

City of Detroit

OFFICE OF THE AUDITOR GENERAL



**Audit of the Detroit Department of
Transportation's
Transportation for Elderly Individuals
and Individuals with Disabilities
(Section 5310) Program**

July 2005 – June 2010



City of Detroit

OFFICE OF THE AUDITOR GENERAL

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LOREN E. MONROE, CPA
AUDITOR GENERAL

MEMORANDUM

DATE: July 14, 2011

TO: Honorable City Council

FROM: Loren E. Monroe, CPA
Auditor General *Loren E. Monroe*

RE: Audit of the Detroit Department of Transportation's
Transportation for Elderly Individuals and Individuals with Disabilities
(Section 5310) Program

CC: Mayor Dave Bing
Lovevett Williams, Director
Terrence King, Group Executive

Attached for your review is our report on the audit of the Detroit Department of Transportation's (DDOT) Transportation for Elderly Individuals and Individuals with Disabilities (Section 5310) Program. This report contains our audit purpose, scope, objectives, methodology and conclusions; background; our audit findings and recommendations; and the response from DDOT.

Responsibility for the installation and maintenance of a system of internal control that minimizes errors and provides reasonable safeguards rests entirely with DDOT. Responsibility for monitoring the implementation of recommendations is set forth in Section 4-205 of the City Charter which states in part:

Recommendations that are not put into effect by the department shall be reviewed by the Finance Director who shall advise the Auditor General and the City Council of the action being taken with respect to the recommendations.

We would like to thank the employees of DDOT for their cooperation and assistance extended to us during this audit.

Copies of all of the Office of the Auditor General reports can be found on our website at <http://www.detroitmi.gov/CityCouncil/LegislativeAgencies/AuditorGeneral/tabid/2517/Default.aspx>

**Audit of the Detroit Department of Transportation's
Transportation for Elderly Individuals and Individuals with Disabilities
(Section 5310) Program**

July 2005 – June 2010

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AUDIT PURPOSE, SCOPE, OBJECTIVES, METHODOLOGY AND CONCLUSIONS

AUDIT PURPOSE

The audit of the Detroit Department of Transportation's (DDOT) Transportation for Elderly Individuals and Individuals with Disabilities (Section 5310) Program was performed in accordance with the Office of the Auditor General's (OAG) charter mandate to investigate the administration and operation of any City agency and to report findings and recommendations to the City Council and the Mayor.

AUDIT SCOPE

The scope of this audit included an assessment of the Section 5310 grants for years 2005-2006 through 2009-2010. We also assessed the Section 5310 grant agreements; DDOT's efforts to obtain the grant in each cited year; financial transactions related to the grants; and DDOT's utilization of its fleet of vehicles purchased with Section 5310 grant funds.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except for the completion of an external peer review of the Office of the Auditor General within the last three years.

AUDIT OBJECTIVES

The audit objectives were to determine whether:

- DDOT applied for and received Section 5310 grants for years 2005-2006 through 2009-2010.
- Section 5310 grant funds were used to buy vehicles, computers and communication equipment.
- DDOT spent funds in compliance with the grant agreements and in accordance with Federal Transit Administration (FTA) and Michigan Department of Transportation (MDOT) procurement guidelines.
- The entire fleet of vehicles purchased with Section 5310 grant funds has been utilized.

AUDIT METHODOLOGY

To accomplish our audit objectives, our audit work included:

- Reviewing DRMS reports, the department's budget reports, and Section 5310 grant agreements.
- Reviewing procurement guides of the FTA and MDOT.
- Conducting an audit-planning meeting to determine the scope and audit objectives, and to determine the financial transactions and/or areas to audit.
- Developing questions regarding the department's transactions, controls, functions, records, and personnel.

- Interviewing DDOT and MDOT personnel.
- Documenting and testing processes.
- Preparing a risk assessment.

CONCLUSIONS

As a result of our audit we have concluded that:

- DDOT applied for the Section 5310 grant each year in the audit period, with the exception of year 2008-2009. However, MDOT deobligated funding allocated to DDOT for grant year 2005-2006. For years 2006-2007 and 2007-2008, MDOT did not award or allocate any funding to DDOT under the Section 5310 grant.
- DDOT spent Section 5310 grant funds in accordance with the grant agreements and the procurement guidelines of the FTA and MDOT.
- Section 5310 grant funds were used to buy, vehicles, computers and communication equipment.
- DDOT did not utilize its entire fleet of Section 5310 grant-funded vehicles.

ISSUE OF CONCERN

During our audit, we noted several instances of ineffective communication and management of the Section 5310 grant by both DDOT and MDOT, which resulted in poor administration of the grant.

According to FTA regulations, when vehicles acquired with Section 5310 funds are operated by an entity other than the sub-recipient (City), control and responsibility for the operation of the vehicles is the City's unless control is transferred. FTA regulations also state that although it is not mandatory that the State hold title to vehicles, it is mandatory that the State establish continuing control over the vehicles and accept the responsibility for continued public transit use of the vehicles, and more particularly use for Section 5310 purposes, whether by itself or a sub-recipient. In the course of our audit, we discovered that for an extended period of time, neither DDOT nor MDOT knew the accurate total of the Section 5310 vehicle inventory.

The recommendations included in this report center around the need for improved communication between DDOT and MDOT, and the need for both agencies to efficiently and effectively resolve issues that might otherwise hinder the success of the program.

Budgeted
Revenues

Net Tax Cost

General Fund
Subsidy

Number of Staff

BACKGROUND

The Detroit Department of Transportation (DDOT) has been municipally owned and operated by the City of Detroit since 1922. As the largest public transit agency in the State of Michigan, DDOT transports approximately 36 million passengers annually and provides service throughout Detroit and 22 surrounding communities in Wayne, Oakland, and Macomb counties.

The mission of DDOT is to provide public transit services that are reliable, clean, customer focused, fiscally responsible, safe and secure.

Each year, the Federal Transit Administration (FTA) appropriates funding for new vehicles, improvements to existing vehicles, and vehicle shelters under the Transportation for Elderly Individuals and Individuals with Disabilities Program (Section 5310). The FTA allocates the appropriation to each state based on the state's population of seniors and disabled persons to the total population of seniors and disabled persons in the United States. Each state is responsible for administering the grant. The Michigan Department of Transportation (MDOT) has been assigned to administer the grant for the State of Michigan. DDOT is one of MDOT's sub-grantees (sub-recipients) under the Section 5310 program. Section 5310 capital expenditures may include vehicles, maintenance equipment, computers, and communication equipment.

DDOT receives funding for other special programs which are similar in nature to the Section 5310 grant in that they provide services to elderly and disabled riders. A detailed summary distinguishing the different components of each special transportation program is provided in this report as an Appendix.

Ms. Lovevett Williams currently serves as the director of DDOT. She has served as director from January 2008 through September 2008 and June 2009 to present. Norman White served as the director of DDOT for the remainder of the audit period.

Fiscal Year Ended June 30

	2008	2009	2010
Budgeted Appropriations	\$165,883,899	\$183,968,594	\$180,198,246
Budgeted Revenues	<u>\$165,883,899</u>	<u>\$183,968,594</u>	<u>\$180,198,246</u>
Net Tax Cost	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
General Fund Subsidy	\$ 79,708,123	\$ 85,085,466	\$ 80,018,789
Number of Staff	1,512	1,523	1,524

AUDIT FINDINGS AND RECOMMENDATIONS

1. Failure to Effectively Administer the Section 5310 Grant

For grant years 2005-2006 through 2009-2010, the Section 5310 Grant was not effectively administered. The following adverse conditions were noted:

- Application for the Section 5310 grant was submitted late for year 2006-2007.
- In calendar year 2010, MDOT deobligated \$303,195 of the Section 5310 funding awarded to DDOT for grant years 2005-2006. DDOT had not expended the funds within the grant period.
- For years 2006-2007 and 2007-2008, DDOT was not awarded or allocated grant funding by MDOT due to MDOT's assertion that the applications submitted by DDOT were incomplete. Based on documents reviewed, we noted ineffective communication by both MDOT and DDOT during the application process.
- DDOT failed to apply for the Section 5310 Grant for year 2008-2009.

The table below summarizes DDOT's Section 5310 Grant amounts awarded, expended and deobligated for the audit period. The table shows that DDOT did not expend all grant funds awarded to them during the audit period.

Grant Year	Award Amount	Amount Expended	Amount Deobligated	Comment
2006	304,995	1,800	303,195	Deobligated in 2010
2007	0	0	0	*
2008	0	0	0	*
2009	N/A	N/A	N/A	DDOT didn't apply
2010				**

* According to MDOT, DDOT submitted incomplete applications for these years. Because applications are completed online, the auditor could not determine the completeness of the application information submitted.

** DDOT applied for grant funds however MDOT has not made a determination on how much DDOT will receive in 5310 grant funds.

The FTA's stated goal for the Section 5310 program is to improve mobility for elderly individuals and individuals with disabilities by providing financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of elderly individuals and individuals with disabilities in all areas.

Ineffective administration of the Section 5310 grant increases the risk that the program will not meet the FTA's stated goal, and that seniors and persons with disabilities will not be afforded maximum, quality transportation service. DDOT's failure to spend funds within the award period facilitated MDOT's decision to deobligate the program's funding.

Causes for the adverse conditions include the following:

- According to DDOT, for years 2005-2006 through 2007-2008 the staff assigned to manage the Section 5310 grant may not have accurately apply the program.
- The grant period for funds awarded for grant year 2005-2006 was extended until March 2010 at the request of DDOT. However, in calendar year 2009, MDOT suspended DDOT's use of any grant funds administered by the State, including the Section 5310 funds. The suspension of DDOT's funds was due to MDOT's concerns regarding a subcontractor hired by DDOT for the paratransit program. Although MDOT's concerns were legitimate issues relating to the subcontractor's qualifications, the subcontractor was not utilizing Section 5310 vehicles.
- According to a DDOT staff person, DDOT submitted completed applications for grant years 2006-2007 and 2007-2008; however, if MDOT had questions about any information included on the applications, the applications were considered incomplete until the questions were answered to MDOT's satisfaction.
- According to a MDOT representative:
 - DDOT provided incomplete grant applications for years 2006-2007 and 2007-2008; and
 - The funds were deobligated because the FTA instructed MDOT to close out older federal grants.

According to DDOT, an application was not submitted for grant year 2008-2009 because the department focused on resolving issues related to prior years' grants and establishing policies and procedures for the 5310 Grant.

Recommendation

We recommend that DDOT establish procedures for the effective management of the Section 5310 grant, including effective communication with MDOT, in order to provide requested information in a timely manner.

Develop procedures to effectively communicate with MDOT.

Resolve issues related to the 5310 grant in a timely manner, including for senior and disabled riders with the maximum grant amount.

Comply with the

2. Weak Internal Control Over Vehicles Purchased with Section 5310 Grant Funds

Two deficiencies were noted in the control of vehicles purchased with Section 5310 grant funds:

- Twelve vehicles were not placed in service to provide transportation for senior and disabled riders.
- DDOT has not included its Section 5310 grant-funded vehicles in the City's Capital Assets Module.

Adequate internal control requires an organization to effectively and efficiently use its available resources, which includes optimally employing its fleet of vehicles. The FTA encourages maximum use of vehicles funded under the Section 5310 program. Consistent with the requirements of 49 Code of Federal Regulations (CFR) parts 18 and 19, vehicles are to be used first for program related needs and, beyond the purposes for which a Section 5310 Grants are made, to meet other transportation needs of elderly persons and persons with disabilities, to meet other Federal program or project needs, and finally for other local transportation needs.

The City's Capital Asset Policy Guide & Procedures mandates that all capital assets be recorded in the Capital Asset System and reported to the Finance Capital Asset Section within three business days from the physical receipt of an asset by the recipient department.

Failure to use the entire fleet of vehicles purchased with Section 5310 grant funds increased the risk that transportation needs of seniors and persons with disabilities were not adequately met. The failure of DDOT to include Section 5310 grant-funded vehicles in the Capital Asset System is a violation of the City's Capital Asset Policy Guide & Procedures.

Miscommunication regarding MDOT's authorization to use the 12 vehicles resulted in DDOT not using the vehicles. According to DDOT, they did not want to violate federal regulations by assigning the vehicles independent of its coordinated plan; therefore, they needed MDOT's approval.

According to DDOT, the Section 5310 vehicles were not included in the inventory because MDOT titled the vehicles directly to the various organizations that were identified as transportation providers in the grant award, and DDOT lacked a process to include the vehicles in the Capital Assets Module of DRMS.

Recommendations

We recommend DDOT:

- Develop procedures to effectively communicate with MDOT.
- Resolve issues related to the 5310 grant in a timely manner in order to provide senior and disabled riders with the maximum quantity of vehicles available under the program.
- Comply with the City's Capital Asset Policy Guide & Procedures.

OTHER SPECIAL TRANSPORTATION SERVICES

The following is information about paratransit service, Section 223 of the Americans with Disabilities Act of 1990, reduced fares, and grants 5307, 5309, 5316, and 5317.

Paratransit Service

Paratransit service is an alternative mode of flexible passenger transportation that does not follow fixed routes or schedules.

The Federal Transit Administration (FTA) requires transit agencies to provide paratransit service for individuals with disabilities who cannot ride regular buses or ambulate or "wheelchair" to fixed route bus stops. This requirement must be met to receive funding from the FTA.

MetroLift provides paratransit service for DDOT. Only individuals who are determined eligible under DDOT's paratransit guidelines may have access to the service rendered by MetroLift. In summary, individuals who are unable to leave their locations, travel to DDOT fixed-route bus lines, independently board and disembark from a fixed-route bus, and navigate to their final destination are eligible for the service.

Section 223 of the American with Disabilities Act of 1990

Section 223 of the Americans with Disabilities Act of 1990 (ADA) requires that public entities which operate non-commuter fixed route transportation services also provide complementary paratransit service for individuals unable to use the fixed route system.

Reduced Fare

All individuals with disabilities that make it "more difficult" for them to utilize DDOT's fixed-route service, than it is for individuals without that particular disability, are determined eligible for DDOT's Reduced Fares program. Eligibility under Reduced Fares allows riders access to fixed-route service at a discounted rate of \$0.50. However, it does not permit them access to paratransit service.

5307 - Urbanized Area Formula - Supports transit service in cities with populations over 50,000. Eligible activities include planning, engineering design and evaluation of transit projects and other technical transportation related studies; capital investments in bus and bus related activities such as replacement buses, overhauling of buses, rebuilding of buses, crime prevention and security equipment, and construction and maintenance of passenger facilities; and capital investments in new and existing fixed guide way systems, including rolling stock, overhauling and rebuilding of vehicles, track, signals, communications and computer hardware and software. All preventive maintenance and some Americans with Disabilities Act complementary paratransit service costs are considered capital cost.

5309 - Bus and Bus Facilities - Supplements formula funding for bus and bus facilities in both urbanized and rural areas. Eligible capital projects include purchasing of buses for fleet and service expansion, bus maintenance and administrative facilities, transfer facilities, bus malls, transportation centers, inter-modal terminals, park and ride stations,

acquisition of replacement vehicles, bus rebuilds, bus preventative maintenance, passenger identities such as passenger shelters and bus stop signs, accessory and miscellaneous equipment such as mobile radio units, supervisory vehicles, fare boxes, computers and shop and garage equipment.

5316 - Job Access and Reverse Commute (JARC) - The JARC program, authorized as a discretionary program under the Transportation Equity Act for the 21st Century (TEA-21, Pub. L. 105-178, June 9, 1998), changed to a formula program under SAFETEA-LU. The JARC program provides formula funding to states and designated recipients to support the development and maintenance of job access projects designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment. The JARC program also supports reverse commute projects designed to transport residents of urbanized areas to suburban areas for employment opportunities.

5317 - New Freedom - SAFETEA-LU established the New Freedom Program under 49 U.S.C. 5317. The purpose of the New Freedom program is to provide new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services. The FTA is issuing a new circular for the New Freedom program.

DDOT Response to Equity 5310 Audit

The Michigan Department of Transportation (MDOT) is allocated to the state of Michigan. According to FTA Circular 4902.11, the State (MDOT) is to maintain control of capital equipment and facilities funded from Section 5310 and designated to remain under State from MDOT in order to comply with the program guidelines that MDOT defines for its Section 5310 within the State Management Plan. All decisions regarding capital equipment in our efforts to work with MDOT to implement an equity of Detroit. However, feedback from MDOT, on a number of matters, remains under MDOT's control to resolve. These decisions were not part of DDOT's unilateral one-sided responses to questions about it. DDOT's responses inaccurately portrayed DDOT as removed in the spirit of the Section 5310 grant.

DDOT raised concerns with several MDOT actions. DDOT Council responses in late 2010. However, it was not until Section 5310 audit request, did we conduct a correspondence and learn that many of MDOT's actions violate the Rights Act of 1964. Per FTA Circular 4902.1A, 0.1(g) that areas with minority and low-income populations receive federal benefits. DDOT's primary title of concerns with MDOT is that November 6, 2009 letter to prohibit DDOT from using Section 5310 funds for previous purchases, its failure to respond to evidence that DDOT's November 2009 claims, and its de-obligation of Detroit's federal funds. These actions denied Detroit's sovereignty and the program's intent.



Detroit Department of Transportation
1301 East Warren, Detroit, Michigan 48207
General Information: (313) 933-1300
Michigan Voice Relay: 1-800-649-3777
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June 17, 2011

ATTACHMENT A

Loren E. Monroe, Auditor General
Office of the Auditor General
Coleman A. Young Municipal Center, Room 208
2 Woodward Avenue
Detroit, Michigan 48226

RE: RESPONSE TO SECTION 5310 GRANT PROGRAM'S AUDIT FINDINGS

Dear Mr. Monroe:

The following presents the Detroit Department of Transportation's (DDOT) response to the indicated findings and related recommendations in the January 2011 audit of the Detroit Department of Transportation – Elderly Individuals and Individuals with Disabilities (Section 5310) grant program, as prepared by the Office of the Auditor General.

DDOT Response to Section 5310 Audit

The Michigan Department of Transportation (MDOT) is the grant recipient of Section 5310 funds allocated to the State of Michigan. According to Page VI-5 of the Federal Transit Administration's (FTA) Circular 9070.1F, the State (MDOT) is "ultimately responsible" for assuring continued control of capital equipment and facilities funded from Section 5310 grants. DDOT, as the agency designated to receive grant funds from MDOT for Detroit's transportation providers, is required to abide by the program guidelines that MDOT defines for its Section 5310 program, as described within the State Management Plan. All documentation support DDOT's claim that we were aggressive in our efforts to work with MDOT to implement an improved Section 5310 program for Detroit. However, pushback from MDOT, on a number of matters, caused inefficiencies that were outside DDOT's control to resolve. These deficiencies were then passed-off as DDOT's failures, as MDOT submitted one-sided responses to questions asked of it by Detroit's City Council. MDOT's responses inaccurately portrayed DDOT as remiss in our actions; and, ultimately, lead to this formal audit of the Section 5310 grant.

DDOT raised concerns with several MDOT actions from November 2009 and leading up to its City Council responses in late 2010. However, it was not until we received notification of the impending Section 5310 audit request, did we conduct a thorough review of all MDOT/DDOT correspondences and learn that many of MDOT's actions potentially violated Title VI of the Civil Rights Act of 1964. Per FTA Circular 4702.1A, the grant recipient (MDOT) is required to ensure that areas with minority and low-income populations receive sufficient support and equal access to federal benefits. DDOT's primary Title VI concerns with MDOT is its unwarranted use of the November 6, 2009 letter to prohibit DDOT from using Section 5310 funds and withhold payment of previous purchases; its failure to respond to evidence that DDOT submitted to disprove all November 2009 claims; and its de-obligation of Detroit's federal benefits without cause. Each of these actions denied Detroit's minority and low-income residents' access to federal benefits.

On February 3, 2011, DDOT presented MDOT with a list of eleven (11) items of concern, describing the MDOT actions that we believe discriminated against Detroit's populations. We also attached a list of proposed resolutions, and a meeting request, in an effort to resolve the matter locally. The goal was to prevent a formal Title VI complaint with the FTA. On February 25, 2011, MDOT and DDOT met to discuss possible resolutions. Several of these items have since been resolved. However, because of the nature of these audit findings, DDOT has decided to move forward with filing a formal Title VI complaint against MDOT to gain clarity on MDOT and DDOT's respective roles for Section 5310. (See Exhibit II for DDOT's Title VI concerns).

Finding 1 – Failure to Effectively Administer the Section 5310 Grant

DDOT administered Detroit's Section 5310 grant as effectively as possible within the guidelines defined by MDOT for its grant program. Documentation shows DDOT's direct, frequent, and very timely communication with MDOT, as we worked to reconcile our inventory of vehicles and expend all remaining grant funds prior to the amended expiration dates that were approved by both City Council and MDOT. Each contract's amended expiration date superseded all prior dates; and, therefore, negates claims that funding was de-obligated because DDOT failed to expend them before the original expiry date.

All correspondences show that DDOT initiated and lead all efforts to establish an accurate vehicle inventory and that we shared such progress with MDOT frequently. This is also true with establishing accurate grant balances. DDOT reconciled each grant, developed a three-phase procurement schedule to expend each of them by December 31, 2009, and presented these plans to MDOT on several occasions. Each vehicle purchase was executed according to plan. DDOT had already taken possession of the first set of vehicles, and was within one week of receiving the second set, when MDOT presented its November 06, 2009 letter halting all further activities. Up until that date, MDOT had never once questioned DDOT's ability to expend these funds by the amended deadlines; nor was there any mention of the FTA requiring the de-obligation of DDOT's funds, for any reason. Any statements suggesting otherwise are unsubstantiated.

Claims that DDOT's grant year 2007 application was late are also unsubstantiated. MDOT made the decision not to award federal funds to Detroit for grant years 2007 and 2008 and to redirect these funds to areas with majority populations, which were potential Title VI violations. Per Title VI, MDOT is required to provide DDOT with a level of support that ensures Detroit's primarily minority and low-income populations have equal access to federal benefits. The application items that MDOT claimed were incomplete were easily resolvable, had MDOT offered a reasonable level of support to assist with completing them. MDOT's failure to do so denied Detroit federal benefits.

In an effort to improve transportation within Detroit, DDOT initiated the effort to better-organize Detroit's Section 5310 grant. We did so, despite our understanding that MDOT is actually the grant recipient; and, therefore, ultimately responsible for the administration. FTA recently confirmed this understanding – via a telephone conference and email correspondence regarding Detroit's Section 5310 grant – where the FTA advised that its relationship exists with MDOT, not DDOT. It further advised DDOT to confer with MDOT to resolve all outstanding concerns; and advised MDOT: "FTA will not review individual applications from subrecipients or become involved in the day-to-day program activities." In accordance with this understanding, DDOT must respectfully disagree

with findings that we failed to administer the grant effectively, as the responsibility to do so belong to MDOT. (See Exhibit III for the FTA's 02/22/11 email to MDOT).

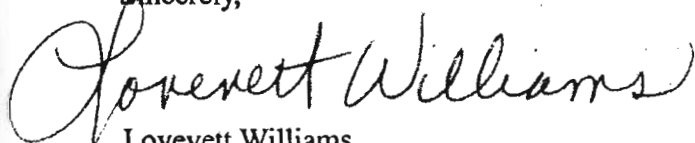
Finding 2 – Weak Internal Control Over Vehicles Purchased with Section 5310 Grant Funds

As required by the FTA, DDOT developed a local Coordinated Public Transit – Human Services Transportation Plan (“Coordinated Plan”) that identifies Detroit’s transportation needs. DDOT submitted several documents to MDOT explaining our plans and justifying the enormous benefit to Detroit’s elderly, disabled, and lower-income riders, by using Section 5310 vehicles in coordination with other federal grant programs to maximize the use of federal resources. Despite the obvious benefit to Detroit, MDOT rejected each DDOT submission and demanded that DDOT limit vehicle assignments to only MDOT’s pre-selected group of transportation providers. None of whom had projects that were derived from DDOT’s Coordinated Plan; and none with services that benefited a significant number of Detroit’s riders.

Per the FTA, as the direct recipient for other federal grants, DDOT must comply with all federal guidelines as a condition for funding. DDOT’s failure to do so potentially causes the forfeiture of such funds. MDOT’s demand for DDOT to assign vehicles to non-compliant sub-recipients placed DDOT in jeopardy of violating federal coordination-planning requirements. In order to prevent any violations, DDOT postponed assigning the twelve (12) vehicles in question, until we received clarity on the matter. MDOT has since lifted its vehicle assignment constraint, and has approved DDOT to assign Detroit’s Section 5310 resources as described within DDOT’s Coordinated Plan. DDOT now assigns vehicles to only those providers who offer Detroit area riders the greatest benefit. (See Exhibit IV for MDOT/DDOT’s most recent correspondences).

Prior to 2009, all grant-funded vehicles were titled to the local transportation provider to whom the vehicle was awarded or directly to MDOT; but not DDOT. It was not until DDOT began our efforts to reconcile our vehicle inventory, did MDOT advise us that all vehicles needed to be re-titled to DDOT. We began the re-titling process, but had not yet incorporated the vehicles into the City’s Capital Assets Module, when all grant activities were suddenly halted in late 2009. Now that MDOT and DDOT have resolved all vehicle assignment and inventory concerns, DDOT is developing new vehicle assignment procedures that include steps for adding grant-funded resources to the City’s Capital Assets Module (Oracle) from here forward.

Sincerely,



Lovevett Williams
Director

LW/LP

Cc: K. Newby A. Jones L. Perry File



State of Michigan
DEPARTMENT OF TRANSPORTATION
Lansing

November 6, 2009

BRUNER W. GRANHOLM
GOVERNOR

EXHIBIT I

Ms. Lovett Williams

1301 B. Warren
Detroit, Michigan

MDOT's 11/06/09 Letter to DDOT

Dear Ms. Williams:

I am writing to convey the disconcerting news from Michigan's Department of Transportation (MDOT) Detroit Department of Transportation (DDOT) and the Federal Transit Administration (FTA) this afternoon. In our November 5, 2009 letter, we requested information from DDOT and Enjei Transportation, one of the ACO's providing its services to us by November 17, 2009. This request was made. However, based on the information available to us at this time, we believe Enjei should not be in possession of the federal title until such time as the issue is resolved to MDOT's satisfaction. Therefore, we request that you, on November 9, 2009, please provide MDOT with copies of all federal title records and registration of the vehicles on file with the Michigan Department of Transportation Federal Motor Vehicle Records (FMVR) by MDOT, including copies of the title certificates. You may want to develop a form for each vehicle that all operators within DDOT agree to authorize MDOT has taken possession of the vehicle.

As a reminder, at this time DDOT is prohibited from entering a Section 5310 lease issued by MDOT and FTA, or other leasing party. Please do not acquire additional vehicles under any existing Section 5310 approval from MDOT. DDOT's ability to procure any such vehicles depends on your compliance with the letter and our previous and current contracts expire between March 31, 2010 and June 30, 2010. We address these issues quickly or you may be required to start a new Section 5310 contract with MDOT.

If you have any questions, please contact:

EXHIBIT I



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

KIRK T. STEUDLE
DIRECTOR

November 6, 2009

Ms. Lovevett Williams
Detroit Department of Transportation
1301 E. Warren
Detroit, Michigan 48207

Dear Ms. Williams:

I am writing to convey the discussion between Michigan Department of Transportation (MDOT), Detroit Department of Transportation (DDOT) and the Federal Transit Administration (FTA) this afternoon. In our November 5, 2009 letter, we requested information from DDOT regarding Enjoi Transportation, one of the DDOT funding subrecipients, to be submitted to us by November 13, 2009. That request still stands. However, based on the information available to us at this time, we believe Enjoi should not be in possession of federally or state funded vehicles until this issue is resolved to MDOT's satisfaction. Therefore, by close of business Monday November 9, 2009 please provide MDOT with written certification that Enjoi is no longer in possession of the vehicles on the attached list or any other vehicle that has been purchased with federal transit funds awarded to you by MDOT. Include documentation that supports your certification. You may want to develop a form for each vehicle that an appropriate staff person within DDOT signs to indicate DDOT has taken possession of the vehicle.

Also, as a reminder, at this time DDOT is prohibited from ordering any additional vehicles using Section 5310 funds issued by MDOT and MDOT is withholding payment on prior purchases. Please do not acquire additional vehicles under any existing Section 5310 until you have written approval from MDOT. DDOT's ability to procure any additional Section 5310 vehicles is dependent on your compliance with this letter and our November 5, 2009 letter. Since your current contracts expire between March 6, 2010, and June 18, 2010, it is critical that DDOT address these issues quickly or you may be required to forfeit any remaining funds in existing Section 5310 contracts with MDOT.

If you have any questions, please contact me at (517) 373-0471.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon L. Edgar".

Sharon L. Edgar, Administrator
Bureau of Passenger Transportation

Enclosure

EXHIBIT II

Detroit Department of Transportation and
Michigan Department of Transportation

MEETING AGENDA

February 3, 2011

10:00 AM Conference Call

EXHIBIT II

Over DDOT's 02/03/11 Letter to MDOT
Title VI Rev (Title VI's Items of Concern)

DDOT's Interpretation of MDOT's

EXHIBIT II

OVERVIEW OF ITEMS OF CONCERN

Detroit Department of Transportation and Michigan Department of Transportation

MEETING AGENDA

February 3, 2011

10:00 A.M. Conference Call

1. Overview of Items of Concern
2. Title VI Requirements: Federal and State
3. DDOT's Interpretation of MDOT's Title VI Requirements
4. Items of Discussion
5. Proposed Resolutions
6. Moving Forward
7. Open Discussion

TITLE VI REQUIREMENTS

OVERVIEW OF ITEMS OF CONCERN

1. Funds that were awarded to enhance services for Detroit's minority and low-income populations were de-obligated, without cause, and redistributed to enhance services for majority populations throughout Michigan.
2. DDOT was forced to undergo the grueling process of re-justifying Section 5310 grant balances that were awarded to Detroit during prior grant years or risk forfeiting them.
3. DDOT, in its attempt to secure funds for Detroit's minority and low-income populations, was ordered to satisfy requirements that far exceeded that which is required from agencies that represent majority populations.
4. Unsubstantiated claims against DDOT, and one of its minority sub-recipients, were used as justification to suspend grant services for Detroit's minority, elderly, disabled, and lower-income riders.
5. Suspended grant programs were not reinstated, even after DDOT submitted evidence that disproved claims of non-compliance issues.
6. DDOT was instructed to violate federal laws by assigning 5310 resources to sub-recipients with projects that were not derived from DDOT's Coordinated Public Transit - Human Services Transportation plan.
7. DDOT was required to submit justifications that far exceeded that which is required to request reimbursement for capital equipment purchases.
8. DDOT's request to coordinate Section 5310 vehicles in with other federal programs to maximize Detroit's use of vehicles purchased under the programs was denied.
9. DDOT's Section 5310 ridership was restricted to match the ridership performed for the state's Specialized Services program.
10. DDOT did not receive a fair share of all Section 5310 resources awarded to Detroit's urbanized area.
11. DDOT was not provided the support needed to make certain its 5310 applications for fiscal years 2007 and 2008 met all requirements needed for grant award.

TITLE VI REQUIREMENTS

FTA – REQUIREMENTS

Details specific to Title VI requirements are provided in FTA C 4702.1A, which is available from the following link:

- http://www.fta.dot.gov/documents/Title_VI_Circular_4702.1A.pdf

MDOT – REQUIREMENTS

MDOT commits to comply with Title VI requirements as follows:

- Prevent the denial of, reduction in or significant delay in the receipt of benefits by minority and low-income populations.
- Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- Ensure that individuals or group rights' are not violated by MDOT's treatment of them in a discriminatory manner.
- Ensure that individuals or group rights are not violated because MDOT's programs or activities do not comply with federal civil rights laws.
- Ensure that individuals or group rights are not violated by MDOT's treatment of them in a disparate manner.

INTERPRETATION OF TITLE VI REQUIREMENTS

DDOT interprets MDOT's Title VI requirements to mean the following, as it relates to Detroit's minority and low-income populations:

- MDOT must work with DDOT to prevent the denial of, reduction in, or a significant delay in the receipt of benefits for Detroit.
- MDOT must ensure that the same rules and policies that apply for the majority population also apply for Detroit.
- MDOT must ensure that funds are not unfairly directed from Detroit to the majority population.
- MDOT must ensure that Detroit has equal access to benefits.
- MDOT must identify and address the affects of its programs, policies and activities on Detroit.
- MDOT must work with DDOT to ensure Detroit receives a sufficient level of support in its grant application and management efforts.

ITEMS OF DISCUSSION

The following items describe the MDOT activities that violated Detroit's minority and low-income populations' rights in a discriminatory manner; the activities that do not comply with federal civil rights laws; and the activities that have resulted in the inconsistent application of rules and policies for Detroit's programs over programs for majority populations throughout Michigan:

1. Funds that were awarded to enhance services for Detroit's minority and low-income populations were de-obligated, without cause, and redistributed to enhance services for majority populations throughout Michigan. There were no grounds to bring DDOT's management of these funds into question, as DDOT had remained on an aggressive schedule to execute its well-defined and clearly communicated plan for depleting the grant balances within the allotted timelines.
 - a) Correspondences show an aggressive effort on DDOT's part to reconcile, extend, expend, and closeout its 5310 grants; and show that MDOT acknowledged DDOT's progress in these areas.
 - b) DDOT complied with all that was requested of it by MDOT, despite its belief that MDOT was discriminating against Detroit's minority and low-income populations. MDOT rejected each of DDOT's justifications, it made no effort to assist DDOT, and it acted swiftly to de-obligate Detroit's funds and redistribute them to majority populations.
2. DDOT was forced to undergo the grueling process of re-justifying Section 5310 grant balances that were awarded to Detroit during prior grant years or risk forfeiting them. This demand for DDOT to justify the same funds twice far exceeded that which was, and still is, required from agencies that represent majority populations. The unprecedented request for a second justification placed undue duress on DDOT to comply, and despite meeting MDOT's demands, Detroit's programs were still defunded.
 - a) Correspondences show DDOT's aggressive effort to re-justify its 5310 funding, despite its belief that MDOT's re-justification demands were to justify de-funding Detroit's programs to enhance services for the majority population.
 - b) DDOT submitted two (2) substantial, very descriptive, justifications that far exceeded anything ever required before for a 5310 application. MDOT did not use this information to assist DDOT with retaining these amounts; but, instead, used them to issue demands that further hindered DDOT's progress.
3. DDOT, in its attempt to secure funds for Detroit's minority and low-income populations, was ordered to satisfy requirements that far exceeded that which is required from agencies that represent majority populations. In addition to completing PTMS' Section 5310 application, DDOT was also instructed to submit numerous, very detailed, justifications to describe its newly planned coordinated service. Each justification was followed by another request for more descriptive information. The repetitiveness of this process continues to-date and is the cause of a significant delay

in the receipt of benefits by Detroit's minority and low-income populations. This redundancy has caused DDOT to continue complying with rules and policies that do not apply to agencies with majority populations.

- a) Correspondences show DDOT's aggressive effort to justify the enormous benefit to Detroit's minority and low-income populations by coordinating 5310 resources through a single unit along with other grant resources.
 - b) MDOT's negative opinion of DDOT's coordinated service was communicated to other agencies (Detroit's City Council, FTA, SEMCOG, etc.), which falsely portrayed DDOT, and its new service, as non-compliant with program requirements. MDOT was discriminatory; in that, these actions devalued the positive impact of such a service on Detroit and gave cause to disqualify it for funding.
 - c) MDOT submitted one-sided responses to Section 5310 related questions that were asked of it by Detroit's City Council. MDOT justified doing so by insinuating that it did not have access to DDOT's correspondences, which were the documents that DDOT believed actually validated its aggressiveness in managing its grant programs. MDOT's decision to submit partial responses, without asking DDOT to resubmit its missing correspondences to include with them, falsely portrayed DDOT as remiss in managing its programs. MDOT was discriminatory against Detroit's minority and low-income populations; in that, these actions delayed the approval of DDOT's paratransit service contracts; and, ultimately, resulted in a formal audit of DDOT's Section 5310-grant program.
 - d) DDOT complied with the majority of what MDOT requested of it, until DDOT became concern with the appropriateness of MDOT's actions and the adverse affects of them on Detroit's minority and low-income populations.
 - e) MDOT's primary responsibility, as the 5310 designated recipient, is to ensure that DDOT's projects are derived from a locally developed coordinated plan and are overseen as required by FTA Circular 9070.1F. MDOT's attempts to approve or disprove various elements of DDOT's coordinated service fall outside the scope of these responsibilities.
 - f) MDOT did not offer DDOT any assistance with implementing Detroit's well-coordinated, efficient, and cost-effective service, despite DDOT's numerous requests for assistance. Instead, MDOT created obstacles that blocked DDOT's progress and lessened Detroit's chances of qualifying for benefits.
4. Unsubstantiated claims against DDOT, and one of its minority providers, were used as justification to suspend grant services for Detroit's elderly, disabled, and lower-income riders, who are primarily of minority descent. Due diligence was not exercised in an attempt to disprove these claims prior to making the abrupt decision to contact the FTA to request a complete shutdown of DDOT's grant related services; and, ultimately, deny Detroit's minority and low-income populations benefits. DDOT was subjected to rules and policies that were more restrictive than those that apply to agencies with majority population, when Detroit's services were

immediately, and completely, shutdown because of unfounded, on-the-road, traffic-stops.

- a) Correspondences show DDOT's aggressive effort to explain that claims made against its minority sub-recipient (provider) were false and that the provider was being targeted in these actions. DDOT offered these explanations, despite the obvious coincidence that the timing of MDOT's shutdown demand came on the exact same date that DDOT's former paratransit service provider also shutdown DDOT's paratransit service. Because DDOT had planned for the targeted provider to continue service to paratransit riders, once the former paratransit provider departed, MDOT's swift demand nearly caused a complete shutdown of all elderly, disabled, and lower-income services to Detroit's minority and low-income populations.
 - b) MDOT did not use the information provided by DDOT to disprove these claims; not even those that were obvious red flags for DDOT. For instance, MDOT never questioned the appropriateness of a Michigan State Trooper using a normal traffic stop violation (which involved a non-grant funded vehicle of the targeted provider), as justification for him to visit the provider's office on the day following the traffic-stop to conduct an inspection of the provider's grant programs. However, MDOT's program documents do not identify grant management as a responsibility of the state police department.
 - c) MDOT did not make certain that DDOT, and its minority service provider, were not targets of discrimination. Instead, MDOT used unsubstantiated claims to create a false level of urgency to gain the FTA's support in shutting down services that were operated by a minority transportation provider for Detroit's primarily minority and low-income populations.
5. Suspended grant programs were not reinstated, even after DDOT submitted evidence that disproved claims of non-compliance with the issues raised. To-date, these programs remain suspended, as DDOT continues to comply with correspondence it received instructing it to cease grant activities until issued written approval to proceed from MDOT. This has significantly delayed the receipt of benefits by Detroit's minority and low-income populations.
- a) Correspondences show that MDOT led all efforts to suspend DDOT's grant services and was, therefore, responsible for issuing DDOT a written authorization to proceed once it confirmed DDOT's compliance with its November 2009 correspondences.
 - b) DDOT complied with all that was requested of it by MDOT, including the submission of a 197-page document that evidenced DDOT's compliance with various guidelines. Despite these efforts, MDOT still did not issue DDOT a written response acknowledging its review of the document and authorizing DDOT to reinstate its services. MDOT's actions blocked Detroit's minority and low-income populations' access to federal benefits, indefinitely.
6. DDOT was instructed to violate federal laws by assigning 5310 resources to sub-recipients with projects that were not derived from DDOT's Coordinated Public

Transit – Human Services Transportation plan (“coordinated plan”). SAFETEA-LU requirements, and FTA Circular C9070.1F, dictate that Section 5310 projects must be derived from a locally developed coordinated plan. A different set of rules and policies applied for DDOT that did not apply for agencies with majority populations; in that, DDOT was prohibited from assigning Detroit’s resources in accordance with the goals defined from its assessment of Detroit’s transit-needs. These resources remain unassigned, and unavailable to Detroit’s populations, while DDOT confirms the appropriateness of this directive.

- a) Correspondences show that MDOT did not approve DDOT’s request to assign its 5310 vehicles through its new coordinated service, as dictated by DDOT’s coordinated plan. Instead, MDOT demanded that DDOT only assign its 5310 vehicles to the sub-recipients who MDOT had pre-selected for DDOT. None of whom, had submitted projects that were derived from DDOT’s coordinated plan. MDOT’s selections included pre-existing providers with individual projects that only benefited very isolated groups of riders; and none of whom, offered any level of coordination with any other Detroit service.
 - b) MDOT continued placing pressure on DDOT to quickly assign its 5310 vehicles to its non-compliant group of sub-recipients. MDOT was exclusionary; in that, these actions limited access to Detroit’s resources to only a pre-selected group of providers. The majority of Detroit’s minority and low-income populations were denied access to these benefits.
 - c) MDOT’s unprecedented assignment demand placed DDOT in jeopardy of losing 5307, 5309, 5316, and 5317 grant funding, since it required DDOT to violate its agreement with FTA to comply with all federal laws and guidelines.
7. DDOT was required to submit justifications that far exceeded that which is required to request reimbursement for capital equipment purchases. Each invoice and justification that DDOT submitted was followed with a request for additional information and each ended with the invoice being rejected for payment. DDOT was subjected to rules and policies that did not apply to agencies with majority populations, and that, also denied Detroit’s minority and low-income populations’ access to benefits.
- a) Correspondences show that MDOT demanded that DDOT over-justify all invoices submitted for capital equipment purchases from Sections 5310 and 5316 grants. MDOT’s requests were unreasonable and required that DDOT produce equipment usage data that could not be determined before implementing the coordinated service. For instance, MDOT requested an “allocation of costs” for television monitors that were purchased for monitoring the call center’s telephone call queues. This was an unrealistic request, as there is no way to determine what number of elderly and disabled calls will enter the queue, as opposed to the number of low-income calls that will. Equipment purchased to support Detroit’s coordinated service should be approved to support all elderly, disabled, and lower-income riders.
 - b) MDOT did not request this same level of documentation for equipment purchases that were invoiced prior to November 2009. Up until this point, all

DDOT invoices were paid without incident. After November 2009, MDOT began applying a different set of rules and policies that were not communicated in advance and that resulted in each DDOT invoice being rejected for payment. These new applications adversely affected Detroit's minority and low-income populations.

8. DDOT's request to coordinate Section 5310 vehicles in with other federal programs to maximize Detroit's use of vehicles purchased under the programs was denied. DDOT was advised to separate out elderly and disabled services to make certain that 5310 vehicles remain dedicated to these types of services only; and not used in Detroit's new, fully coordinated, elderly, disabled, and lower-income service. Per FTA, Section 5310 programs should coordinate with other Federally-assisted programs and services to make the most efficient use of Federal resources. To date, the actual method that DDOT will use to manage its 5310 resources remains undecided, while DDOT confirms the appropriateness of this directive. This process has created a significant delay in the receipt of benefits by minority and low-income populations.
 - a) Correspondences show that MDOT rejected DDOT's plan to coordinate 5310 resources with all other federal grant programs' resources, which would enhance service for Detroit by maximizing the use of all resources. All MDOT correspondences either criticized DDOT's proposed coordination plans or emphasized the features that MDOT believed did not comply with program guidelines. MDOT did not offer DDOT any assistance, or alternatives for improving on its plan, despite DDOT's numerous requests for assistance.
 - b) MDOT's actions have caused the denial of, reduction in and a significant delay in the receipt of benefits by Detroit's minority and low-income populations.
9. DDOT's Section 5310 ridership was restricted to match the ridership performed for the state's Specialized Services program. DDOT is prohibited from maximizing the amount of ridership utilizing its 5310 vehicles by using them to support other federal grant programs. This limitation reduces DDOT's ability to increase the level of service offered to Detroit's minority and low-income populations and to qualify for future benefits.
 - a) Correspondences show that MDOT required that DDOT's 5310 ridership totals match those of its Specialized Services program. This contradicts the requirements defined within the FTA's Circular C9070.1F for the Section 5310 grant program.
 - b) MDOT's various actions, since November 2009, have contributed to a decline in DDOT's 5310 ridership totals. MDOT used the declining ridership as a reason to portray DDOT as remiss in managing its grant program and justify a delay in the approval of DDOT's 5310 grant applications.
 - c) DDOT was directed to confirm ridership, in advance, for grant applications that requested service expansions to extend service beyond the existing levels; i.e., to satisfy Detroit's "unmet" transit-needs. DDOT remains unable to

provide ridership statistics, with the level of detail requested by MDOT, as the proposed services/resources have not yet been awarded and implemented. The timing of MDOT's request was unrealistic; in that, the data was not available.

10. DDOT did not receive a fair share of all Section 5310 resources awarded to Detroit's urbanized area (UZA). The UZA is made up of three (3) counties: Wayne, Oakland and Macomb; and is split between two (2) transit agencies: SMART and DDOT. SMART serves as the designated grant recipient for Oakland and Macomb counties, and the suburban areas of Wayne County, which excludes the City of Detroit. DDOT serves as the designated grant recipient for only the City of Detroit, and its encompassed cities, which is a relatively small area in comparison to the total UZA. Despite its small service area, DDOT provided 75.3% of the UZA's total ridership for fiscal year 2009. Demographical data from Census 2000 shows that a high percentage of the City of Detroit's population is minority, elderly, disabled, or of lower-incomes. Its population's make-up, in conjunction with its high ridership percentage, justifies a need for funding within Detroit. Still, Detroit's 5310 resources are miniscule in comparison to the total number of 5310 resources awarded to areas with majority populations.
 - a) Detroit currently has 21 vehicles that were purchased with awarded 5310 funds, while SMART has a substantially greater number of awarded 5310 vehicles. There is a grave disproportion of resources between Detroit and areas with majority populations.
 - b) MDOT discriminated against Detroit, as it did not avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on Detroit's minority and low-income populations in its awarding of 5310 vehicles.
11. DDOT was not provided the support needed to make certain its 5310 applications for fiscal years 2007 and 2008 met all requirements needed for grant award; therefore, funds requested to support Detroit's minority and low-income populations were instead awarded to support the majority population.
 - a) Correspondences show DDOT's effort to comply with all requested of it by MDOT during grant years 2007 and 2008's 5310 grant application processes. Despite these efforts, MDOT did not make certain that DDOT fully understood what was being requested of it; nor did MDOT lend DDOT the level of support needed to resolve its outstanding concerns and to make certain that Detroit's minority and low-income populations received equal access to federal benefits. All 5310 funds were instead awarded to majority populations throughout Michigan.

PROPOSED RESOLUTIONS

DDOT proposes the following actions to resolve the outstanding items of concerns:

1. MDOT issues letters to DDOT, FTA, the Detroit City Council, Detroit's Auditor General, and SEMCOG, to achieve the following:
 - a. Acknowledge its error in de-obligating Detroit's 5310 grant balances. MDOT's makes Detroit whole by resolving the misperception that DDOT was negligent in managing its grant programs; and by making the 23 de-obligated vehicles an addition to DDOT's 5310-grant application for 2012.
 - b. Acknowledge that DDOT's request to coordinate Section 5310 resources through Detroit Mobility 1st (DM1) was in accordance with the goals defined for Detroit by DDOT's Coordinated Public Transit – Human Services Transportation Plan, and in compliance with FTA Circular 9070.1F. As a result, MDOT approves DDOT to coordinate its 5310 resources through DM1 and makes Detroit whole by expediting the award of DDOT's 5310 grant requests for fiscal years 2010 and 2011.
 - c. Acknowledge that 5310 and Specialized Services are independent of one another. This being the case, MDOT approves DDOT's request to maximize the use of its 5310 resources by using them to support other federal grant program. MDOT make Detroit whole by attaching comments with DDOT's 2010 ridership data to explain that Detroit's declining ridership was the result of an erroneous MDOT mandate to suspend service. MDOT should further advise that DDOT's 2010 ridership data will not be held against DDOT when considered for future funding assistance.
 - d. Acknowledge that invoices submitted by DDOT for reimbursement from 5310 and 5316 grants did comply with the scope defined by the grant contract and MDOT's rules and polices for invoicing grants. MDOT makes Detroit whole by approving the payment of invoices that were rejected after November 2009.
 - e. Acknowledge that DDOT made great effort to comply with all requested of it by MDOT, during grant years 2007 and 2008's 5310 grant application process; but, because DDOT's responses did not completely satisfy MDOT's concerns, funds that were requested for Detroit were instead awarded to other transit agencies throughout Michigan. MDOT makes Detroit whole by confirming that its decision not to award funds to Detroit was not because of a DDOT failure, but because MDOT's did not make certain that an appropriate level of application support was given to Michigan's greatest population of minority and low-income individuals.
2. MDOT issues letters to DDOT, FTA, the Detroit City Council, Detroit's Auditor General, SEMCOG, and Enjoi Transportation, acknowledging that DDOT's November 13, 2009, 197-page document, did confirm Enjoi Transportation's compliance with the guidelines that MDOT called into question in its November 2009 correspondences. MDOT makes Detroit whole by issuing a written authorization reinstating DDOT's grant programs (without prejudice); by extending the expiration dates of each of them by two years and by advising FTA to do the same.

3. MDOT issues letters to DDOT, FTA, the Detroit City Council, Detroit's Auditor General, SEMCOG, and its group of pre-selected 5310 sub-recipients, confirming that Detroit's 5310 projects must derive from DDOT's coordinated plan and that all vehicle assignments must comply with the goals defined therein. MDOT makes Detroit whole by using the same rules and policies allowed for the majority population, in authorizing DDOT to assign its existing vehicles in accordance with the needs identified for Detroit.
4. MDOT gives Detroit the same consideration it gives the majority population in awarding all future 5310 grant applications and in providing local matches for Detroit's 5316 and 5317 grant programs. MDOT makes Detroit whole by confirming its commitment to apply fair and equitable rules and policies here forward.
5. MDOT conducts the environmental justice activities required to identify and address adverse and disproportionate effects of its policies, programs, or activities on Detroit's minority and/or low-income populations, consistent with Executive Order 12898 and the DOT Order 5610.2 on Environmental Justice. MDOT makes Detroit whole by correcting any disparities that affect Detroit.
6. MDOT reestablishes a positive working relationship with DDOT to ensure that Detroit's minority and low-income populations have equal access to all state and federal benefits.

From: Greenhall Williams
To: Karmun Steady, LaTrina B. Perry, Rochelle Smith
Date: 2/18/2011 1:07 PM
Subject: Fed. MDOT Sector Fund Question

EXHIBIT III

FTA's 02/22/11 Email to MDOT

MDOT's decision to...
MDOT's decision to...
MDOT's decision to...

Original Message
From: Sherri Edye
Sent: Thursday, February 10, 2011 4:42 PM
To: Camila Cecchi (TAR McLeans, Dyeil STA)
Cc: JIM JOHNSON
Subject: Sector 51-3 Question

EXHIBIT III

From: Lovevett Williams
To: Karmun Newby; LaTrinda S. Perry; Rochelle Smith
Date: 2/22/2011 1:07 PM
Subject: Fwd: MDOT: Section 5310 Question

MDOT's Annual Application for Section 5310 funds must include vehicles required under the Section 5310 program must be used primarily for elderly individuals and individuals with disabilities. The vehicles are to be

>>> [REDACTED] > 2/22/2011 12:51 PM >>>
Sharon-

Good Afternoon. The goal of the 5310 program is to improve mobility for elderly individuals and individuals with disabilities. MDOT has been designated by the chief executive officer of the State, and has the principal authority and responsibility for administering the Section 5310 program. FTA guidance allows States maximum flexibility, within the FTA requirements, in the implementation and management of the 5310 program. MDOT has developed project selection criteria, based on the goals of the 5310 program, to meet the needs of older adults and people with disabilities for communities throughout the State of Michigan.

It is also important that if a vehicle is operating under the program

Vehicles funded under section 5310 must be used for Section 5310 purposes, i.e., improving mobility for elderly individuals and persons with disabilities. The scenario posted by MDOT, of a subrecipient seeking "to acquire a number of vehicles that are in excess of what would be needed for just the projected senior and disabled riders," does not appear to meet the requirements of section 5310. Although FTA encourages the maximum use of section 5310 vehicles, the vehicle must first be acquired and used for section 5310 program needs. Only after those needs are met, may the vehicle be used for other Federal program or project needs, and finally for other local transportation needs.

Chapter VI of the FTA rules, 49 CFR 603.11, states that the use of vehicles must be for the program.

MDOT has broad discretion in determining how to administer the program within the state, and FTA will not review individual applications from subrecipients or become involved in the day-to-day program activities. Please let us know if you have any additional questions. Have a great day.

Cyrell R. McLemore
U.S. Department of Transportation
Federal Transit Administration

[REDACTED]
[REDACTED]
[REDACTED]

—Original Message—

From: Sharon Edgar [REDACTED]
Sent: Thursday, February 10, 2011 4:42 PM
To: Comito, Cecelia (FTA); McLemore, Cyrell (FTA)
Cc: [REDACTED] KIM JOHNSON
Subject: Section 5310 Question

Background

MDOT's Annual Application for Section 5310 funds states that vehicles acquired under the Section 5310 program must be used primarily for elderly individuals and individuals with disabilities. Services are to be provided within the legal jurisdiction of the applicant. Revenue vehicles are only to be used to provide services to transit passengers and such services must be open to the general public.

Therefore, when MDOT reviews applications for Section 5310 funding, we ensure that the projected ridership is primarily older adults and individuals with disabilities. Other populations can utilize the service but the primary riders should be older adults and individuals with disabilities. We look at past ridership data for replacement vehicles and both past and projected ridership for expansion vehicles.

We also ensure there is a source of operating funds for the service.

The portion of our State Management Plan that lays out the current selection criteria for MDOT's Section 5310 program is attached.

Chapter VI, #5 of the Section 5310 FTA circular FTA C 9070.1F includes the following language: "VEHICLE USE. FTA encourages maximum use of vehicles funded under the Section 5310 program. Consistent with the requirements of 49 CFR parts 18 and 19, vehicles are to be used first for program related needs and, beyond the purposes for which a Section 5310 grant are made, to meet other transportation needs of elderly persons and persons with disabilities, to meet other Federal program or project needs, and finally for other local transportation needs."

Question

Does the quoted language in the circular section allow MDOT to amend its approach to Section 5310 such that we can provide funding to a subrecipient to acquire a number of vehicles that are in excess of what would be needed for just the projected senior and disabled riders, if the vehicles would also be used to meet the needs of the projected JARC riders? Specifically, our understanding of DDOT's program is that they propose to operate coordinated services based on their locally developed, coordinated public transit-human services transportation plan and those services will be operated largely with JARC funds and the vehicles will be purchased largely with Section 5310 funds. If we allow the "excess" vehicles to be acquired, must MDOT ensure that, over a period of time as the program matures, the percent of riders that are senior and disabled on the coordinated service are in line with the percentage of the coordinated program's funding which comes from Section 5310 or is the percentage of riders for each population group (JARC vs Section 5310) irrelevant if it is part of coordinated service?

Thank you for your assistance.

Sharon L. Edgar, Administrator

Passenger Transportation

Michigan Department of Transportation





Detroit Department of Transportation
 1411 River St., Detroit, Michigan 48216
 General Information: (313) 923-1340
 Outside The State: 1-800-DIXIE-9233
 Michigan Voice Relay: 1-800-648-3777
 WWW.DETROITMI.DOT

EXHIBIT IV

April 17, 2011

Ms. Sharré Edgar
 Michigan Department of Transportation
 Henry D. Mac Thayer Building
 P.O. Box 30950

EXHIBIT IV

RE: MDOT/DDOT Recent Correspondences

Dear Ms. Edgar:

The Detroit Department of Transportation (DDOT) appreciates the Michigan Department of Transportation's (MDOT) recent effort to resolve outstanding parking issues for Elderly Individuals and Individuals with Disabilities (EI/ID) at the February 3, 2011 telephone conference call, and a face-to-face meeting held on February 23, 2011. DDOT is pleased that significant progress has been made regarding Title VI concerns. We appreciate MDOT's commitment to work with DDOT towards resolving the remaining concerns.

The following is in response to your April 5, 2011 letter.



Detroit Department of Transportation
1301 East Warren, Detroit, Michigan 48207
General Information: (313) 933-1300
Outside The (313) Area: 1-888-DDOT-BUS
Michigan Voice Relay: 1-800-649-3777
WWW.CI.DETROIT.MI.US/DDOT

EXHIBIT IV

April 17, 2011

Ms. Sharon Edgar
Michigan Department of Transportation
Murray D. Van Wagoner Building
P.O. Box 30050
Lansing, Michigan 48909

RE: UNRESOLVED SECTION 5310 CONCERNS

Dear Ms. Edgar:

The Detroit Department of Transportation (DDOT) appreciates the Michigan Department of Transportation's (MDOT) recent effort to resolve concerns regarding management of the Elderly Individuals and Individuals with Disabilities (5310) grant program. As a result of the February 3, 2011 telephone conference call, and a face-to-face meeting that took place on February 25, 2011, DDOT is pleased that significant effort has gone into addressing our Title VI concerns. We appreciate MDOT's commitment and look forward to working with you towards resolving the remaining concerns.

The following is in response to your April 5, 2011 letter and April 11, 2011 email to DDOT:

- *Enjoi Transportation's Service Suspension:* While DDOT acknowledges your justification for not responding to our November 13, 2009 submission of information regarding Enjoi, we stand firm on our belief that an immediate MDOT response was mandatory, when considering the nature of the claims made in your November 6, 2009 letter. To that end, even had you decided against investigating the matter once DDOT shared Enjoi's non-interest with using Section 5310 resources, a simple response advising of that decision would have been sufficient. From a professional standpoint, DDOT believes an official letter clarifying the matter is warranted.
- *Use of Existing Section 5310 Vehicles:* DDOT acknowledges MDOT's request for consideration to be given to Detroit East in assigning existing Section 5310 vehicles. Plans are underway to invite Detroit East to undergo the certification process needed to obtain Section 5310 vehicles moving forward. Their ability to successfully complete this process will determine their eligibility for additional vehicle assignments.
- *Outstanding Payments for Communication Equipment:* In contrast to that which was stated in your April 5, 2011 letter, but as advised in your April 11, 2011 email, DDOT is not required to submit a cost allocation plan (CAP), since it is not our intent to split the cost of capital equipment between two or more federal programs. All research regarding CAPs suggests using them to disburse operating costs/activities across multiple funding sources; but not the up-front costs of general purpose capital items. This being the case, DDOT will continue evaluating our service area's needs to

determine the capital items to request from the respective Section 5310, 5316 and 5317 grant programs. In compliance with guidelines established for each program, an individual application request shall then be submitted for funding consideration.

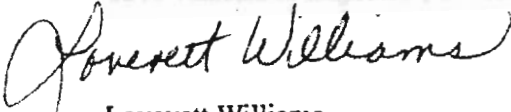
- **Section 5310 Funding for Additional Vehicles:** In contrast to that which is stated in your April 5, 2011 letter, but as advised in your April 11, 2011 email, DDOT is not required to hit a specific level of ridership and/or operating revenue as a primary condition for receiving Section 5310 funding. MDOT's initial request for DDOT to meet these additional conditions no longer stands. Therefore, in compliance with the process defined for all other State of Michigan Section 5310 applicants, and per your and my recent telephone and email correspondences, DDOT will continue submitting our Section 5310 grant requests using MDOT's PTMS application.

As advised, on May 6, 2011, DDOT updated PMTS' 2011 Section 5310/Specialized Services application to include budget estimates for only the Detroit Mobility 1st service. Now that all requirements have been met, please move forward with submitting an application to FTA for 35 replacement buses from DDOT's FY 2010 application; 18 replacement buses from DDOT's FY 2011 application; and 24 expansion vans from DDOT's FY 2011 application. These approvals will take DDOT's total 5310 fleet (taking into consideration pending disposals) to 98.

DDOT looks forward to working with MDOT to resolve these remaining concerns. In doing so, please confirm a timeline for: issuing a letter clarifying the misperceptions surrounding Enjoi's service suspension and DDOT's management of the Section 5310 grant program; MDOT's payment of DDOT's outstanding equipment invoices; and MDOT's approval of DDOT's 2010 and 2011 Section 5310 applications.

Your consideration in the matter is very much appreciated.

Sincerely,



Lovevett Williams
Director

LW/LP

cc: K. Newby R. Smith L. Perry File

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STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

RICK SNYDER
GOVERNOR

KIRK T. STEUDLE
DIRECTOR

June 9, 2011

Ms. Lovevett Williams
Detroit Department of Transportation
1301 East Warren
Detroit, Michigan 48207

Sincerely,
Sharon E. Fagan
Sharon E. Fagan, Administrator
Bureau of Strategic Transportation

Dear Ms. Williams:

This letter summarizes what we believe is final resolution to the issues of the Detroit Department of Transportation (DDOT) moving forward with implementation of its Detroit Mobility 1st (DM1) program. The Michigan Department of Transportation (MDOT) and DDOT have been working together since 2009 to address these issues, and we appreciate your patience and your vigilant effort to provide MDOT with information we have requested to help us assess the appropriate role of Section 5310 funding in the DM1 program. From MDOT's perspective there are no outstanding issues related to use of federal Section 5310 program funds that prevent DDOT from moving forward with DM1.

- DDOT's use of Enjoi as a Section 5310 service provider.

DDOT's June 2, 2010, Program Management Plan (PMP), which covers the Section 5310 program, appears to include sufficient detail on vehicle use and maintenance requirements for providers that make use of DDOT Section 5310 vehicles. If DDOT follows the PMP and provides the requisite monitoring and oversight to ensure its providers are operating in compliance with state and federal law, MDOT approves DDOT to place Section 5310 vehicles with any compliant provider, including Enjoi. MDOT will review DDOT's oversight of their providers as part of our routine program oversight. I am sorry that MDOT had not made this clear earlier -- we were under the impression that DDOT did not plan on returning any Section 5310 vehicles to Enjoi and, therefore, thought DDOT did not need a final decision from MDOT.

- Outstanding Payments for Communications Equipment

All outstanding equipment payments have been made. In the future, if DDOT opts to charge DM1 capital items in whole or in part to Section 5310, please include an explanation of how DDOT decided what portion of the costs should be covered by Section 5310.

- Section 5310 funding for additional vehicles

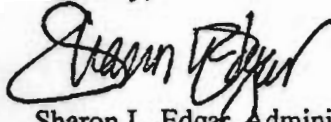
MDOT is including funding for 77 Section 5310 vehicles in an application to the Federal Transit Administration we are preparing at this time. Once DM1 is operational, DDOT will monitor the eligibility of DM1 riders to ensure that an appropriate percentage of riders are Section 5310

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eligible – based on the number of Section 5310 vehicles in DDOT's fleet. We will make adjustments to your fleet overtime as needed.

Good luck as your proceed, and please let us know how we can be of assistance.

Sincerely,



Sharon L. Edgat, Administrator
Bureau of Passenger Transportation