Georgia Department of Audits and Accounts
State Government Division

Russell W. Hinton, State Auditor
John A. Thornton, Sr., Director

Metropolitan Atlanta Rapid Transit Authority (MARTA)

Why we did this Examination

On April 22, 2009, pursuant to House Resolution 167 (1999), the Metropolitan Atlanta Rapid Transit Overview Committee (MARTOC) requested that the Georgia Department of Audits and Accounts conduct a special examination of the Metropolitan Atlanta Rapid Transit Authority (MARTA). The request primarily focused on MARTA's compliance with applicable laws and regulations in relation to its various investment activities.

About MARTA

The Metropolitan Atlanta Rapid Transit Authority was created when the Metropolitan Atlanta Rapid Transit Authority Act of 1965 was passed by the Georgia legislature. As the ninth largest transit system in the United States, MARTA operates 600 buses with 132 bus routes, 175 MARTA Mobility Lift-vans, 338 rail cars in 38 stations, and has over 755 bus shelters. With a service population of 1.65 million in the City of Atlanta, Fulton and DeKalb Counties, MARTA provides service for nearly 500,000 passengers boarding each weekday.

What we reviewed

As requested by The Metropolitan Atlanta Rapid Transit Overview Committee (MARTOC), our examination of MARTA concentrated on seven specific accounts. Those accounts were:

- Bond Anticipation Notes
- Sales Tax Revenue Bond Escrow
- Sinking Fund
- Forward Delivery Agreement Investments
- Defeasance Accounts for LILO[1]
- Equity Accounts for LILO
- Other Investment Transactions

The MARTOC also requested that we examine:

- The large increase in operating expenditures from fiscal year 2007 to fiscal year 2008, and

- A MARTA 'financial projection report' provided to MARTOC in order to determine how existing operating reserves affected the projection.

What we found

"From 1988 to 2003, dozens of transit authorities in 25 large cities did 87 Lease-in/Lease-out (LILO) and Sale-in/Lease-out (SILO) deals worth more than $16 billion, according to the Federal Transit Administration."[2] MARTA was one of these transit authorities. Between March of 2001 and September of 2005, MARTA entered into a total of nineteen LILO agreements. These agreements were not generally considered risky at the time because they were insured by highly rated insurers. However, the recent distress in the financial markets resulted in the downgrading of the credit ratings of AIG and other companies that had insured these transactions. When AIG and similar insurers fell below the required credit

[1] LILOs (Lease In/Lease Out) are aggressive tax shelters that have been under IRS scrutiny for several years. The shelters revolve around long-term lease-back arrangements. In the deals, corporations leased infrastructure like subways and bridges from municipal authorities and then leased them back to the authorities. The corporations got big tax breaks, and the authorities got enhanced cash flow.

[2] "Transit Agencies Seek Aid in Avoiding A.I.G. Fees." New York Times. 4 Nov. 2008
< http://www.nytimes.com/2008/11/05/business/05tax.html>.

rating, it triggered the potential liability of these transit authorities for millions of dollars in early termination fees and other penalties.

Although MARTA had a potential liability for millions of dollars in fees and penalties, the LILO agreements that have been terminated or remediated to date have actually netted MARTA a profit of approximately $15 million. As of the end of October 2009, through negotiations with its equity investors, we confirmed that MARTA had successfully terminated two LILO agreements and remediated a third LILO agreement which represented 66% of MARTA's total potential exposure of the nineteen LILOs agreements. The two agreements that were terminated have completely eliminated all future obligations of MARTA, where as the remediated agreement removed the risk of future unwinding triggers, but the lease agreement remains.

Our review of the large increase in operating expenses in fiscal year 2008 over fiscal year 2007 indicated that depreciation expense was the primary contributor. There was no change in the depreciation method, however several new capital programs were placed in service during fiscal years 2007 and 2008 that caused a $31.9 million dollar increase.

We also looked at contracts that increased significantly in fiscal year 2008 over 2007. We reviewed a limited number of sample payments from several of these contracts for proper documentation and discovered no deficiencies.

A financial projection document produced by MARTA and provided to MARTOC indicated projected losses for fiscal years 2009 through 2012. We verified the drop in sales tax revenues used in the financial projection for years 2009, 2010 and 2011 to a report prepared by the Georgia State University Economic Forecasting Center. The losses were partially covered by the expected use of operating reserves, other income sources, fare increases and cuts to expenses. The projection indicates that reserves will be depleted in the year 2011 resulting in an overall deficit for the years 2011 and 2012.

MARTA also entered into other transactions such as commodity swap agreements involving diesel fuel and natural gas and interest rate swap agreements. The transactions we reviewed did involve some risk to MARTA but were approved by the MARTA board and did not appear inconsistent with any Georgia laws concerning MARTA's allowable investment activities.

More information on MARTA's background and more detailed results of our review can be found on the following pages.

Acknowledgements

We would like to thank Representative Jill Chambers, MARTOC Chair, and the MARTA staff for their assistance during this examination.

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Background

A Brief History

The Metropolitan Atlanta Rapid Transit Authority (MARTA) is the principal rapid-transit system in the Atlanta metropolitan area and the ninth largest in North America. In the 1950's, planners began to recognize the need of public transportation in order to accommodate the growth of Atlanta and the region. In the early 1960's a Metropolitan Atlanta Transit Study Commission report recommended a five-county rail system with feeder bus operation and park-and-ride facilities. MARTA was created when the General Assembly enacted the "Metropolitan Atlanta Rapid Transit Authority Act of 1965."

MARTA purchased the Atlanta Transit System in 1972 and by doing so took control of the area's primary bus transportation system. Through the 1970's, MARTA received more than $800 million in grants from the Federal government for planning, design, land acquisition and construction of a rapid rail system. MARTA's construction efforts continued and in 1979 the first train and rail line were placed into service.[3]

Governance

MARTA is a multi-county agency that is governed by a board of directors, consisting of representatives appointed from the City of Atlanta (4 members), the counties of Fulton (3 members), DeKalb (5 members), Clayton (1 member) and Gwinnett (1 member). Additionally, there are four *ex officio* members from the State of Georgia (Executive Director of the State Properties Commission, the Commissioner of the Georgia Department of Revenue, the Commissioner of the Georgia Department of Transportation, and the Executive Director of the Georgia Regional Transportation Authority) who also serve on the MARTA Board of Directors.

MARTOC

The Georgia General Assembly created the Metropolitan Atlanta Rapid Transit Overview Committee (MARTOC) in June 1973. This committee is charged with financial oversight of the MARTA organization. The General Assembly expanded the authority of MARTOC in April of 1999, through House Resolution 167. Section 2 of that resolution states:

> The State Auditor, the Georgia Department of Transportation, and the Attorney General shall make available to the committee the services of their staffs' facilities and powers in order to assist the committee in its discharge of its duties herein set forth. The committee may employ staff and secure the services of independent accountants, engineers, and consultants. Upon authorization by joint resolution of the General Assembly, the committee shall have the power while the General Assembly is in session or during the interim between sessions to compel the attendance of witnesses and the production of documents in aid of its duties. In addition, when the General Assembly is not in session, the committee shall have the power to compel the attendance of witnesses and the production of documents in aid of its duties, upon application of the chairperson of the committee with the concurrence of the Speaker of the House and the President of the Senate.

On April 22, 2009, based on HR 167 (1999), MARTOC requested the Georgia Department of Audits and Accounts to conduct this examination to assist them in their oversight responsibilities.

Revenue Sources

MARTA's revenues for fiscal year 2008 of $545,608,000 consisted primarily of sales and use tax (65%), fare revenues (19%) and federal operating revenues (9%). MARTA receives no State appropriations. *Exhibit 1* reflects all revenue sources as a percentage of total revenues.[4]

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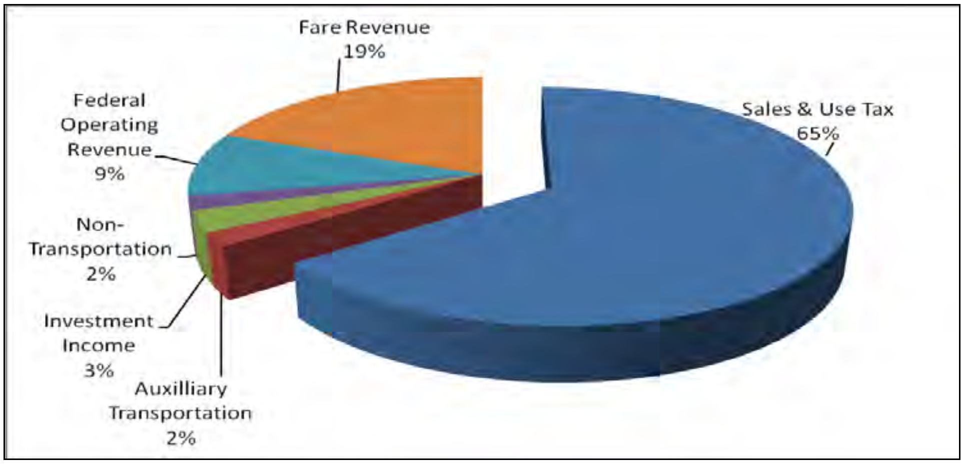
[3] "History of MARTA: A Brief History of the Metropolitan Atlanta Rapid Transit Authority." 2004. MARTA. < http://www.itsmarta.com/marta-past-and-future.aspx >.

[4] MARTA. 2008 Comprehensive Annual Financial Report. June 2009. < http://www.itsmarta.com/uploadedFiles/About_MARTA/Reports/CAFR_2008_122608_Final.pdf >.

EXHIBIT 1

MARTA Revenue by Source July 07 through June 08

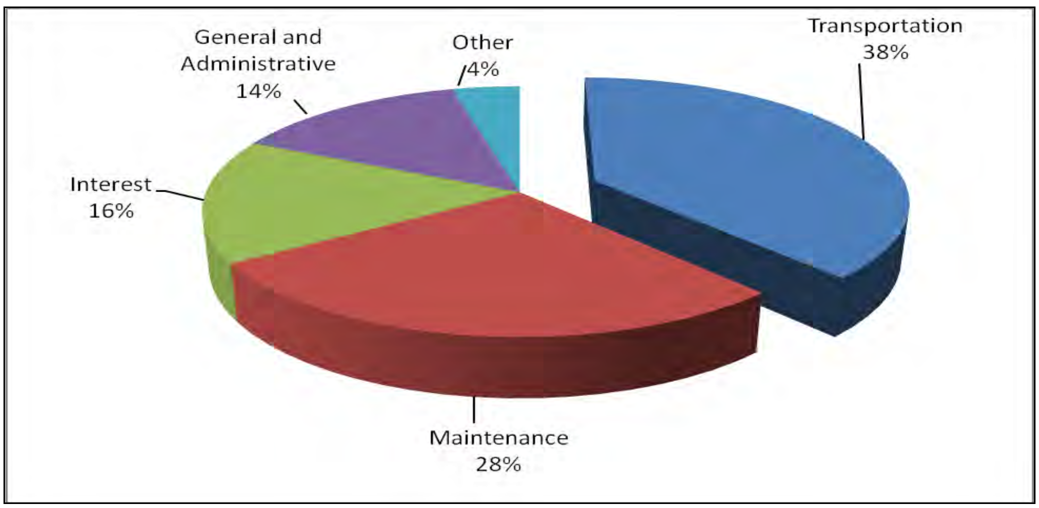


Expenses by Function

MARTA's expenses by function, excluding depreciation, for fiscal year 2008 consisted primarily of Transportation (38%) Maintenance (28%), Interest (16%), General and Administrative (14%) and all other (4%). MARTA finances most of its capital equipment and rail construction with revenue bond proceeds which explains the high percentage of expenses for interest. *Exhibit 2* reflects a graphical representation of expenses by function.

EXHIBIT 2

MARTA Expenses by Function July 07 through June 08



Scope of Examination

On April 22, 2009, the Metropolitan Atlanta Rapid Transit Authority Overview Committee (MARTOC) requested that the Georgia Department of Audits and Accounts (DOAA) conduct a special examination of transactions affecting certain accounts. Those accounts were:

- Bond Anticipation Notes
- Sales Tax Revenue Bond Escrow
- Sinking Fund
- Forward Delivery Agreements
- Defeasance Accounts for LILO
- Equity Accounts for LILO
- Other Investment Transactions

In addition to these specific accounts, Representative Chambers made an additional request on May 7, 2009 for DOAA to review certain MARTA operating expenditures from FY 2007 to FY 2008. This portion of our review focused on MARTA's largest expenditures and only included consultant and other contracts which increased significantly in fiscal year 2008 over 2007. Representative Chambers also asked DOAA to determine the source of the estimates used in a financial forecast supplied by MARTA to MARTOC and to determine if the presentation of operating reserves in that forecast was consistent with legal requirements.

This examination primarily covered transactions from July 1, 2007 through April 30, 2009. This examination of MARTA was limited in scope and did not constitute an audit in accordance with auditing standards generally accepted in the United States of America.

Initial efforts were directed primarily toward gaining an understanding of MARTA's business processes related to its investment and bond activities and gaining an understanding of certain lease transactions referred to as LILOs. Our areas of examination are presented in *Exhibit 3*.

EXHIBIT 3
AREAS OF EXAMINATION

1) LILO – Determine the impact of MARTA's Lease In/Lease Out (LILO) agreements on MARTA's financial position.

2) Expenditures – Review and/or examine selected expenditures including supporting/underlying documentation and/or schedules that contributed to the large increase in operating expenditures in fiscal year 2008.

3) Investments – Verify MARTA's compliance with its investment policies and with State laws governing allowable investment activities. Our examination included a review of agreements such as LILOs, interest rate swaps, commodity swap agreements, and forward delivery agreements to determine if any such agreements violated State laws governing allowable investment activities.

4) MARTA Financial Forecasts – Examine the sources of MARTA financial forecasts supplied to MARTOC and the use of operating reserves in those forecasts.

Objectives

Objective 1

What is the Impact of LILO Agreements on MARTA's Financial Position?

Between 2001 and 2005, MARTA entered into nineteen Lease-in/Lease-out (LILO) transactions involving 329 rail cars, the Avondale Maintenance Facility and the South and East rail lines. The original fair market value of MARTA's assets involved in these transactions totaled approximately $2.3 billion dollars - **see Exhibit 4 on page 8**. According to Mr. Davis Allen, MARTA's Chief Financial Officer, these agreements did not represent 100 percent of MARTA's rail fleet, but it was close.[5] As of October 2008, MARTA's **potential** exposure to unwind all nineteen agreements was approximately $391 million. As of the end of October 2009, through negotiations with its equity investors, we confirmed MARTA had successfully terminated or remediated three agreements which represented 65% of the original fair market value and 66% of MARTA's total potential exposure. The termination of two agreements and remediation of a third agreement actually resulted in a net benefit to MARTA of approximately $15 million. MARTA was relieved of any future obligation after terminating the two agreements, whereas the remediation removed the risk of future unwinding triggers, but the lease agreement still remains. Currently, MARTA is in the process of negotiating the unwinding of 14 other LILO agreements with its equity investors. MARTA currently estimates that it could potentially realize an additional $8 million in net benefit after these agreements are closed; however, we were unable to confirm this estimate. The equity investor for the remaining two LILO agreements has indicated it did not intend to terminate its agreements with MARTA. Therefore, rather than a negative impact of $391 million on MARTA's finances as originally anticipated, MARTA may potentially generate additional operating capital unwinding the LILO agreements.

In the LILO transactions, MARTA entered into a 'head lease' with an equity investor who was seeking to utilize the tax benefit generated by leasing MARTA's rail stock and rail lines that MARTA could not utilize as a local authority that does not pay income taxes. MARTA would then immediately lease back the same equipment or line receiving a net cash benefit from the transaction that MARTA could use to supplement its operating revenue. Equity investors included CIBC, Comerica, Australia/New Zealand Bank, Fifth Third, Regions Bank, Wells Fargo, Northwestern Mutual, Wachovia, AIG and AmSouth (now Regions Bank). At the lease inception, a Trust was established to hold securities from MARTA and the equity investors that would fund/defease all future lease payments. United States Government backed securities were purchased and placed in the Trust to defease the current and future lease obligations. The 'head lease' from the equity investor to MARTA would be for a lower amount than the 'head lease' from MARTA to the equity investor. This would result in a net benefit to MARTA to be amortized over the life of the lease agreement. As a result of its nineteen transactions, MARTA received a total net benefit of approximately $104 million. The net benefit represented the difference between MARTA's 'head lease' with the equity investor and the amount of the leaseback expense incurred by MARTA.

In our review, we noted that all LILO transactions were discussed and approved by the MARTA Board of Directors in open meetings. Prior to execution, all transactions received approval from the Federal Transit Administration, which encouraged transit authorities to engage in such transactions. At no time were MARTA assets sold, however, they were used as collateral in the lease agreements. Prior to entering into the agreements, MARTA received assurance through an opinion from bond counsel that the transactions would not affect the tax exempt status of the bonds used to purchase the equipment leased.

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[5] "Transit Systems Try to Save Pending Deals Before Tax Loophole is Closed." The Associated Press. 23 March 2004. < http://www.accessnorthga.com/detail.php?n=173427>.

EXHIBIT 4

Metropolitan Atlanta Rapid Transit Authority
Summary of Structured Lease Program
As of October 29, 2009

Tranche	Equity Investor	Closing Date	Asset	Original FMV	Total Benefit Received (a)	Total Potential Exposure to Unwind (c)	PV Interest Rate 5.000% PV of Lease Payment Structure (d)	MKT Value of Defeased Trust Portfolio (e)	Potential Estimated (g) Cost/(Benefit) to Unwind	Total Actual Cost (Benefit) to Unwind (f)	Additional Comments
2001-1	CIBC	3/22/2001	6 Hitachi Rail Cars	13,800,000	1,001,832	3,121,123	4,771,457	4,891,619	120,162		
2001-2	Comerica	3/22/2001	46 Franco Belge Rail Cars	82,800,000	4,089,448	13,755,496	26,296,230	28,158,068	1,861,838		
2001-3	Comerica	3/22/2001	15 Hitachi Rail Cars	36,800,000	1,733,414	6,473,743	10,028,517	9,907,943	(120,574)		
2001-4	Australia/New Zealand Bank	3/22/2001	28 Breada Rail Cars	78,400,000	5,881,847	21,166,493	23,984,912	22,171,757	(1,813,155)		
2001-5	Fifth Third	3/22/2001	24 Hitachi Rail Cars	55,200,000	2,832,862	9,132,911	14,682,316	13,940,000	(742,316)		
2001-6	Australia/New Zealand Bank	3/22/2001	46 Franco Belge Rail Cars	92,000,000	5,435,994	20,897,388	37,085,929	35,498,725	(1,587,205)		
2001-7	Fifth Third	6/21/2001	14 Franco Belge Rail Cars	28,000,000	1,644,878	5,133,711	7,921,003	3,189,503	(4,731,499)		
2001-8	CIBC	6/22/2001	10 Franco Belge Rail Cars	20,000,000	1,561,772	4,654,203	7,673,263	7,771,451	98,188		
2001-9,10,11	Regions Bank	12/27/2001	48 Hitachi Rail Cars	120,000,000	11,417,032	28,596,132	26,012,961	21,384,118	(4,628,843)		
2002-1	Comerica	9/27/2002	20 Breda Rail Cars	57,000,000	3,472,156	TBD	14,196,736	15,554,033	1,357,297		
2002-2	Wells Fargo	9/27/2002	22 Hitachi Rail Cars	55,000,000	3,355,699	N/A	N/A	N/A	-		Investor has not requested replacement of PUA or Surety
2002-3	Wells Fargo	9/27/2002	10 Breda Rail Cars	28,500,000	1,919,941	N/A	N/A	N/A	-		Investor has not requested replacement of PUA or Surety
Avondale	Northwestern Mutual	4/3/2003	Avondale Maintenance Facil	120,500,000	6,531,193	N/A	N/A	N/A	-	(9,884,000)	Transaction terminated 01/09
South Line	Wachovia	9/29/2003	Marta South Line	782,072,000	27,312,102	148,540,943	N/A	N/A	-	(4,527,518)	Transaction remediated 05/09 (h)
East Line	AIG	9/29/2003	Marta East Line	574,021,000	20,382,045	109,025,282	N/A	N/A	-	(1,017,518)	Transaction terminated 05/09
2005-A	AmSouth	9/29/2005	30 Breda Rail Cars	93,300,000	3,839,245	15,207,880	11,744,333	13,166,634	1,422,301		Investor is now Regions
2005-B	AmSouth	9/29/2005	10 Breda Rail Cars	31,500,000	1,332,952	5,195,285	4,179,881	4,608,812	428,931		Investor is now Regions
				2,268,893,000	103,744,412	390,900,590	188,577,537	180,242,662	(8,334,875)	(15,429,036)	
						Market as of 10/08				Negative number = net benefit	

(a) - Total benefit received from engaging in lease leaseback transaction.

(c) - Amount to be paid per the lease agreement for sub lessee default, including but not limited to sublease rent, Base Stipulated Loss Value, Stipulated Loss Value, Base Termination Value, Termination Value, Unpaid Allocated Rent, Paid Allocated Rent Section 467 Loan Interest or Fair Market Sales Value as of October 2008.

(d) - As of March 2009 PV of the lease payment structure at an estimated 5% rate.

(e) - As of March 20, 2009 - Market Value with Accrued Income

(f) - Amount negotiated with Sublessor to terminate sublease agreement.

(g) - Equals the Market Value with Accrued Income of the Defeased future lease payments in the Trust minus the present value of lease payments as of March 2009

(h) - In May 2009, MARTA and its Equity Investor, Wachovia, remediated this transaction to remove AIG as Payment Undertaker. This remediation removed the primary risk of the transaction unwinding in the future. Per Wachovia, the securities purchased for the original tranche were liquidated and new securities were purchased by MARTA with the proceeds and pledged to Wachovia to defease any future lease payments. The difference in the value of the original securities and the newly purchased securities are where MARTA realized its net benefit.

19 deals total - 2 terminated, 1 remediated, 2 intact and 14 to be negotiated.

With all current and future lease payments defeased in a Trust with US Government backed securities, the only apparent significant risk to MARTA when entering these transactions was the possibility that certain events might trigger a clause in the contract making it subject to be unwound. The distress in the financial markets in 2008 caused credit ratings issued by bond rating agencies to drop for the insurers of these LILO transactions. The trigger in many of the LILO agreements was the downgrade of transaction insurers. As a result, MARTA was potentially liable for early termination fees and penalties.

Per review of MARTA's Comprehensive Annual Financial Report, we noted that MARTA had entered into two other Sale-In Lease-Out (SILO) transactions in 1987 and 1988. Per discussion with MARTA management, we noted that these were actually 'lease to service' or IRS 467 leases, since no assets were sold as part of the lease agreement. These two leases were terminated prior to MARTA entering into new leases in 2001.

No exceptions were noted as a result of our procedures.

Objective 2

What were the Primary Causes of the Increase in MARTA's Operating Expenditures in Fiscal Year 2008?

The majority of the increase in operating expenditures was due to an increase in depreciation expense. Depreciation increased $31.9 million in fiscal year 2008 over 2007. New capital assets added such as the *Business Transformation Program* accounted for $13.7 million of the depreciation expense increase in 2008. Other capital assets and improvements to existing assets also contributed to the $31.9 million increase. There was no change in depreciation method in fiscal year 2008.

We also looked at contracts that increased significantly in fiscal year 2008 over 2007. Of the payments sampled, all had proper documentation and approvals.

No exceptions were noted as a result of our procedures.

Objective 3

Do MARTA's Investment Activities Comply with Georgia Law?

As mentioned in Objective No. 1, the LILO agreements were approved by MARTA's Board of Directors in open meetings. All LILO transactions received approval from the Federal Transit Administration, who encouraged transit authorities to engage in these transactions. MARTA also received assurance through an opinion from bond counsel that the transactions would not affect the tax exempt status of the bonds used to purchase the equipment leased. The Metropolitan Atlanta Rapid Transit Authority Act approved March 10, 1965 (GA L. 1965, p. 2243), allows MARTA to enter into lease agreements. We found no evidence that these LILO transactions violated applicable Georgia law.

We reviewed a *forward delivery agreement* between MARTA and Bank of America. We also reviewed two MARTA *interest rate swap agreements*; one with Goldman Sachs and the other with Merrill Lynch.

GA Code 36-82-250 through 251 gives local authorities the ability to enter into 'qualified interest rate management agreements' that include *interest rate swaps* and *forward agreements*.

In addition, we reviewed two commodity swap agreements. MARTA utilized commodity swap agreements to help plan and stabilize its cost of diesel and natural gas and to protect itself against price volatility. GA Code 36-82-251 mentioned above also allows local authorities to enter into "cap, collar, swap and other derivative transactions".

The agreements mentioned in the preceding paragraphs were also approved by the MARTA Board of Directors.

No exceptions were noted as a result of our procedures.

Objective 4

What are the Sources of MARTA's Financial Forecast and How Are Operating Reserves Used in that Forecast?

As mentioned in the background information, the majority of MARTA's operating revenues comes from the MARTA sales tax. At the request of MARTA, the Georgia State University Economic Forecasting Center prepared a projection of sales tax revenue for future years. That projection reflects sales tax revenue decreases in years 2009, 2010 and 2011. We verified the sales tax amounts in MARTA's financial projection to the Georgia State University sales tax projection. The revenue decreases coupled with estimates of benefit costs increasing at a rate between 4 to 6% and a consumer price index increase for non-labor increasing at a rate of approximately 3% resulted in the projected operating losses in fiscal years 2009 through 2012 ranging from ($67.2) million to ($137.6) million, respectively – **see Exhibit 5 on page 11**. To mitigate these projected losses, MARTA included cost reduction measures identified in Section I, fare increases in Section II and service adjustments in Section III. *We found documentation to support amounts included in the financial projection shown in* ***Exhibit 5****, however the scope of our examination did not include an evaluation of MARTA's decisions regarding these proposed budget cuts, fare increases or service adjustments.*

In spite of these cost reductions, the MARTA financial forecast still projects deficits and plans to use $93 million of their $145 million operating reserves[6] and $55 million in real estate reserves in Section V to help cover these projected deficits. Even using these reserves and stimulus funds of $45 million (sections VI and VIII), overall deficits are projected at $40.2 million for 2011 and $96.7 million for 2012.

[6] A portion of the net operating reserves ($52 million "Super Reserve Fund") is held to cover possible labor increases pending results of a compensation study (HAY Study) and other unanticipated costs. The "Super Reserve Fund" is available, subject to MARTA Board approval, to help cover projected deficits.

EXHIBIT 5

Projected Operating Losses

MARTA | METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY

Preliminary Projections - Multi-Year Financial Forecast (Amended 5-27-09)

	FY09	FY10	FY11	FY12	4-Yr Total
Multi-Year Financial Forecast	($67.2)	($107.8)	($128.9)	($137.6)	($441.5)
Additional Items Added To Preliminary Projections					
I. Paratransit Service Demand to Maintain 0% Denial					
- *Service Demand @ 13% & Availability Impacts*	N/A	($2.0)	($2.0)	($2.0)	($6.0)
Net Revised Multi-Year Financial Forecast	($67.2)	($109.8)	($130.9)	($139.6)	($447.5)
Offsetting Items to Forecasted Financial Shortfalls					
I. Internal Productivity/Cost Containment					
- Elimination of Non-Rep Merit-Based Increases	$3.3	$3.3	$3.3	$3.3	$13.2
- Furloughs (10 days, Non-Rep) or Equivalent Savings		$2.0	$2.0	$2.0	$6.0
- Healthcare *(92%/8% vs 85%/15%, Non-Rep)*		$2.0	$2.0	$2.0	$6.0
- Non-Rep Position Reduction (Vacancies)	$1.8	$3.5	$3.5	$3.5	$12.3
- Employee Availability (Represented)		$1.0	$1.5	$2.0	$4.5
- Travel Expenses		$0.3	$0.3	$0.3	$0.9
- Miscellaneous/OTPS Expenses	$5.9	$7.2	$7.2	$7.2	$27.5
Net Change	$11.0	$19.3	$19.8	$20.3	$70.4
Net Forecast	($56.3)	($90.5)	($111.1)	($119.3)	($377.2)
II. Fare Increases & Parking Fees					
- Fare Increase		$4.8	$7.9	$9.4	$22.1
- Parking		TBD	TBD	TBD	$0.0
Net Change		$4.8	$7.9	$9.4	$22.1
Net Forecast	($56.3)	($85.7)	($103.2)	($109.9)	($355.1)
III. Core Service Adjustments					
- Unproductive Bus Service		$1.2	$1.2	$1.2	$3.6
- Other Bus Efficiencies		$2.2	$2.2	$2.2	$6.6
- Rail Service Modifications (Headway & Hours of Service)		$5.0	$5.0	$5.0	$15.0
Net Change		$8.4	$8.4	$8.4	$25.2
Net Forecast	($56.3)	($77.3)	($94.8)	($101.5)	($329.9)
IV. New Revenue Generation		TBD	TBD	TBD	$0.0
Net Forecast	($56.3)	($77.3)	($94.8)	($101.5)	($329.9)
V. Reserves Utillization *(Available for use)*					
- *Net Operating @ $145M (less $52M in "Super Reserve Fund")*	$56.3	$14.0	$17.9	$4.8	$93.0
- *Real Estate @ $55M*		$18.3	$36.7	$0.0	$55.0
Net Change	$56.3	$32.3	$54.6	$4.8	$148.0
Net Forecast	$0.0	($45.0)	($40.2)	($96.7)	($181.9)
VI. ARRA (Capital PM)		$20.0	$0.0	$0.0	$20.0
Net Forecast	$0.0	($25.0)	($40.2)	($96.7)	($161.9)
VII. Capital Rehab Reserves *(currently @ $65M)*		*$0.0*	*$0.0*	*$0.0*	*$0.0*
Net Forecast	$0.0	($25.0)	($40.2)	($96.7)	($161.9)
VIII. ARC Sub-Allocation of Stimulus $ (Net Change)		*$25.0*	*$0.0*	*$0.0*	*$25.0*
Net Forecast	$0.0	$0.0	($40.2)	($96.7)	($136.9)

revised 5/27/09

1

Overall Deficit Projections

This MARTA report as of May 27, 2009, is updated periodically as market conditions and revenue estimates are revised. This report was examined only to the extent of completing objective number 4. (see page 10)

Conclusion

We found no evidence that MARTA's investment activities were in violation of State laws. The LILO agreements entered into by MARTA were the most controversial area we reviewed. The IRS warned in a newsletter to Federal, State and Local Governments, dated June 2004, that it considered LILO transactions ". . . abusive tax avoidance transactions."[7] However, the Federal Transit Administration approved MARTA's LILO agreements – including the 2005 agreements.

The risk to MARTA was not apparent until the distress in the financial markets caused the credit rating of AIG and similar companies, who insured this type transaction, to drop. This event suddenly made MARTA, and other transit authorities, potentially liable for large termination fees and penalties. Subsequent court cases have generally held in favor of the transit authorities.[8]

On June 24, 2009, a bill (S.1341) was introduced by Senator Robert Menendez of New Jersey to impose an excise tax on certain proceeds from SILO and LILO transactions. The intent of the bill is to discourage banks that hold these LILO agreements from attempting to collect the termination fees and penalties from the transit agencies by taxing any proceeds collected that exceed the amounts in the defeasance escrow (trust to pay the lease payments) at 100%. As of the date of this report, Senate bill S.1341 is in the Senate Finance Committee.

MARTA's projected losses are primarily the result of declining sales tax revenues and rising costs of benefits such as healthcare and other operating expenses (not examined for this report). MARTA's greatest source of income is sales tax (65%). Declining sales tax revenues have affected state and local governments throughout the United States and MARTA is no exception.

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[7] "Federal, State and Local Governments Newsletter." Internal Revenue Service. June 2004. <http://www.irs.gov/pub/irs-tege/jun04_fslg.pdf>.

[8] "Metro Settlement Reached in Leaseback Deal." Washington Metropolitan Area Transit Authority – Press Release. 14 November 2008. <http://www.wmata.com/about_metro/news/PressReleaseDetail.cfm?ReleaseID=2345>.

APPENDIX A
Key Terms

Defeasance: A financing tool by which outstanding bonds may be retired without a bond redemption or implementing an open market buy-back. Cash is used to purchase government securities. The principal of and interest earned on the securities are sufficient to meet all payments of principal and interest on the outstanding bonds as they become due.

Forward Delivery Agreement: Agreements between an investor and a financial institution ("provider") for the future delivery of securities that mature on a schedule to match cash flow needs. The provider agrees to deliver, at future dates certain, the security called for in the Agreement (e.g., treasuries, agencies, commercial paper, etc.) at a price that produces a contractually agreed upon interest rate to the investor.

Interest Rate Swap: A derivative in which one party exchanges a stream of interest payments for another party's stream of cash flows. Interest rate swaps can be used by hedgers to manage their fixed or floating assets and liabilities. They can also be used by speculators to replicate unfunded bond exposures to profit from changes in interest rates.

LILO: Lease arrangements that essentially transfer depreciation rights from a tax-exempt entity to a taxpaying corporation.

Payment Undertaking Agreement (PUA): One or more agreements, undertakings or arrangements under which all or a portion of the funds generated by a sale and leaseback, leaseout and leaseback, or other similar transaction are directed or paid over to a financial institution, insurance company, or other entity that agrees to meet or fulfill, in consideration for the funds, some or all of the obligations of the regional transit authority, or any public corporation or other entity, to make future rent, debt service, or purchase price installment payments in connection with the transaction.

Qualified Interest Rate Management Agreement: An agreement, including a confirmation evidencing a transaction effected under a master agreement entered into by the local governmental entity in accordance with, and fulfilling the requirements of, the Official Code of Georgia Annotated, Section 36-82-253, which agreement in the judgment of the local governmental entity is designed to manage interest rate risk or interest cost of the local governmental entity on any debt or lease or installment purchase contract the local governmental entity is authorized to incur, including, but not limited to, interest rate swaps or exchange agreements, interest rate caps, collars, corridors, ceiling, floor, and lock agreements, forward agreements, swaptions, warrants, and other interest rate agreements which, in the judgment of the local governmental entity, will assist the local governmental entity in managing its interest rate risk or interest cost.[9]

[9] Official Code of Georgia Annotated, Section 36-82-250. Definitions

For additional information or for copies of this report call 404-656-2180.