



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

Division of State Government Accountability

Selected Aspects of Discretionary Spending

Niagara Frontier Transportation Authority



Report 2012-S-151

September 2014

Executive Summary

Purpose

To determine whether the Niagara Frontier Transportation Authority's discretionary spending complied with its guidelines and was reasonable, adequately supported, and properly approved. Our audit period was April 1, 2010 to March 31, 2012.

Background

The Niagara Frontier Transportation Authority (Authority) was created by an Act of the New York State Legislature in 1967 to promote the development and improvement of transportation and related services within the greater Buffalo region. The Authority currently operates bus and light rail services, two airports, and a small boat harbor. The majority of its revenues are earned from operating assistance, passenger fares, concessions, and commissions. To accomplish its mission, the Authority incurs direct costs for specific program purposes and it incurs indirect or "discretionary costs" that support overall objectives.

The audit identified a total of \$2.65 million of Authority spending that was discretionary in nature. Each public authority should have formal policies and procedures specifying which types of discretionary spending are appropriate and the dollar thresholds for each. In addition, the policies should state what type of supporting documentation and formal approvals are necessary for such costs. We reviewed 165 payments totaling \$280,887.

Key Findings

- We questioned certain travel reimbursements that were not in compliance with Authority policy or lacked sufficient justification of the business need.
- The Authority lacked formal policies and procedures for certain items, and therefore, the propriety of the related expenditures was unclear. We questioned the propriety of certain discretionary expenses, including the costs for special events, memberships, and gifts to business officials in another country.

Key Recommendation

- Examine written policies and procedures to determine if they adequately address potentially questionable discretionary spending. The review should include (but not be limited to) the definitions of such costs, the necessary written justifications, dollar thresholds, required formal approvals, and supporting documentation.

Other Related Audits/Reports of Interest

[Battery Park City Authority: Selected Aspects of Discretionary Spending \(2012-S-158\)](#)

[State University Construction Fund: Selected Aspects of Discretionary Spending \(2013-S-14\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

September 30, 2014

Mr. Howard Zemsky
Chairman
Niagara Frontier Transportation Authority
181 Ellicott Street
Buffalo, NY 14203

Dear Mr. Zemsky:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage their resources efficiently and effectively. By so doing, it provides 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 *Selected Aspects of Discretionary Spending*. The 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 the 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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This report is also available on our website at: www.osc.state.ny.us

Background

Certain public authority costs pertain directly to the operating purpose of the entity. For example, a transportation authority expense to pay for vehicle fleet maintenance is an operating cost. However, a public authority also incurs “discretionary” costs to pay for expenses that indirectly support the primary operating purpose. For example, discretionary costs include expenses for travel and entertainment and employee professional development. As with operating costs, discretionary costs must be related to the mission of the public authority and be reasonable. Also, costs must not be incurred for the personal benefit of the board of directors, management, or staff. Each public authority should have formal policies and procedures specifying the types of discretionary costs that are appropriate and the dollar thresholds for each. In addition, the policies should state what type of supporting documentation and formal approvals are necessary for such costs and should require employees to perform due diligence to obtain the lowest cost.

The Niagara Frontier Transportation Authority (Authority) was created by an Act of the New York State Legislature in 1967 to promote the development and improvement of transportation and related services within the greater Buffalo region. The Authority currently operates bus and light rail services, two airports, and a small boat harbor. The majority of its revenues are earned from operating assistance, passenger fares, concessions, and commissions.

The audit identified \$2.65 million of Authority spending that was discretionary in nature. To determine if the Authority’s discretionary spending complied with its guidelines and was reasonable, adequately supported, and properly approved, we examined 165 payments for discretionary spending totaling \$280,887 for the period of April 1, 2010 through March 31, 2012.

Audit Findings and Recommendations

We questioned 89 payments for discretionary items totaling \$150,340. The Authority lacked formal policies and procedures for certain items (such as memberships and service awards), and therefore, the propriety of these expenditures was unclear. In other instances, the Authority did not comply with prescribed policies and procedures, or the justification and benefit of the expenditure was not adequately documented.

Not In Compliance with Authority Guidelines

The Authority's guidelines for travel state that employees must receive approval for the travel in advance of the trip, although the Executive Director may grant approval after the fact, if there are extenuating circumstances. Employees who are traveling receive a per diem to cover meals, which is prorated based on the start and end times of the travel. To receive a full day's per diem, an employee must be in travel status after 7:00 p.m.

We reviewed 91 travel reimbursements totaling \$151,632. We determined that eight, totaling \$3,730, were not in compliance with Authority guidelines. This included seven wherein per diems were not prorated even though the employees returned home prior to 7:00 p.m. Employees received a total of \$364 for meals that they were not eligible to receive. Authority officials agreed that these payments were in violation of Authority policy.

The remaining payment of \$3,366 went to an employee for a trip to China. According to Authority officials, the employee went to China as part of his Master's Degree program. When officials learned of his trip, they requested him to meet potential customers for the Authority's airport while he was there. The employee's normal Authority responsibilities did not include marketing the airport or other Authority services. The travel arrangements were made in December 2010, and the travel reimbursement request was submitted in May 2011. This trip was not pre-approved, nor was there an explanation of any extenuating circumstances that would justify approval after the trip.

Questionable Nature of Discretionary Expenses

Travel

For 64 of the 91 payments for travel, training, and conferences, there was no justification of the business need for the costs incurred by the employees. These 64 payments totaled \$82,762. Most of the travel was out-of-State, including some trips to other countries. One individual made 11 trips (6 to other states and 5 to other countries) at a cost of \$18,186; however, the Authority could not provide any documentation to show what was accomplished or why the trips were justified.

The Authority has a written travel policy and procedures, with requirements for requesting prior approval of travel, making travel arrangements, obtaining travel advances, and submitting travel reimbursement requests. However, the guidance needs to be expanded and clarified to include

a detailed justification of why the travel is necessary and how it will benefit the Authority. This is particularly pertinent when employees travel to other states or countries.

Incentive Programs

We questioned 12 payments totaling \$7,309 for employee incentive programs, including:

- 11 payments totaling \$5,601 for gift cards given as incentive awards to drivers who earned a “C” grade in the Authority’s quarterly bus driver performance program. This program had criteria on what constituted satisfactory performance, but had no associated spending budget. In addition, no driver received less than a “C” grade; and
- One payment of \$1,708 for 16 watches given as safety awards to drivers who had 10 years of safe driving. The Authority did not provide any written policy governing the provision of awards or gifts to employees.

Other Purchases

The Authority does not have formal policies and procedures addressing certain types of discretionary expenditures. Consequently, the purpose and benefit of such expenditures are often not documented, and therefore, the propriety of such spending is unclear. We identified five payments, totaling \$56,539, for which there was little or no documentation to demonstrate that the Authority benefitted from the expenditures. These included:

- Three payments totaling \$55,743 for memberships in various airport trade associations. According to Authority officials, the trade associations help airports with various activities and can increase airport business. However, the Authority did not have documentation that demonstrated how the Authority benefitted from the memberships;
- A payment for \$540 for an eight-person table at an awards luncheon, however only one Authority employee had been nominated for an award. There was no documentation of the benefit to the Authority for the other seven employees to attend; and
- A payment for \$256 for gifts of wine to officials at various companies visited during a marketing trip to China. These companies were not doing business with the Authority at the time of the visit.

Other Matters

New York State agencies generally require employees to follow the guidelines set by the U.S. General Services Administration (GSA) for travel and the reimbursement of related costs. The Authority, however, does not require its employees to request or obtain a rate set by the GSA for lodging. Of the 81 travel reimbursements we tested that included lodging, 36 exceeded the stated GSA rates. If the employees had exercised due diligence and obtained the GSA rate, they would have saved the Authority as much as \$8,329.

Recommendations

1. Examine written policies and procedures to determine if they adequately address potentially questionable discretionary spending. The review should include (but not be limited to) the definitions of such costs, the necessary written justifications, dollar thresholds, required formal approvals, and supporting documentation.
2. Ensure travel reimbursements fully comply with Authority guidelines, particularly those pertaining to prior approvals and per diems.
3. Require employees to request the GSA rate for lodging, or provide a written justification and obtain formal prior approval for lodging costs over the GSA rate.

Audit Scope and Methodology

We audited to determine whether the Authority's discretionary spending complied with its guidelines and was reasonable, adequately supported, and properly approved. The audit covers the period April 1, 2010 through March 31, 2012.

To accomplish our audit objective, we reviewed the Authority's policies, procedures, and guidelines related to discretionary spending. We also interviewed Authority officials and employees to obtain an understanding of internal control relevant to discretionary spending. We selected a judgmental sample of payments, based on the nature and amount of the payment. We reviewed the supporting documentation for 165 payments totaling \$280,887.

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 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.

Authority

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 the Public Authorities Law.

Reporting Requirements

A draft copy of this report was provided to Authority officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety to the report. Authority officials generally concurred with our recommendations and indicated that actions have been taken to address them. Our rejoinders to certain Authority comments are included in the report's State Comptroller's Comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Niagara Frontier 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.

Contributors to This Report

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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.

Agency Comments



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September 18, 2014

Ms. Carmen Maldonado
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street, 21st Floor
New York, New York 10038

Re: August 20, 2014 Draft Report on Selected Aspect of Discretionary Spending

Dear Ms. Maldonado:

Thank you for giving the Niagara Frontier Transportation Authority (NFTA) the opportunity to comment on your office's draft audit report. We appreciate the time invested in preparing the report and the effort to ensure that the NFTA is managing its resources effectively and efficiently. We would like to take this opportunity to clarify certain sections of your report.

Under the title "Background" – page 1

- Your report indicates that you identified \$6.3 million of Authority spending that was discretionary in nature. By definition, a discretionary expense is a cost which is not essential for the operation of a business. Contrary, most of what is included and characterized as "discretionary" in your report are clearly operating expenses including bus vehicle parts, engines, carburetors, gasoline, and tire purchases. Even security services on the airside of the airport were categorized as "discretionary" in your audit. These operating and not discretionary expenditures are appropriate and essential to our transportation and aviation system.

*
Comment
1

Under the title "Not in Compliance with Authority Guidelines" – page 5

- Your report indicates that an employee went to China without prior approval. The referenced trip to China by an Aviation Group Management Team member was discussed with and approved by the Executive Directive and Aviation Director well in advance of the travel. All Aviation Group Management Team members are called upon, at times, to perform duties outside of their normal responsibilities. Since airport travel is paid for and apportioned to the airlines, senior management agreed that it was cost effective to have the referenced

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Comment
2

*See State Comptroller's Comments, Page 14.

Management Team member conduct the marketing calls based upon his experience. Upon the submittal of the travel reimbursement request, the employee could not locate the previously approved travel request. As both the Aviation Director and the Executive Director agreed that the trip was appropriately approved in advance of the trip, the expense report was appropriately approved.

Under the title "Questionable Nature of Discretionary Expenses" – page 5

- Your report indicates that for 64 of 91 payments for travel, training and conferences, there was no justification of the business need for the costs incurred by the employee. The NFTA does not send its employees on trips that are unjustified. Some of the questioned expenses included trips for bus inspections, payroll training, project related travel, Federal Transit Administration training, airport related conferences and marketing efforts. These efforts were successful in attracting Sunwing Airlines, the first international service in over a decade. We believe these efforts, which are paid through airport generated revenues, are core to our mission of the development of business and tourism in the Buffalo/Niagara region. A travel request form must be completed prior to making arrangements for travel and must be approved by the Executive Director. Our prior "Travel Request Form" required an "Explanation For Work-Related Travel". Our travel request form was revised in April 2013 to include a more detailed "Justification" section for the travel.

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Comment
3

Under the title "Incentive Programs" – page 6

- You questioned \$5,601 for \$3.00 gift cards as incentive awards to bus operators. The awards are given under a clearly defined set of criteria that was established to improve both quality, customer service and safety performance.
- You questioned payments of \$1,708 for 16 watches given as safety awards to drivers who had 10 years of safe driving. This is part of our annual safety and service awards that has been a long standing program (over 25 years) where our board members recognize employees with outstanding safe driving and workplace safety. The awards are given under a clearly defined set of criteria, i.e. 10 years of safe driving without a preventable accident.
- When an NFTA employee is recognized in our community with an outstanding award we will continue to support that employee by attending the event as deemed appropriate. Events such as the annual "Black Achievers Award" and the "Athena Award" recognize individuals who are outstanding members of the community and the NFTA is proud to sponsor a table to recognize our employees at these events.

The NFTA will continue to provide its employees' awards for service and safe operations and incentive programs for driver performance. We strive to find new ways to both reward top performers and to motivate all employees to improve performance and maintain or increase performance as cost-effectively as possible. Our goal is to create a culture of sustained employee enrichment that acknowledges all the valuable contributions that our employees make. Expenditures for these programs are included in our operating budget which is reviewed and approved by our board on an annual basis. Programs such as these do provide a benefit to the organization helping to improve the safety and quality of our system and thereby reducing costs.

*
Comment
4

Under the title "Other Purchases" – page 6

- The Aviation Group along with thousands of other airports nationally and internationally have been members of multiple airport trade associations for years prior to this audit and the payments made were for membership renewals as invoiced. Membership in these associations allows airport employees to further develop their professional expertise through a myriad of specialized education training sessions, learn from best and next practices in the airport industry, stay current with federal regulations and legislation and network with peers from around the country. In addition, the Aviation Group is able to impact national and international policy decisions that may positively or negatively impact the Authority's airports by sharing knowledge and experiences with peers and commenting on regulatory proposals through a collective industry voice. It is important to note that the Aviation Group receives no State operating assistance or State tax dollars. All Aviation Group operating expenses are funded with airport generated revenues. Expenditures for these programs are included in our operating budget which is reviewed and approved by our board on an annual basis.
- Regarding a minor expenditure of \$256 for gifts to officials visited at various companies during a marketing trip to China. Business acumen in China begins with relationship building. It is tradition in the Orient to present the host company officials with token gifts that reflect the visitor's country/region/locale. The gift consisted of small bottles of ice wine produced in the Niagara Region which were distributed to multiple officials across six separate companies. It is important to note that the Aviation Group receives no State operating assistance or State tax dollars. All Aviation Group operating expenses are funded with airport generated revenues.

Our response to the draft recommendations is set forth below.

Recommendations

1. Examine written policies to determine if they adequately address potentially questionable spending. The review should include (but not be limited to) the definitions of such costs, the necessary written justifications, dollar thresholds, required formal approvals, and supporting documentation.

The NFTA has reinforced its policy requiring the approval of the Executive Director for any expense considered discretionary. Prior to receiving this audit report, a new form was created to require the justification, dollar amounts and the formal approval from the Executive Director for any expense considered discretionary. The approved form is mandatory prior to the cost being incurred. The approved form must be attached with the supporting documentation to the accounting department for appropriate payment and/or filing.

2. Ensure travel reimbursements fully comply with Authority guidelines, particularly those pertaining to prior approvals and per diems.

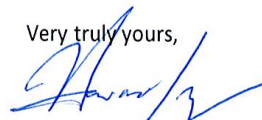
The NFTA has revised its travel reimbursement form in April 2013 to include an additional review and approval by the Chief Financial Officer prior to reimbursement.

3. Require employees to request the GSA rate for lodging, or provide written justification and obtain formal prior approval for lodging costs over the GSA rate.

Authority employees who attended out of town business meeting or industry conferences prior to this audit would secure hotel reservations at hotels that offered reduce rates as arranged by the conference organizers. Such hotels provided close proximity to the conference meeting rooms and conference events and would not require attendees to incur additional transportation costs traversing back and forth between outlying hotels and the conference facilities. The Authority has since adopted a revised travel policy (April 2013) that utilizes the U.S General Services Administration (GSA) per diem rates as a guideline for all lodging. The policy requires employees who are attending conferences to request government lodging rates when making their reservations. If government lodging rates are not available, employees are required to check rates at an additional two (2) hotels within walking distance. If none of the hotels offer a government rate, or it is not available, documentation must be attached to the travel request listing the hotels contacted and rates offered.

Again, thank you for the opportunity to respond to the draft report. If you have any questions, please don't hesitate to contact Kimberley Minkel, Executive Director (716) 855-7470.

Very truly yours,



Howard A. Zemsky
Chairman

State Comptroller's Comments

1. NFTA officials provided additional information regarding certain operating expenses and the reason they were not discretionary. We reviewed the expenses and revised the amount in the report from \$6.3 million to \$2.65 million.
2. The trip to China for this employee was not approved "well in advance" of the travel. In fact, the documents clearly show that the employee booked this trip on December 27, 2010, for himself and two other individuals. The trip occurred in April 2011, and the NFTA "Travel Request Form" was approved and signed on May 19, 2011, one month after the trip.
3. The records we reviewed did not contain information to show the expectations when the trips were approved or the results after they were completed. Moreover, we are pleased that NFTA has revised its "Travel Request Form" to include a more detailed justification.
4. We did not question the values of improving and maintaining employee morale. However, these costs are discretionary in nature and the amounts spent can be controlled by NFTA officials. Therefore, NFTA officials need to examine this area to determine if the activities can be carried out at a lower cost to NFTA.