

## AUDIT AND GOVERNANCE COMMITTEE

Thursday, January 19, 2012

9:05 a.m. – 9:53 a.m.

Attendees: Chairman Henry Sloma  
Commissioner Mark Croce  
Commissioner Kevin Helfer  
Commissioner Eunice Lewin  
Commissioner Adam Perry

Staff: Kim Minkel Patrick Ellis David State Seth Piccirillo  
Deborah Leous Karen Novo Tom George Corey Hacker  
Doug Hartmayer Michael Bykowski Patrick Dalton  
William Vanecek George Gast Christine D'Aloise

Bob McCarthy, *The Buffalo News*, Staff Reporter

---

**Audit Status** – Pat Dalton updated the Committee on the audits in progress as follows:

- Gillig LLP Pre-Award Buy America Audits – the NFTA is in the process of procuring three hybrid buses which will require a pre-award Buy America audit. The cost of this procurement is \$1,844,922 pursuant to a board resolution dated November 28, 2011. As a recipient of Federal funds, the NFTA is required to comply with the Buy America provisions. The pre-award review is intended to help the recipient (NFTA) ensure that the buses will meet (1) the Buy America regulations, (2) the recipient's needs and specifications, and (3) the Federal Motor Vehicle Safety Standards (FMVSS) regulations. Gillig LLP is located in Hayward, California. The final audit report is expected to be issued and pre-award certifications prepared by February 29, 2012.
- Rental Cars – the Internal Audit Department will perform an audit of the revenues reported by various rental car agencies at the BNIA. The primary purpose of this audit is to ensure the NFTA is receiving its concession fee in accordance with the contract terms. The period of review is from December 1, 2008 through November 30, 2010. Avis, Hertz, National, Budget, Alamo and Enterprise are currently being reviewed. The audits of Avis and Budget are now complete. The remainder of the rental car audits should be completed by January 31, 2012.
- AnsaldoBreda Inc. – Post Delivery Buy America Audit – LRRT Rail Cars – the NFTA has taken delivery of two (2) rail cars under a multi-year contract with AnsaldoBreda Inc. pursuant to a board resolution dated May 22, 2006. As a recipient of Federal funds, the NFTA is required to comply with the Buy America provisions. The pre-delivery review and post-delivery review is intended to help the recipient (NFTA) ensure that the buses will meet (1) the Buy America regulations, (2) the recipient's needs and specifications and (3) the Federal Motor Vehicle Safety Standards (FMVSS) regulations. The Buy America Certification is complete. The Purchaser's Requirements Certifications will be completed by the NFTA Engineering Department once the testing phase is complete and contract requirements are satisfied.
- Standard Parking Corporation – BNIA – the Internal Audit Department has performed an audit of the contract between Standard Parking Corporation (Standard) and the NFTA. Under the terms of the agreement, Standard agrees to manage the NFTA parking facilities including shuttle bus service at the BNIA. The term of this Agreement is from November 16, 2007 and terminates on November 15, 2012. The scope of the audit is for the expenses charged against revenue for the period November 16, 2007 through March 31, 2010. The audit report has been sent to Standard for comment. Internal Audit is waiting for additional documentation to close out any remaining issues.

- University Passes – Buffalo State, Bryant & Stratton, Medaille, ECC and Canisius – as outlined in the Annual Audit Plan, the Internal Audit Department is performing an audit of the revenues received as part of the 2010-2011 university pass program at the various colleges. The objective of the audit is to ensure the NFTA is receiving the fee for the university passes that are charged and collected from the students. The audit reports for Bryant & Stratton and Canisius have been issued. The audit fieldwork has started on all other audits and will be complete once the documentation is received.
- Prior Aviation, Inc. Follow-Up Audit – an audit to ensure the findings noted in the audit report dated January 24, 2011 have been addressed. The NFTA is entitled to land rent, terminal rent, gate fees, fuel flowage fees, parking and landing fees for the general area and the air cargo area under the terms of the agreement. The audit fieldwork is complete. A draft report is being prepared and will be issued by January 31, 2012.

**Performance** – Patrick Ellis reported that we ended the month of December 2011 with a deficit of \$1,185,000, which was \$160,000 favorable to budget. Total operating revenues and assistance of \$15,377,000 were \$578,000 under budget. Metro passenger fares were 3% below budget for the month and 1% below year to date. BNIA concessions were 6% below budget for the month and 4.4% below budget for the quarter. Mortgage Recording Tax was 11% below budget for the month and 11% below for year to date. Total operating expenses for the month were \$15,328,000, which was \$455,000 under budget. Personnel costs were 1.2% below budget for the month due to lower overtime primarily due to the weather. Utility costs were 27.6% below budget for the month and 24% below what they were in December 2010.

YTD through December, the Authority's net surplus of \$878,000 was \$46,000 favorable to our budgeted net surplus of \$834,000. YTD total operating revenues and assistance of \$143,949,000 are \$660,000 under budget. YTD operating expenses of \$130,804,000 are \$698,000 under budget. Non-operating capital was \$7,000 over budget.

**Quarterly Capital Projects Report** – Pat Ellis reported that the third quarter YTD actual capital expenditures of \$39,404,174 were \$2,299,630 over budget. He contributed the variance to timing of the completion of projects and delivery of equipment, such as delivery of two plow trucks and one dump truck.

**Cash Management** – Pat Ellis reported that the total cash position for the month of December 2011 was \$60,503,000, which was \$325,000 lower than the projected cash position of \$60,828,000. YTD interest income of \$126,956 was \$48,817 below our budgeted interest income of \$175,773. The average interest rate for the month was 0.38%. The total unrestricted/capital reserve cash flow balance for NFTA, Metro and BNIA is projected to be \$14,958,000 by fiscal year end.

**Quarterly Investment Analysis** - The report illustrated that 99.90% of our investments are currently in money market accounts, 0.04% in Treasury Notes and 0.04% in BNIA checking. First Niagara Bank currently has 17.09% of the funds, HSBC has 20.19%, JPM Chase has 25.07%, US Bank has 36.49%, M & T Bank has 1.12% and NYSWCBD has 0.04%.

**Safety** – Christine D'Aloise reviewed the Recordable Accident Summary for the month of December 2011. There were 8 recordable injuries, 7 lost time injuries and 70 days away from work. This represents a 9.0% decrease in recordable accidents, no change in lost time accidents and 35.3% increase in days away when compared to January through December 2010. The injuries continue to trend downward. The estimated direct cost for the 8 recordable injuries is \$263,417.00 based on the NFTA's loss history. The National Council on Compensation Insurance (NCCI)'s calculated direct costs are \$274,762, indirect costs are \$302,234, totaling \$576,996.

During the month of December, we continued to aggressively target those incidents that are contributing to injuries, with an emphasis on those that cause lost time injuries. Additionally, we focused on the following:

- Completed annual Spill Prevention Control and Countermeasures (SPCC) training for the ARFF, Fuel Farm and NFIA personnel.
- Completed Arc Flash Training for members of the Rail Maintenance Staff.
- Set up an Executive Director Injury Reporting monthly meeting process with supervision to discuss monthly injuries.
- Worked with Oliver Wyman, our workers' compensation actuary, to have an adequacy update performed on our workers' compensation reserves.
- The "Off the Job" Safety initiative for December focused on "Winter Holiday Safety".

**Self Insurance** – Debbie Leous reported that total claims of \$31,025,393 for the quarter ending December 31, 2011 increased \$952,640 from the beginning of the fiscal year. Total claims are derived from actual known claims and fees, assessments and IBNR (incurred by not reported). The IBNR is based on an actuarial recommendation using historical trends in claims' progression, changes in laws, etc. Total general claims decreased \$618,573. Workers compensation increased \$1,588,070 primarily due to \$1,298,254 of changes in IBNR, fees and assessments using the actuarial recommendations and \$289,816 in claims' reserves.

Currently the claims, excluding fees and IBNR, are funded 37.5%, and total claims funded 17.6% with a reserve of \$5,464,355. Debbie reported that since fiscal year end 2008, the actual fund reserve has decreased \$2,184,318 based on payouts without the cash availability to replenish, while total claims has increased \$5,519,703 of which \$812,827 represents an increase to the known claims excluding Fees and IBNR. As noted during the discussion on projected cash flows, we anticipate a need to further reduce the Metro self insurance reserve to meet on-going operational needs this fiscal year. Our goal has always been to be 100% reserved for the known claims which are now at 37.5%. Other transit authorities are funding anywhere from approximately 80%-100%. This supports the board's direction to continue the emphasis on safety and to do business differently in order to build this reserve back up.

**Government Relations Report** – Seth Piccirillo reviewed the following:

- The New York State Department of Transportation transmitted Mass Transportation Capital Project Supplemental Agreement No. 9, in the amount of \$2,370,494 on December 19, 2011. The agreement provides the State funding share for 2011 Federal Transit Administration grants that fund NFTA Metro initiatives. Safety critical projects funded by the Agreement include: Preventive Maintenance \$1,213,877 New York State share; purchase of replacement buses \$129,162 New York State share; Fire Detection and System Intrusion \$73,899 New York State share and Train Control Carborne ATP System \$46,929.
- On December 6, 2011, the Niagara County Legislature passed a resolution supporting the NFTA's request for \$10,000,000 in New York State deficit reduction assistance and access to eight additional megawatts of New York Power Authority (NYPA) low-cost power.
- On December 21, 2011, State Senator Mark Grisanti sent a letter to Governor Andrew Cuomo requesting \$10,000,000 in New York State deficit reduction assistance and an additional eight megawatts of NYPA low-cost power to help address the NFTA's budgetary constraints.
- On January 10, 2012, the City of Buffalo's Common Council adopted a resolution supporting the restoration of the NFTA's State Transit Operating Assistance.

- On January 17, 2012, Governor Cuomo released his budget proposal and the NFTA received a \$2,900,000 increase in State Operating Assistance, which is a 6.9% increase. Executive Director Kim Minkel advised the Committee that our proposed budget anticipated our State Operating Assistance remaining level with last year, so we will need to revise the budget to include this \$2,900,000.

**Public Affairs** – Doug Hartmayer reviewed the December public affairs report, including significant activities that have taken place or have been initiated during the past month through Public Affairs, Communications, Traffic Control and the Marketing Materials department, as follows:

- Responded to media inquiries and issues regarding various activities of the past month by way of interviews and/or the dissemination of information regarding aviation alerts at the BNIA, NFTA layoffs, Allegiant, sale of waterfront property and Metro service reduction plans, all of which aired on various media outlets WBEN, WNED, WBFO or in the *Niagara Gazette*, *Business First*, *The Buffalo News*, AP or on television stations 2, 4, 7 and YNN.
- Issued press releases on Metro Rail Service to be Modified Friday and Saturday, Allegiant – Niagara Falls to connect to fun in the Central Florida Sun, Holiday Performances at the Bus Station Downtown and Metro Rail to Extend Service for New Year’s Eve Ball Drop.
- Scripted and produced a video message for the Executive Director that was posted online to communicate Metro’s service reduction plans.
- The Public Affairs Department has begun working with Metro’s Surface Planning Department to assist with the public hearing process. Public notices and ads have been placed in local newspapers and online, locations have been secured and a complete list of the proposed service adjustments have also been posted. A printed copy of the route adjustments was also made available on buses and in rail stations. In addition, an online mailbox was established allowing people to e-mail their comments, which will be added to the public record. Over 300 e-mails have been received to date.
- Facilitated a press conference for Allegiant Air at the NFIA on December 8 to announce their new service to Sanford, Florida and conducted a family giveaway promotion on December 15 to celebrate their initial service to Tampa.
- Staff completed a history of Metro PowerPoint presentation that was used by the Executive Director during a discussion at the Buffalo Library. Also updated the historical timeline on the Metro webpage.
- We are advancing with our plan to sell advertising on pages of our NFTA website. Presently designing the space to maximize the number of ads that we can accommodate and developing rates and contracts.
- The Canflyus.com program is bringing in more and more web referrals. Over the past 30 days, it was the number one referring site to both the BNIA and NFIA sites with 32% and 53% respectively. We created an ad and accompanying editorial copy for an awareness campaign in Toronto, using the Horizon Travel Magazine and web advertising.
- We are taking advantage of some of our trade and un-used transit advertising inventory to promote our WKBW traffic reporting broadcasts.
- The in-house Graphics Department completed a new identity/logo design for our Paratransit Access Line Program and a flyer illustrating the new logo was distributed to the Committee; finished production of the Metro schedules, maps and posters for the December 25<sup>th</sup> schedule change; designed and produced new posters for Babcock Garage listing all recipients of our Metro safe driving awards starting at one year and up; produced a new Board of Education/Metro pass to be used by parents or guardians of students in the Buffalo School System; updated and printed new customer comment cards for use at the BNIA; designed and produced a service reduction handout and a series of newspaper ads for our service reduction plan; designed and produced a new cover for the 2012-13 NFTA budget book and a cover for the CD; designed and produced the winter edition of the *Metro Reporter*; and designed and produced banners and signage for this year’s Sounds of the Season programs held in the MTC concourse.

**Human Resources** – Karen Novo reviewed the following:

- The project being developed through the Cross Functional Teams on Succession Planning is targeted to test the software in mid-February. This program will provide a database of all current positions and will give employees the opportunity to easily see other jobs within the organization that may be of interest and what steps might assist them into those positions. The software will also identify employees interested in upward movement, as well as areas that need greater attention and training in the future.
- LMHF is continuing the Wellness Incentive Program effective January 1, 2012. All employees and spouses are eligible for a \$50 HRA card if they complete Part One. In order to be eligible, they must receive an Annual Physical by his/her Primary Care Physician between January 1, 2012 and December 31, 2012. Once the physical verification form is completed by the physician, the employees must submit the form to the LMHF office.
- The following is a list of our 2012 wellness retreats that will be offered by the LMHF this year: Cancer Prevention, Fitness Camp III, Mini Fitness/Nutrition, Fitness Camp IV and Respiratory Influenza.
- BlueCross/BlueShield is launching a “going green” campaign, which will result in distribution changes with regard to our provider directories and member guides. We are directed to advise participants to view the Internet, if accessible. They will need their member ID number to visit the site and gain access to the directories. Directing our employees and introducing them to the BC/BS website will assist them in becoming familiar with the navigation of the site and encourages the members to check wellness opportunities along with other programs that may benefit them.

**Board Resolutions**

1. Authorization for NYSDOT Mass Transportation Capital Project Agreement, Contract No. K006751, Supplemental Agreement No. 9, PIN Nos. 5823.17 through 5823.36.
2. Authorization for Agreement, Durham Staffing, Inc., Temporary Seasonal Workers, April 15, 2012 through April 15, 2013.

As there was not a quorum present, the board resolutions were not voted on, but will be presented at one of the later Committee meetings being held later in the day.

At 9:53 a.m. the meeting was adjourned.