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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

July 28, 2003

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This letter is to request additional information regarding your July 11th notice of intent to execute a Federal Full Funding Grant Agreement (FFGA) with the Central Puget Sound Regional Transit Authority (Sound Transit) for the construction of the Initial Segment of the Central Link Light Rail Project. Further, this letter is to address issues that linger despite the recent July 17, 2003, resolution by the governing board of Sound Transit.

This is one of the nation's costliest transit projects (with a proposed Federal investment of \$500 million), and the Committee still lacks sufficient information about how the sponsors - if Initiative 776 is determined to be constitutional - would replace the potential major loss of revenue while maintaining current levels of service. In brief, Sound Transit's recent resolution is insufficient because it is generic rather than specific, and it may conflict with other commitments made by Sound Transit. It is therefore unclear to which commitment they would give the highest priority. The resolution has no specifics of the contingency plan needed in case I-776 is upheld, and the sufficiency of that contingency plan cannot be evaluated without specifics.

The motor vehicle excise tax revenue is an important funding source for all Sound Transit programs including the Initial Segment. Sound Transit expects the tax to produce \$704 million in system-wide financial capacity through 2009 (\$307 million in tax receipts and \$397 million in bonding capacity). In that regard, the Inspector General's (IG) July 7th report states that Sound Transit performed a "stress test" at Federal Transit Administration's (FTA) request to illustrate its financial capability to complete work on the Initial Segment without the motor vehicle excise tax revenues. This resulted in an estimated loss of \$293 million to the subareas where the Initial Segment is being constructed (\$264 million in un-programmed financial capacity and \$29 million in required program cuts).

The IG's report recommended that the FTA require the Sound Transit Board of Directors to agree formally in advance of final approval of the FFGA that alternative local revenues be committed promptly to the light rail project if a funding deficit or shortfall is occasioned by the loss of motor vehicle excise tax revenues due to I-776. For that, and for the items required by

this letter, it is important that commitments be expressed by formal action of the governing body, not by some lesser action.

In response to the IG's requirements, the Sound Transit Board of Directors passed a resolution that in the broadest of terms largely tracks the language of the IG's recommendations. However, the Board did not detail the source of these alternative local revenues, even though it had recently completed a detailed study of potential sources. The resolution makes no reference to whether Sound Transit would follow the contingency plan developed in that study, or might seek to craft a substitute contingency plan. FTA should not speculate about the acceptability of a still-unknown contingency plan to cover a possible revenue collapse of this magnitude. This cannot be considered a minor issue, since Washington State voters approved the I-776 referendum and the state attorney general is asking the courts to uphold it. Thus, the possible revenue collapse is neither minor nor inconceivable.

It is well-known that Sound Transit has made earlier public representations that it is committed to a concept of "subarea equity". Because this potentially conflicts with the recent resolution, it is important that Sound Transit state whether its recent resolution has priority over earlier commitments to subarea equity. The issue is not whether Sound Transit believes it can avoid a potential conflict between filling a revenue gap and honoring subarea equity. Before expecting a \$500-million federal commitment, Sound Transit should clearly commit whether filling a revenue gap would be given priority over subarea equity, or any other commitment. This could include a specific itemization of the projects that would be reduced, revised or eliminated, if necessary, to cover this potential major revenue shortfall. If the Initial Segment would not be given this priority, there are serious questions about the sufficiency of the required contingency funding plan.

This list would require comparison with the maintenance of service requirements. The recent resolution expressed commitment to the IG's requirement that current levels of service be maintained, yet it never describes what it considers to be that level of service. One suggested possibility is that Sound Transit should verify that this would be

- "maintaining its entire mass transit system at least at the level of service anticipated on the scheduled completion date of the Initial Segment, as defined by the voters of Washington State in the Sound Move Regional Express Service Implementation Plan (SIP)", and
- "remaining in full compliance with the Appendix B Financial Policy to the Sound Move 10-Year Regional Transit System Plan, as passed by the Board and ratified by the voters of Washington State"

The Board resolution provides assurances that alternative revenues would be committed to the project, but the Board does not indicate the specific sources of those revenues or the specific impact on existing programs and future projects. The Board cannot be expected to reach perfect precision in stating how it would compensate for reduced motor vehicle excise tax revenues because: (a) It's not clear which of the scenarios discussed in the IG's July 7th report will result after the court rules on Initiative 776; (b) Changes may occur in future interest rates; and (c) Changes may occur in the future requirements of Sound Transit. It also remains unclear whether the Board will rely on the alternative revenue distribution underlying the "stress test"

cited by the IG's report or commit other revenue streams in compensating for any motor vehicle excise tax losses.

However, given the magnitude of the Federal investment, it is clearly reasonable and in the best interests of the taxpayers that FTA and Sound Transit should provide Congress with at least one plausible scenario demonstrating how Sound Transit would provide its share of the cost and at the same time maintain its existing system, assuming the I-776-related loss of a significant revenue source, and that Sound Transit express that it would follow this contingency plan absent FTA approval of some other contingency plan.

In summation:

- a) If the funding contingency plan creates a potential conflict with other commitments made by Sound Transit, including "subarea equity" commitments, will Sound Transit formally certify that its commitment to the Initial Segment will take precedence over subarea equity and any other conflicting commitment? Will it specify those operating and capital programs that would be made subordinate to the new Initial Segment project? If not, there appears no way to measure the sufficiency of the revised financial (contingency) plan that the IG's report requires.
- b) Will Sound Transit expressly define what constitutes "current level of services" that will NOT be compromised to accomplish its commitment to this project? Against, absent specifics, there appears no way to measure the sufficiency of this.
- c) What are the details (sufficient for analysis by FTA, and requiring its approval) of the contingency funding plan for the new non-Federal sources that would be provided to replace the revenues lost under I-776? (These should include estimated amounts by funding source in the format of Table 3 on page 24 of the IG's report.)

Given the short timeframe in which Congress may act, it is important to have answers to these questions as soon as possible. Because I understand the desire to resolve issues timely, I responded immediately to FTA's original notification letter, and I am communicating these related matters well in advance of the 60-day period provided by law. I also have some further concerns regarding the text of the draft full funding grant agreement, and I will also expedite the forwarding of those to you shortly.

Sincerely,



Ernest Istook
Chairman
Subcommittee on Transportation, Treasury
and Independent Agencies Appropriations