CAPITAL AREA TRANSIT SYSTEM (CATS)

INVESTIGATIVE AUDIT

ISSUED FEBRUARY 19, 2014

LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397

LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

DIRECTOR OF INVESTIGATIVE AUDIT AND ADVISORY SERVICES
ROGER W. HARRIS, J.D., CCEP

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

February 19, 2014

MR. ROBERT J. MIRABITO,
CHIEF EXECUTIVE OFFICER,
AND BOARD OF DIRECTORS
CAPITAL AREA TRANSIT SYSTEM
Baton Rouge, Louisiana

We audited certain transactions of the Capital Area Transit System (CATS). Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the 19th Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/ch

CATS 2014

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EXECUTIVE SUMMARY

Bus Fares Not Deposited

Capital Area Transit System (CATS) records indicate that from January 1, 2012 through June 30, 2013, bus fares totaling $79,496 were not deposited in the bank. Although it appears that CATS's management was aware of cash fare shortages during this period, they failed to take substantive actions to prevent repeated shortages and safeguard public funds. In addition, we found that CATS lacked written policies and procedures for bus fare box processing, used broken and out-of-date equipment, and failed to adequately train employees. By continually neglecting to safeguard public funds, members of CATS's management and employees may have violated state law.

Bus Passes Used without Revenue Collected and/or Deposited

CATS's records indicate that from January 1, 2012 through June 30, 2013, bus passes valued at $78,648 were used with no corresponding revenue being either collected and/or deposited in the bank. Inadequate policies and procedures over passes, cash collections, and cash deposits allowed passes and revenues to go missing without being detected. By failing to account for all passes and to collect and/or deposit all pass revenue, members of CATS's management and employees may have violated state law.

Improper Payments to Employees and Improper Payroll Practices

On April 26, 2013 and August 30, 2013, CATS improperly paid employees $35,459 for hours not worked and leave not earned. In addition, CATS's overall payroll practices are not consistent with written policy and payroll disbursements are not substantiated by the appropriate records. By making inappropriate payments to employees, CATS's management may have violated state law.

BACKGROUND AND METHODOLOGY

The Capital Area Transit System (CATS) is a corporation created by East Baton Rouge Parish to provide bus transportation services. In 2004, the Louisiana Legislature enacted Act 581 of the 2004 Regular Session, to make certain quasi-public, nonprofit corporations, such as CATS, political subdivisions and provide that all of their assets are public property. The Baton Rouge Metropolitan Council oversees CATS and approves fare changes, approves operating subsidies from the City-Parish's general fund, and appoints CATS's board members. As such, CATS is considered a component unit of the City of Baton Rouge-Parish of East Baton Rouge.

On July 19, 2013, CATS's management notified the Louisiana Legislative Auditor (LLA) of "suspicious payments made from a CATS bank account." The information provided by CATS's management indicated that a CATS board member, Montrell McCaleb, paid personal bills totaling $1,484 through a CATS bank account. This matter was investigated by the Louisiana Inspector General's office which led to the arrest of Mr. McCaleb. City-Parish management also requested that LLA perform "an immediate investigation into the operations of CATS."

The procedures performed during this audit included:

(1) interviewing CATS's employees;

(2) interviewing other persons, as appropriate;

(3) examining selected CATS's documents and records;

(4) gathering and examining external parties' documents and records; and

(5) reviewing applicable state laws and regulations.

FINDINGS AND RECOMMENDATIONS

Bus Fares Not Deposited

Capital Area Transit System (CATS) records indicate that from January 1, 2012 through June 30, 2013, bus fares totaling $79,496 were not deposited in the bank. Although it appears that CATS's management was aware of cash fare shortages during this period, they failed to take substantive actions to prevent repeated shortages and safeguard public funds. In addition, we found that CATS lacked written policies and procedures for bus fare box processing, used broken and out-of-date equipment, and failed to adequately train employees. By continually neglecting to safeguard public funds, members of CATS's management and employees may have violated state law.[1]

CATS uses an electronic fare box system to collect and secure fares, issue passes, and maintain a running record of all transactions. After a bus completes its daily route, a CATS technician is supposed to use a device to "probe" or upload information to CATS's main bus system and unlock the fare box. The cash box is then extracted from the fare box and inserted into a vault device on CATS's building. Once the cash box is locked in the device, the cash is released into the vault without the technician having access to the cash. The following business day, the funds are counted, prepared for deposit, and transported to the bank by an armed vehicle.

Our audit of CATS's records indicated that from January 1, 2012 through July 30, 2013, cash transactions totaling $1,944,154 were conducted on bus fare boxes. However, cash totaling only $1,864,658 was deposited in the bank, resulting in a shortage of $79,496. This shortage amounted to an average bus fare revenue loss of approximately 4% or $4,416 per month. These findings were confirmed by reconciliation records maintained by CATS's administrative employees during this period. According to these records, an administrative employee generated a daily report from the electronic fare box system showing the amount of funds received by bus fare boxes. This information was then compared to deposit records to calculate the difference between fares recorded and deposited. The differences were reported on reconciliation spreadsheets sent to the accounting section and former Chief Financial Officer (CFO) Gary Owens. Mr. Owens and former Chief Executive Officer (CEO) Brian Marshall both acknowledged that they were aware of fare shortages.

Although CATS's management was aware of shortages as far back as 2010, no significant actions were taken to safeguard public funds. Mr. Marshall stated that he hired security personnel to investigate the shortages. According to Mr. Marshall, the security personnel watched a lot of surveillance recordings and concluded that the shortages were due to bus operator error. It does not appear that this investigation resulted in CATS's management taking any additional measures to ensure that bus fares collected were deposited.

On July 19, 2013, (the same day CATS notified the LLA of other possible misappropriations), Mr. Owens began performing daily audits of the fare box cash collections. Mr. Owens stated that he performed these audits to determine if the shortages were due to system errors or theft. Mr. Owens completed these audits on August 15, 2013, with no significant shortages noted. According to Mr. Owens, this indicated that most of the shortages previously noted were likely due to theft because they stopped when he began his audit and would have persisted if caused by system errors.

CATS's lack of appropriate practices and oversight over bus fares reduced our ability to determine the definitive cause of these shortages or to identify responsible individual(s). However, our audit did reveal the following conditions which may have contributed to cash fare shortages:

1. **CATS did not have written policies or procedures relating to bus fare box processing (fare box probing and cash box emptying)**. It was not uncommon for a bus fare box to go unprocessed for days before it was probed and the cash collections were emptied into the vault. The timing by which buses were processed was highly dependent on the vault puller -- the individual responsible for probing the bus, pulling the fare box, and releasing the cash into the vault. We found that the vault puller employed during our audit period was frequently absent from work. In the vault puller's absence, CATS used any available employee to process buses. *Processing buses in a haphazard manner and using unreliable and untrained employees to process buses allows for increased exposure to theft and may violate state law requiring daily deposits.*[2]

2. **Broken vault equipment was not repaired.** Data obtained from the system indicated that the vault mechanism that recorded when a cash box was inserted and removed from the vault was broken from May 2, 2012 until August 5, 2013. During our audit, we noted one theft scheme which would have relied upon this mechanism being broken: Individuals processing bus fare boxes could have probed the fare boxes, failed to empty the cash into the vault, left the fare box open, and later returned to the parked bus to extract the cash from the cash box using a bullet device (which opens the cash boxes). Although CATS's management believes that all bullets are accounted for, this could not be verified because a bullet device can be extracted from any damaged or unused fare box. *The elimination of this critical system control removed CATS's ability to verify that a cash box was emptied into the vault when a bus was processed and created additional opportunities for theft to occur.*

3. **Bus fare box equipment was not up-to-date.** According to CATS's administrative officers, the current bus fare box equipment does not properly accept the new $5 bills and requires a manual override by bus operators. *Manual intervention by operators allows for the misclassification of bill denominations and the issuance of change cards in amounts greater than the amount originally deposited into the fare box.*

4. **CATS did not have written policies or procedures relating to cash handling, and employees handling funds were not adequately trained and/or supervised.** According to the cash counters, they were not given instructions or training on how they should perform their duties or what rules should be in place regarding the cash room. In addition, they had very little interactions or communications with CATS's administration. *Using untrained employees in high risk areas, such as cash handling, exposes CATS's funds and employees to greater risks than necessary.*

Because CATS lacked controls to ensure that all funds received were deposited and failed to respond to repeated recorded cash shortages, bus fares earned totaling $79,496 were not deposited in the bank. By continually neglecting to safeguard public funds, members of CATS's management may have violated state law.[1]

Recommendations

We recommend that CATS's management develop and implement policies and procedures to ensure that all fares are accounted for and deposited daily. These policies should require that:

(1) all funds collected are adequately documented, accurately recorded, and deposited daily in accordance with state law;

(2) daily total deposits are reconciled to the total receipts on a regular basis and differences are immediately investigated;

(3) all bus fare box devices and mechanisms are properly maintained and regularly verified to be operational; and

(4) employees are properly trained on cash handling policies and procedures.

Bus Passes Used without Revenue Collected and/or Deposited

CATS's records indicate that from January 1, 2012 through June 30, 2013, bus passes valued at $78,648 were used with no corresponding revenue being either collected and/or deposited in the bank. Inadequate policies and procedures over passes, cash collections, and cash deposits allowed passes and revenues to go missing without being detected. By failing to account for all passes and to collect and/or deposit all pass revenue, members of CATS's management and employees may have violated state law.[1]

CATS sells six separate types of bus passes ranging in price from $.35 to $56 at the Baton Rouge terminal. Bus passes arrive at CATS from a vendor preprogramed by type and price. CATS Customer Service Manager Theodore Richards secures passes in a locked filing cabinet which only he and the CFO have access to until they are given to a customer service representative or customers. Customer service representatives record pass sales on an Excel spreadsheet. At the end of each shift, they are responsible for reconciling their drawer and putting the cash proceeds into a safe at the terminal. The proceeds are later taken from the safe by the CFO, stored in CATS's administrative offices for several days, counted by accounting personnel and the terminal director, and then finally deposited.

We compared pass data from CATS's electronic bus fare system to amounts deposited and found that passes (excluding passes sold via fare box) valued at $355,336 were used on CATS's buses; however, deposits for these passes totaled only $276,688. Of the passes used, CATS has no records of selling or depositing funds associated with 15,064 passes which are valued at $78,648. This indicates that passes may have been given to or taken by individuals at no cost or sold to customers with no revenue recorded or deposited. The following chart illustrates our comparison of passes used with the associated revenue deposited and resulting shortage from January 1, 2012 through June 30, 2013:

Bus Passes Revenue Collection for Bus Passes Used

Type	Price	Passes Used		Collections/Deposits for Passes Used		Shortage of Collections/Deposits for Passes Used	
		Count	Value	Count	Value	Count	Value
15-Ride Adult Pass	$24.50	935	$22,908	567	$13,892	368	$9,016
15-Ride Senior Pass	$5.25	2,387	12,532	2,284	11,991	103	541
31-Day Pass	$56.00	2,762	154,672	1,946	108,976	816	45,696
7-Day Pass	$19.00	6,644	126,236	6,095	115,805	549	10,431
Adult Full-Fare Pass	$1.75	15,819	27,683	9,866	17,265	5,953	10,418
Discount-Fare Pass	$0.35	32,300	11,305	25,025	8,759	7,275	2,546
Total		60,847	$355,336	45,783	$276,688	15,064	$78,648

CATS's inadequate controls over passes and pass sale proceeds diminished our ability to identify the precise cause for these discrepancies. The inadequate controls include:

- CATS does not maintain an inventory of passes on hand. Although CATS maintains a schedule of the passes received from the vendor, this record is not updated when passes are disbursed. In addition, it does not appear that any reconciliation or audit of passes purchased, sold, and used has ever been conducted.

- CATS does not have an electronic point of sale system to record pass sale transactions. As such, customer service representatives prepare and maintain their own manual records which they use to reconcile to cash receipts.

- Customer service representatives count, record, and transfer bus pass proceeds to the administrative office without verification by a supervisor.

- Pass sales proceeds were not deposited timely. We found that, on average, it took 17 days from the time the passes were sold for these funds to be deposited in the bank. In some cases, these cash funds were held for as long as 41 days before being deposited. These practices may violate state law which requires the daily deposit of funds collected.[2]

Because CATS lacked controls to ensure that all passes were accounted for, that funds were collected for all passes, and that funds received were deposited, pass revenues totaling $78,648 were not collected and/or deposited in the bank. By failing to collect and/or deposit all pass funds and depriving CATS of revenues, members of CATS's management and employees may have violated state law.[1]

Recommendations

We recommend that CATS's management develop and implement policies and procedures to ensure that all passes are accounted for and all funds collected are deposited daily. These policies should require that:

(1) all funds collected are adequately documented, accurately recorded, and deposited on a daily basis as required by state law;

(2) a comprehensive electronic point of sale system is used to record all sales transactions and keep automated pass inventory records;

(3) daily total deposits are reconciled to total receipts in the electronic system records on a regular basis and differences are immediately investigated; and

(4) an up-to-date inventory record is maintained for all passes on hand.

Improper Payments to Employees and Improper Payroll Practices

On April 26, 2013 and August 30, 2013, CATS improperly paid employees $35,459 for hours not worked and leave not earned. In addition, CATS's overall payroll practices are not consistent with written policy and payroll disbursements are not substantiated by the appropriate records. By making inappropriate payments to employees, CATS's management may have violated state law.[1,3]

<u>Former CEO Paid for Hours Not Worked and Leave Not Earned</u>

On November 25, 2009, Brian Marshall signed an employment agreement to become CATS's CEO. The initial agreement was for a two-year term. At the end of the two years, CATS and Mr. Marshall could extend the agreement for three additional one-year terms. Upon the expiration of the regular and any extended terms of the agreement, the agreement was to continue on a month-to-month basis. Both CATS and Mr. Marshall had the right to terminate the agreement upon a 30-day written notice. The agreement did not provide for severance pay upon termination.

Although CATS and Mr. Marshall could have extended the agreement at the end of the initial two-year term, CATS was unable to produce any records indicating they had done so. As a result, it appears that the agreement continued on a month-to-month basis after the initial two-year term.

On April 22, 2013, Mr. Marshall resigned effective immediately and without providing CATS a 30-day written notice as required by the agreement. Four days later, CATS paid Mr. Marshall $32,385. According to the transmittal letter that accompanied the check, CATS was paying Mr. Marshall his salary and benefits through June 13, 2013, "in consideration of the waiver of the notice requirement of the employment contract." The check stub that was attached to the check provided that the $32,385 was comprised of the following:

- $18,851 -- biweekly salary
- $483 -- 8 hours of sick leave
- $13,051 -- 216 hours of vacation leave

Our review of the employment agreement indicates that Mr. Marshall had an obligation to provide CATS with a 30-day written notice before terminating the agreement, but did not do so. Moreover, although the agreement did not contain a severance pay provision – and it was Mr. Marshall who failed to comply with his notice obligation, not CATS – CATS's management agreed to pay Mr. Marshall his salary and benefits through June 13, 2013. It does not appear that the CATS board approved this payment.

Our calculations indicate that by paying Mr. Marshall for days between his date of resignation and June 13, 2013, Mr. Marshall was paid $18,368 for 304 hours that he did not work. In addition, our review of CATS's leave records indicate that Mr. Marshall was paid for 140 hours of leave that he did not have resulting in further overpayment of $8,459.

<u>Former CFO Paid for Leave Not Earned</u>

Upon his resignation, former CATS CFO Gary Owens received a final check for wages totaling $28,067 -- $8,632 of which was for 171 hours he did not earn. Mr. Owens' final paycheck issued on August 30, 2013, included wages for 556 hours of vacation, compensatory, and sick leave. However, according to CATS's leave accrual practices and his leave history, his leave balances at this time should have totaled only 385 hours. This resulted in Mr. Owens receiving wages totaling $8,632 for 171 hours which he had not earned.

In response to this finding, Mr. Mirabito indicated that Mr. Owens was paid for 1.5 hours for every hour of compensatory time earned in accordance with CATS's policy. However, CATS could not substantiate any overtime hours worked by Mr. Owens because CATS did not maintain time or attendance records. CATS only maintained a "Comp Time" worksheet which indicated amounts of compensatory time earned and taken. Although Mr. Owens was paid out for 200 hours of compensatory time, his "Comp Time" worksheet indicated a balance of 131 hours. Prior payroll disbursements to Mr. Owens confirmed that the hours listed on the worksheet were compensatory hours due, not hours worked as Mr. Mirabito indicated. Further, according to Mr. Owens, Mr. Mirabito told him that when he resigned he would be paid 200 hours of compensatory time as a severance.

Also in response to this finding, Mr. Mirabito indicated that CATS paid Mr. Owens for the appropriate amount of vacation leave upon termination based on a policy change which stated that vacation time earned the previous year would be credited at the first of the following year. Contrary to this policy, CATS's records indicate that Mr. Owens' annual leave was being accrued prior to being earned and was depleted by improper leave payouts in December 2010 and April 2012. Further, because we calculated Mr. Owens' leave on a per pay period basis starting from January 2010, we eliminated possible accrual timing discrepancies. It should be noted that if leave was actually being awarded in accordance with this policy, Mr. Owens would have been entitled to approximately 66 hours less than we initially calculated.

Improper Payroll Practices

CATS's payroll practices and disbursements are not consistent with written policy and are not substantiated by the appropriate records. The most recent employee policy and procedure handbook possessed by CATS is dated January 1, 2005. Although this handbook is the prevailing written guidance pertaining to employee policies, compensation, leave, and benefits, it is widely accepted by CATS's administrative employees that most of their current practices are not in agreement with the policies outlined in the handbook. Also, according to administrative employees, board approval is not needed or obtained for administrative policy or procedural changes. We noted the following specific concerns:

- CATS's administrative employees are earning vacation leave in excess of amounts allowed by written policy. The employee handbook states that leave is accrued at a rate of 3.077 hours per pay period (10 days per year) for employees with less than 15 years of service and at a rate of 4.616 hours per pay period (15 days per year) for employees with more than 15 years of service. However, records indicate CATS has been accruing leave for administrative employees at a rate higher than set by written policy. The following table demonstrates the difference between vacation days earned according to written policy and current practice.

Years of Service[A]	Policy: Vacation Days Earned Per Year	Practice: Vacation Days Earned Per Year	Difference Between Policy & Practice
Between 1 & 2	**10**	**10**	**0**
Between 2 & 6	**10**	**13**	**+3**
Between 6 & 15	**10**	**17**	**+7**
15 or more	**15**	**24**	**+9**

- CATS regularly allows employees to be paid out for unused vacation leave during their employment, something that is inconsistent with written policy. CATS's written policy allows for employees to be paid out for unused vacation leave only upon termination of their employment with CATS.

[A] For employees with less than one year of service, written policy allows for vacation time to be accrued at 3.077 hours per pay period. However, CATS is not accruing vacation time for employees with less than one year of service.

- CATS regularly allows employees to be paid for unused sick leave in a manner contrary to written policy. Policy allows for sick leave to be earned at a rate of one day per month of active service and that sick days may be carried over from one calendar year to the next. The policy also states that "after accumulating 60 days, an employee will be paid for any days accrued over 60 in January of the following year at one-half of the employee's hourly pay rate." Payroll records indicate that employees are being paid sick leave at their full hourly rate without having earned the requisite 60 days. It should also be noted that, in certain cases, employees received sick leave payouts before the leave was actually earned.

- CATS allows certain part-time employees to earn and be paid for vacation, sick, and personal leave in contradiction to written policy. CATS's employee handbook states that vacation, sick, and personal leave is granted to each "full-time regular employee." The handbook defines a full-time employee as an employee hired to work CATS's normal, full-time, 40-hour workweek on a regular basis. At least three part-time employees working less than 40 hours per week have historically been allowed to earn leave time off.

- CATS does not maintain accurate vacation, sick, and compensatory time records. CATS's Payroll Manager manually maintains leave records for all employees. These records indicate that leave was being improperly accrued at the beginning of each year. This resulted in employees receiving leave payouts before the leave was actually earned. This contributed to employees being paid for leave hours that they had not earned.

- CATS does not require administrative employees to maintain time and attendance records. CATS also does not require supervisor approval of leave earned or taken. As a result, CATS cannot substantiate amounts of annual, sick, and compensatory leave taken or paid out to administrative employees.

According to CATS's Payroll Manager, the practices currently in place were in place when she began working for CATS in 2009. She stated that she has only done what she has been instructed to do. By making inappropriate payments to employees, CATS's management may have violated state law.[1,3]

Recommendations

We recommend that CATS's management develop and implement policies and procedures to ensure that amounts paid to employees are appropriately earned. These policies should require that:

(1) all payments are supported by approved time and leave records and are in accordance with Board approved policies and procedures;

(2) leave records are maintained for all employees by the electronic payroll service used by CATS;

(3) leave is accrued, taken, and paid in accordance with written policies and procedures;

(4) employees (especially payroll and human resources personnel) are trained on written policies and procedures; and

(5) CATS should re-calculate all active employees’ leave balances in accordance with written policy and adjust those balances accordingly.

LEGAL PROVISIONS

[1] **Louisiana Revised Statute (La. R.S.) 14:134 (A)** provides, "Malfeasance in office is committed when any public officer or public employee shall: (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner."

[2] **La. R.S. 39:1212** provides, in part, that "all funds of local depositing authorities shall be deposited daily whenever practicable…"

[3] **La. R.S. 42:1461(A)** provides, in part, that "Officials, whether elected or appointed and whether compensated or not, and employees of any "public entity," which, for purposes of this Section shall mean and include any department, division, office, board, agency, commission, or other organizational unit of any of the three branches of state government or of any parish, municipality, school board or district, court of limited jurisdiction, or other political subdivision or district, or the office of any sheriff, district attorney, coroner, or clerk of court, by the act of accepting such office or employment assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property, or other thing of value belonging to or under the custody or control of the public entity in which they hold office or are employed."

APPENDIX A

Management’s Response

CATS
CAPITAL AREA TRANSIT SYSTEM
Moving Baton Rouge forward...

2250 Florida Boulevard
Baton Rouge, LA 70802
225-389-8920

Facebook: CATSBR
Twitter: @BTRCATS
Online: www.brcats.com

February 10, 2014

Mr. Daryl G. Pupera
Louisiana Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70804

Dear Mr. Pupera,

Please find attached the CATS' response to the audit conducted by your Organization.

CATS is appreciative of the professionalism of your staff and the opportunity to address the findings to help strengthen our Agency's internal controls to safeguard the funds entrusted to us by our stakeholders.

Sincerely,

Robert J. Mirabito
Chief Executive Officer

Cc: Mr. Dalton Honore'
Mr. Creighton Abadie
Mr. Conner Burns
Ms. Seandra Buchanan

Attachment

Finding: Bus Fares Not Deposited

CATS Response: When the current leadership of CATS became aware of reconciliation issues with fares collected, the Louisiana Legislative Auditor was requested to investigate and make recommendations to address weaknesses in internal controls of the Agency.

CATS agrees with the finding that fares collected from January 1, 2012 to July 11, 2013 did not match the cash received by the bank. CATS began its own audit on July 12, 2013, prior to the Legislative Auditor's arrival at the Agency. We determined that funds collected by the Agency from July 12, 2013 going forward, did reconcile with the funds deposited in the Agency's bank, within the stated manufacturer's variance.

To achieve these results, CATS implemented the following steps:

1) Policies were developed and implemented that identified each employees' responsibilities, established a daily reconciliation process, identified the level of variance required to trigger an audit of the process. Fares are removed from fare boxes at the end of each business day, including Saturdays, Sundays, and holidays. All receipts are verified and deposited the next business day.
2) All vault equipment was repaired by the manufacturer and spare vault equipment has been procured to insure the vault can be repaired or replaced without putting any of CATS revenue at risk. Three employees have attended manufacturer training in the upkeep and repair of vault and fare box equipment. A daily report of probed fare boxes and boxes processed in the vault is reviewed to insure all revenue has been removed from the buses and placed in the vault.
3) CATS has purchased and installed $5 bill validators for all current fare boxes in use by the Agency.

Finding: Bus Passes Used without Revenue Collected and/or Deposited

CATS Response: CATS has taken the necessary steps to strengthen Its internal controls to better safeguard bus passes. The following procedures have been put in place:

1) All passes are logged in at the Agency and placed in a safe. Each pass has a unique identifier, which is used to track the pass from receipt to customer. A log is kept by the Customer Service Manager for the disposition of passes. The Customer Service Manager is responsible for the reconciliation of passes and funds collected by the Customer Service representatives. A policy is being developed to address the authorization and tracking of complementary passes used by the Agency.
2) CATS is developing a policy to address the reconciliation and cash management to insure all funds are verified and deposited in the Agency's bank account on a daily basis.
3) CATS has begun the research and evaluation of electronic point-of-sale systems to address weaknesses in Its handling of bus passes.

Finding: Improper Payments to Employees and Improper Payroll Practices

CATS Response: While CATS does concur that the Agency's practices may not be consistent, CATS does believe that the Legislative Auditor was not able to review all pertinent policies and, therefore, having used outdated policies, came to erroneous conclusions.

The Legislative Auditor utilized the 2005 Employee Handbook as its basis for the overpayment of compensatory time, vacation time, and sick time. CATS adopted a new vacation schedule in 2008 and reconfirmed it in 2012. The current policy is identified in this Report as the Practice, not the authorized Policy. Additionally, management employees are able to earn compensatory time for hours worked over 40 hours a week. The current policy of CATS states that any earned compensatory time is to be paid at 1.5 hours for every hour of compensatory time earned. Finally, the policy adopted in 2008 and reconfirmed in 2012 states that employees earned vacation each calendar year and would be credited with that earned vacation January 1st of the following calendar year.

As to finding regarding the termination payments to Mr. Marshall, both CATS and Mr. Marshall felt that due to the environment at the time, it was not conducive to building a sustainable system that Mr. Marshall continue to serve as CEO of CATS. As referenced in the findings, CATS stated in the transmittal letter that accompanied the check to Mr. Marshall that payment was "in consideration of the waiver of the notice requirement of the employment contract". Therefore, CATS paid Mr. Marshall what was owed Mr. Marshall under the employment contract.

CATS believes that Mr. Owens was overpaid 3.5 hours as a result of rounding his compensatory time payment. Otherwise, all other payments made to Mr. Owens covering salary and benefits were allowable under current CATS policies.

To avoid any questions concerning CATS policies going forward, the following steps have been taken:

1) All policies pertaining to payroll and benefits have been updated and will be incorporated in a 2014 Employee Handbook. All employees will be asked to sign an acknowledgement of CATS policies.
2) CATS has instituted a policy requiring all employees to submit time sheets for approval of their immediate supervisor.
3) CATS has changed its vacation policy to require the earning of vacation based on the accrual rate for each employee, except the CEO.
4) CATS will recommend to the Board that future contracts for the CEO mirror the accrual policy for all employees.
5) CATS is evaluating its current electronic payroll system for required functionality to meet all policy needs.

Gary D. Owens
4336 Fleet Dr.
Baton Rouge, LA 70809

February 4, 2014

Mr. Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397

Re: Capital Area Transit System ("CATS")
Audit Findings

Dear Mr. Purpera:

Please consider the following comments regarding the areas of findings which will be included in your final investigative audit report.

Bus Fares Not Deposited

As noted in the audit report, CATS was dealing with outdated farebox software and equipment that was in need of repair. These conditions had not been addressed and rectified due to the severe cash flow problems being experienced by the system prior to 2013. This situation was not being ignored by management, but it was one of many high priority issues facing the beleaguered system which were put on hold due to lack of funds.

During the referenced period when shortages were being reported it was thought by management (Mr. Brian Marshall, former CEO, and I) that the reported shortages could be the result of one of, or a combination of, three things.

1. Software Issues. The farebox software could not "read" the new five dollar bills. When a patron used a five dollar bill it was incumbent upon the bus driver to key in the dollar denomination of the bill. This human intervention would naturally result in discrepancies between what the computer reports in revenue and the amount of cash actually collected.

   One software related problem identified during the audit process occurred when a part from one farebox was transferred to another farebox and the software failed to zero out the accumulated revenue from the old farebox. This created approximately $4,000 in false revenue reporting.

2. Hardware Failures. The farebox hardware that feeds bills into the farebox and reads the denomination was at or near the useful life of that equipment. In December 2011 the sole experienced farebox repair technician left the company and a new person was trained and moved to that position. This created a backlog of needed repairs due to this transition in a position that was already shorthanded with only one technician for approximately 60 vehicles with fareboxes.

   There were also components of the probing/vaulting equipment controls which were in a state of disrepair. Parts of the functions which should have been automated were being done manually. For example, when working properly the vaulting system ensures that all of the cash bills get dumped from the farebox unit into the vault. When performing the dump manually it is possible that not all of the bills fall into the vault.

3. Theft. The third cause of the reported shortages was, of course, theft by an employee.

Cases one and two above were easy to identify but required significant money to fix. As stated above, fixing these issues were among a list of high priority issues which required money that the system did not have until 2013.

The issue of theft was the area that the former CEO, Brian Marshall, and I began addressing once the reported differences became larger amounts in 2010-11. During 2011-13 Mr. Marshall and I did several step by step reviews of the exact flow of cash from the rider putting the money in the fareboxes through the actual bank deposits by Loomis (an armored cash transport service.) We saw no weaknesses in the system of internal control over cash handling except for the one possibility mentioned in the audit report regarding access to "bullets," which are "keys" to the cash boxes within the farebox. We felt that the risk of this happening was minimal because all bullets were kept in a safe in the Director of Maintenance's office. This safe required both a combination and a key to open and the Director of Maintenance was the only one with that access.

CATS also hired a security person for the purpose of reviewing hundreds of hours of security tapes and recommending improvements in our security camera system. This effort also failed to reveal any security issues, irregularities or theft.

Therefore, based on all of the above, it was my opinion at the time that the physical control over cash was adequate and that software and hardware issues were the major cause of the disparities. If this were the case then the shortages were not actual shortages of cash but were overstatements of the computer generated revenue amounts.

As my own audit conducted in July and August seems to confirm, I was wrong. I now concur with the audit report that theft was involved and it was the principal cause of the reported shortages.

Former CFO Paid for Leave Not Earned

I am not able to address this issue because I do not have any details supporting the reported overpayment. I can verify that I had nothing to do with the calculation of the amount of time paid in my final check nor do I have the information needed to confirm or dispute said overpayment. I assume Mr. Robert Mirabito, CATS Interim CEO, gave instructions to the CATS HR or Payroll personnel regarding my final paycheck.

I appreciate the courtesy of allowing me to comment on the findings. Your audit team treated everyone at CATS with the utmost respect and were very professional in their handling of this audit.

Respectfully submitted,

Gary D Owens

Gary D. Owens
Former CATS CFO

cc: Amy Dees (via email)

RESPONSE TO THE LEGISLATIVE AUDITORS REPORT

What is clearly absent from the report is the state of the Capital Area Transit System prior to my leadership team being in place.

The Capital Area Transit System had perpetual deficits and struggled daily to survive. The deficits caused a lack of staffing effectively operate the business. To further demonstrate that point, my leadership team was the first in many years of CATS history to have clean triennial federal audits and annual audits.

The fact is, CATS is not a new organization. For many years the organization existed without policies and procedures. To further illustrate that point, the Legislative Auditor does not say that the policy was not followed, it could not whereas that and other policies did not exist.

The perpetual lack of funding and the lack of adequate staffing made every day a struggle to prioritize. When it came to my attention, in 2011 not 2010 as the reports states, that the bank deposits did not match the financial records, we applied all available resources to the situation. Despite our dire financial position, and for the record this was the same year that we promised to shut down CATS if new funding did not happen, we took as many precautions as our resources allowed. We hired a contractor to review hundreds of hours of video tape, after an exhaustive review of video and not finding theft, we expanded our video surveillance system and made random surveillance checks. Since there was no evidence of theft, we contacted GFI –the provider of the farebox and vault systems. GFI advised us that the equipment software we had was outdated and was unable read the new $5 bills. The fareboxes were so outdated that we could not upgrade the software but had to purchase new fareboxes. New fareboxes cost approximately $17,000 per unit, we would have to purchase almost 100 units for the fleet at a total cost of $1.7 million which was financially impossible.

GFI told me that the discrepancy was due to the old software's inability to read the new $5 bills and that it randomly gives a value to the new bills.

Specifically, the reports states that "the following conditions which may have contributed to cash fare shortages":

1) *"CATS did not have written policies or procedures relating to bus fare box processing"*.
   There was not a vault puller position until 2011. The function was handled by a bus operator who was unable to perform duties as a bus operator, in his absence (especially on weekends) buses were not vaulted. (This was a practice that dates several years before my arrival). Once I was aware of this practice, I ordered the Director of Maintenance in writing and verbally to have money pulled from the bus every day, without fail. The only exceptions were when the vault jammed, in the event the vault jammed employees were to contact me immediately via cell phone.

   To my knowledge two farebox doors were left open during my tenure. The video tapes were checked on the buses and on the grounds. Neither system showed signs of theft. Additionally, bank records were checked for those days and deposits equaled records.

2) *"Broken vault equipment was not repaired"*

The report indicates the "vault mechanism (probe) was broken from May 2, 2012 until August 5, 2013 which is information contrary to what I was given. I recall, being told by the acting Director of Maintenance was broken, he ordered another probe immediately and replaced the broken probe within days. Furthermore, without the probe there would be no financial data. The probe working or not working has nothing to do with a farebox being emptied into the vault. Both the probe and the vault were old and worn. They were to be replaced based on new funding. Additionally,2014 plans were to create another vault station in order to ensure buses be vaulted daily.

3). *"Bus fare box equipment was not up to date"*

As stated previously, the fareboxes were out of date years before I and any of my leadership team arrived. New fareboxes were a financially impossible based on CATS's 2012 financial position but were in the plans after the tax money was collected.

4). *"CATS did not have written policies or procedures relating to cash handling and employees handling funds were not adequately trained or supervised"*

Prior to my arrival at CATS there were few to no policies or procedures of any type. The reason why we created a vault puller position was to secure and ensure daily vaulting of all buses. Employees who filled in for the vault puller had to be trained in order to perform the function, an untrained person would not be able to perform the function. As for the supervision of that function, I held several meetings with the Director of Maintenance regarding the actions taken to supervise that function. I went as far as assigning one of the street supervisors to supervise and monitor that function in addition to the Director of Maintenance. Daily, that supervisor reviewed video and observed employees in that function.

As for the section marked *"Former CEO paid for hours not worked & leave not earned":*

Severance is very common in the transit industry for the leader. The severance was agreed by both parties CATS and the former CEO.

Submitted by,

Brian Marshall