seattle, WA 98104

(206) 398-5000

www.soundtransit.org

Audit Areas Examined

Sound Transit King County September 16, 2005

In keeping with general auditing practices, we do not examine every portion of the Sound Transit's financial activities during each audit. The areas examined were those representing the highest risk of noncompliance, misappropriation or misuse. Other areas are audited on a rotating basis over the course of several years. The following areas of the Authority were examined during this audit period:

ACCOUNTABILITY FOR PUBLIC RESOURCES

We evaluated the Authority's accountability in the following areas:

- Billings and account receivables
- Cash receipts and revenues
- Payroll
- Cash disbursements
- Purchase of goods and services
- Credit cards

We audited the following areas for compliance with certain applicable state and local laws and regulations:

- Risk management
- Insurance and bonding
- Ethics/conflict of interest laws
- Board compensation
- Open Public Meetings Act
- Public records retention
- Sub-area equity
- Propriety of expenditures
- Travel expenses
- Land purchases and easements
- Competitive bid law compliance
- Public works contracts
- Contracts and agreements
- State prevailing wage requirements
- Selection of architectural and engineering firms
- 1 percent art program
- Mitigation and relocation expenses

Schedule of Audit Findings

Sound Transit King County January 1, 2004 through December 31, 2004

1. Sound Transit lacks documentation to demonstrate that \$104,425 paid to employees is allowed by state law.

Background

Article II, Section 25 of the Washington State Constitution states that additional compensation shall not be provided to employees after services have been bought and paid for.

State law (RCW 43.09.200) requires a local government to maintain sufficient documentation to demonstrate its expenditures are valid.

Description of Condition

Retroactive Compensation

The Authority began an employee reclassification study in October 2003. At that time, a consultant was hired to review the job descriptions of Authority employees and to match their job duties to an appropriate job title and salary. The consultant provided its recommended reclassifications in February 2004. Authority Directors approved those reclassifications in July 2004 and made them retroactive to February 2004.

As a result of those reclassifications, 15 employees were paid more than \$56,500 in retroactive pay increases. The retroactive pay represents the difference between the employees' original pay and their pay after adopting the reclassification for the period of February 2004 through June 2004. One of the employee's retroactive pay also included the period August 2003 through January 2004, with another employee's including the period October 2003 through January 2004.

The Authority does not have policies allowing retroactive compensation increases for employee reclassifications, nor do these employees fall under any bargaining agreement that provides an expectation that reclassifications will occur and result in retroactive compensation.

Without a policy or bargaining agreement that requires such studies and a particular date in which employee reclassifications take effect, the Authority does not have documentation to show this retroactive pay is not additional compensation for services already bought and paid for, in violation of state law.

The Authority could not provide adequate support for awarded time given to employees

The Authority gave employees \$47,925 in "awarded time" during 2004. Awarded time is paid time off and is not deducted from the employee's regular leave balance or convertible to pay. Awarded time is selectively granted to employees on an informal basis to provide those employees rehabilitation time from the rigors of a recent busy work period.

The Authority's policy on "awarded time" states:

[Sound Transit] recognizes that circumstances may require exempt employees to work more than 40 (forty) hours in a week to achieve [Sound Transit] objectives. Department directors are

authorized to provide time off to those employees to recognize extra hours worked to meet critical deadlines or to otherwise accomplish [Sound Transit] objectives.

However, that policy does not require the employees who receive awarded time to document those extra hours worked.

Without documentation of extra hours worked, the Authority cannot demonstrate this awarded time was made for extra hours worked.

Cause of Condition

The Authority was not fully aware of the documentation requirements that are necessary to show the appropriateness of retroactive or additional compensation to government employees.

Effect of Condition

The Authority cannot demonstrate it is using its revenues to pay allowable employee compensation, or that taxpayers are receiving a benefit of for those uses.

Recommendation

We recommend the Authority:

- Pay employees in accordance with documented compensation and classification policies.
- Follow state laws prohibiting additional compensation to employees for services already rendered.
- Update its policy on awarded time to require adequate documentation of hours worked when awarded time given is based on those hours.

Authority's Response

Part 1:

Sound Transit's employee records demonstrate that the agency followed its long-standing policy that provides retroactive pay to an employee when the human resources division determines that the employee is not being properly compensated under the agency's established pay ranges for each job classification. If the employee's actual permanent work duties over at least a six-month period establish that the employee is entitled to a job reclassification, then retroactive pay is granted to reflect the appropriate salary rate for the correct job classification—the employee is paid the correct rate of pay for the actual performed work. The retroactive pay increases granted to the employees at issue are consistent with this established practice.

*The audit's conclusion does not contest that Sound Transit may provide retroactive pay for work not included within the employee's regular compensation. But instead asserts the retroactive pay policy must be in writing. Sound Transit respectfully disagrees with the auditor's conclusion that this established policy must be in writing. The Washington Supreme Court ruling in *Christie v. Port of Olympia*, 27 Wn.2d 534 (1947) confirms that Sound Transit's actions do not violate Wash. Const. art. II, sec. 25. In that case, the court held that a public agency and its employees may orally agree in advance that in addition to the employee's regular weekly pay received at the time the work is performed, the agency will also pay additional compensation at a later date after the employer and employee have agreed on the final value of the work. The court held that such agreements do not violate Wash. Const. art. II, sec. 25.*

Sound Transit's position is also supported by 1977 AGO No. 2, in which the attorney general opined that county commissioners could receive retroactive salary increases dating back one year to the time the county's status changed from a fifth-class to a fourth-class county. The opinion confirms that retroactive pay increases did not violate Wash. Const. art. II, sec. 25 even

though the county commissioners had no advance agreement to receive additional pay, and did not believe they were eligible for pay increases at the time they performed work at the lower salary. The opinion concludes that the retroactive pay did not violate Wash. Const. art. II, sec. 25 because the county made an error in determining how much the commissioners were eligible to be paid, and could correct that error with retroactive pay increases. Sound Transit's retroactive payments are analogous to those found permissible in 1997AGO No. 2, in that the agency paid employees at a lower rate than they should have received for the work they performed. And upon determining the correct pay, the agency made appropriate salary adjustments.

To address the auditor's concern, Sound Transit will formalize in writing its retroactive pay policy and will make it available to all employees.

Part 2:

Sound Transit's exempt employees are not compensated on an hourly basis and are not granted award time on an hourly basis for additional work. Sound Transit will require employees to document the additional work that is the basis of the award time. In addition managers will document the justification that supports the extraordinary efforts as outlined in the policy for such awards.

Auditor's Remarks

We want to thank the Authority for the assistance we received during the audit.

Applicable Laws and Regulations

Article II, Section 25 of the Washington State Constitution states:

EXTRA COMPENSATION PROHIBITED. The legislature shall never grant any extra compensation to any public officer, agent, employee, servant, or contractor, after the services shall have been rendered, or the contract entered into, nor shall the compensation of any public officer be increased or diminished during his term of office. Nothing in this section shall be deemed to prevent increases in pensions after such pensions shall have been granted.

Sound Transit's Personnel Policies also discuss the requirements for "awarded time":

[Sound Transit] recognizes that circumstances may require exempt employees to work more than 40 (forty) hours in a week to achieve [Sound Transit] objectives. Department directors are authorized to provide time off to those employees to recognize extra hours worked to meet critical deadlines or to otherwise accomplish [Sound Transit] objectives.

RCW 43.09.200 Local government accounting—Uniform system of accounting

The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The system shall exhibit true accounts and detailed statements of funds collected, received, and expended for account of the public for any purpose whatever, and by all public officers, employees, or other persons.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived there-from; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for

the internal administration of the office to which they pertain; and all reports published or required to be published, for the information of the people regarding any and all details of the financial administration of public affairs.