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WELFARE REFORM

Competitive Grant Selection Requirement for DOT's Job Access Program Was Not Followed



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Abbreviations

DOT	Department of Transportation
FTA	Federal Transit Administration
FY	Fiscal year
TEA-21	Transportation Equity Act for the 21st Century



United States General Accounting Office
Washington, DC 20548

December 7, 2001

The Honorable Paul S. Sarbanes
Chairman
The Honorable Phil Gramm
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate

The Honorable Don Young
Chairman
The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation
and Infrastructure
House of Representatives

Without adequate transportation, welfare recipients face significant barriers in moving from being on welfare to working. In 1998, Congress found that three-fourths of welfare recipients lived in central cities or rural areas, but two-thirds of new, entry-level jobs were located in the suburbs. Public transportation facilities, such as buses or subways, often offer limited or no access to many of these jobs. Although the jobs can be reached by car, many welfare recipients do not have cars. To address this mismatch, the Transportation Equity Act for the 21st Century (TEA-21) authorized up to \$750 million for fiscal years 1999 through 2003 for the Job Access and Reverse Commute (Job Access) program. The program authorizes the Department of Transportation (DOT) to provide grants to local agencies, nonprofit organizations, transit authorities, and others to improve transportation to employment sites. Within DOT, the Federal Transit Administration (FTA) is responsible for implementing the program. TEA-21 requires DOT to conduct a nationwide solicitation for Job Access grant applications and to select grantees on a competitive basis.

The competitive selection process, as implemented by FTA, includes evaluating and scoring grant applications under published criteria that are based on factors identified in TEA-21. FTA then ranks the applications and selects them for funding, based on their scores. FTA considers projects to be “meritorious” if they score high enough to warrant selection and

funding under the program. From fiscal year 1999 through 2001, FTA selected 368 Job Access projects for grants totaling \$247 million.

To date, we have issued four reports on the Job Access program: in May 1998, before it was established,¹ as well as in November 1999,² December 2000,³ and August 2001.⁴ Appendix I contains a brief description of these four reports.⁵ This report, our fifth on the Job Access program, examines

- how DOT implemented the Job Access program in fiscal years 2000 and 2001, including its response to funding designations for specific states, localities, and organizations set forth in conference reports accompanying DOT's fiscal year 2000 and 2001 appropriations acts;
- the impact on the program of DOT's response to the funding designations; and
- whether the manner in which DOT interpreted and applied the conference reports' funding designations in fiscal years 2000 and 2001 was consistent with applicable statutory requirements.

To meet these objectives, we interviewed FTA officials, examined program documentation, and conducted a mail survey of all of the fiscal year 1999 Job Access program grantees. We also reviewed TEA-21, the appropriations acts for fiscal years 2000 and 2001, and applicable case law; further, we sent a letter of inquiry to FTA to obtain its explanation of the actions taken in response to the designations in the conference reports that accompanied DOT's appropriations acts for fiscal years 2000 and 2001. Our review focused on FTA's processes for implementing the Job Access program, rather than on individual grants made in fiscal years 1999, 2000, or 2001.

¹ *Welfare Reform: Transportation's Role in Moving from Welfare to Work* (GAO/RCED-98-161, May 29, 1998).

² *Welfare Reform: Implementing DOT's Access to Jobs Program in Its First Year* (GAO/RCED-00-14, Nov. 26, 1999).

³ *Welfare Reform: DOT Is Making Progress in Implementing the Job Access Program* (GAO-01-133, Dec. 4, 2000).

⁴ *Welfare Reform: GAO's Recent and Ongoing Work on DOT's Access to Jobs Program* (GAO-01-996R, Aug. 17, 2001).

⁵ TEA-21 requires that we report to the Congress on FTA's implementation of the program.

Results in Brief

In response to language in the conference reports accompanying DOT's fiscal year 2000 and 2001 appropriations acts that designated significant Job Access funds for specific states, localities, and organizations, FTA adopted a two-track process for the selection of Job Access grantees. FTA instituted a noncompetitive process for entities identified in the conference reports, or applicants selected by those entities; FTA set aside funds for those entities and selected them without scoring and ranking their applications—that is, comparing them to those submitted by other applicants. FTA continued to implement the previously established competitive process for other applicants. Of the \$175 million made available for the program for these 2 years, FTA allocated \$125 million for projects selected under the noncompetitive process, after it determined they had met selection criteria, such as demonstrating the need for additional Job Access services in the area to be served by the project. In fiscal year 2000, FTA allocated \$50 million to projects selected under the noncompetitive process and the remaining \$25 million under the competitive process to proposals submitted in that year. In fiscal year 2001, FTA allocated \$75 million to projects selected under the noncompetitive process; it allocated the remaining \$25 million to proposals submitted in fiscal year 2000 under the competitive process that were not funded or only partially funded in that year. FTA did not solicit any proposals in fiscal year 2001.

FTA's two-track process for the selection of Job Access grantees decreased opportunities to fund projects that could have been identified as "meritorious" through the competitive selection process. This approach reduced the amounts available for projects selected on a competitive basis from \$75 million in fiscal year 1999 to an average of about \$25 million a year in fiscal years 2000 and 2001. FTA had designed its competitive selection process to help ensure that the projects selected for funding would best achieve the program's objectives. The exclusion of significant Job Access funds from the competitive selection process decreased FTA's ability to fund projects that might have emerged from this process as the most promising in meeting the program's objectives. According to the Coordinator of the Job Access program and other FTA officials, the funding of projects for entities designated in the conference reports resulted in reduced opportunities to fund other worthy projects that were not designated in the reports. Also, FTA's decision not to solicit new project proposals for competition for program funding in fiscal year 2001—but instead to select from project proposals submitted in fiscal year 2000—foreclosed opportunities to select projects that FTA may have found more promising than those actually selected in fiscal year 2001. Moreover, grantees reported that the reduction in funds available for

competitive award resulted in a discontinuation of funding for some Job Access projects that had been selected on a competitive basis in fiscal year 1999. Specifically, according to our survey of fiscal year 1999 Job Access grantees, as of September 30, 2001, 19 percent of them did not receive additional funding or received decreased funding in fiscal years 2000 and 2001.

TEA-21 requires that Job Access grantees be selected on a competitive basis. FTA's allocation of Job Access funds on a noncompetitive basis to entities designated in conference reports, or applicants selected by those entities, was not consistent with TEA-21. Although the conference reports that accompanied DOT's fiscal year 2000 and 2001 appropriations acts designated Job Access funds for certain entities, these designations were not carried over into the appropriations acts for those years. Furthermore, the conference reports did not impose legally binding requirements and did not provide FTA with a legal basis to deviate from the requirements of TEA-21. Therefore, FTA's use of a noncompetitive process for the selection of Job Access grantees in fiscal years 2000 and 2001 was not authorized. This report contains a recommendation to the Secretary of Transportation to ensure that grants to entities designated in future conference reports are made on a competitive basis.

In providing comments on our report, DOT officials disagreed with our finding that FTA awarded grants to entities designated in conference reports using a noncompetitive process. They explained that FTA employed separate competitive selection processes in fiscal years 2000 and 2001 for evaluating applications received from entities designated in the conference reports and other applicants, but that both pools of applicants were required to meet all statutory criteria for award. In their view, both selection methods represented a reasonable exercise of agency discretion in complying with the statutory requirement for competitive selection, while considering congressional views as expressed in appropriations report language. We disagree that FTA employed competitive methods in selecting all Job Access grantees during this period or that its two-track approach for selecting Job Access grantees represented a reasonable exercise of agency discretion. A competitive selection process necessarily requires a comparison of applications for available funding against each other, rather than a mere determination that they meet the criteria for award. FTA did not score or rank applications from entities designated in the conference reports accompanying the fiscal year 2000 and 2001 appropriations acts and did not compare them either to each other or to applications from entities that were not so designated. Therefore, DOT has not provided us with any basis to agree with its view

that projects for entities identified in the conference reports were competitively selected or to change our recommendation.

Background

TEA-21 authorized the Job Access program, through which DOT's FTA provides grants to "qualified entities"—local agencies, nonprofit organizations, transit authorities, and others—to improve the mobility of welfare recipients and low-income individuals seeking employment.⁶ DOT's two major goals for the program are to (1) provide transportation services in urban, suburban, and rural areas to assist welfare recipients and low-income individuals to gain access to employment opportunities and (2) increase collaboration among such parties as transportation providers, human service agencies, employers, metropolitan planning organizations, states, and communities in providing access to employment.

TEA-21 requires DOT to conduct a nationwide solicitation for Job Access grant applications and to select grantees on a competitive basis.⁷ TEA-21 also identifies factors for DOT to consider in awarding Job Access grants. These include the percentage of the population in the area to be served by a grant applicant who are welfare recipients, the need for additional services in the area to be served, the extent to which the proposed services would meet that need, and the extent to which an applicant identifies long-term financing strategies to support the services. In fiscal year 1999, FTA established a competitive selection process involving the evaluation of grant applications against published criteria, as well as the scoring and ranking of applications against each other on the basis of those evaluations. FTA selected and funded the highest ranked projects. FTA selects program grantees on an annual basis and makes no commitment for funding for more than 1 year. As a result, FTA undertakes a new selection process every year.

Under TEA-21, Job Access grants are subject to the terms and conditions applicable to recipients of urbanized area formula grants, as well as other terms and conditions established by DOT. After selecting projects for funding, FTA requires the applicants to provide assurances and

⁶ For areas with populations of 200,000 or more, the metropolitan planning organizations screen applications and selects qualified entities. States perform the same function for areas with populations of fewer than 200,000. A metropolitan planning organization is an organization that carries out federally funded transportation planning activities.

⁷ TEA-21 does not define the phrase "competitive basis."

documentation of compliance with these standard grant requirements, such as those concerning drug and alcohol testing, federal procurement standards, and state and regional transportation planning.

TEA-21 authorized up to \$750 million for the program from fiscal year 1999 through fiscal year 2003.⁸ It also required DOT to allocate 60 percent of the program's funds each year to projects in urban areas with populations of at least 200,000; 20 percent of the funds to projects in urban areas with populations of less than 200,000; and 20 percent of the funds to projects in nonurban areas.⁹ Job Access grantees are required to provide at least 50 percent matching funds from other sources, including other federal funds available for transportation services—for example, funds from the Temporary Assistance for Needy Families program.

FTA Noncompetitively Selected Most Job Access Projects for Fiscal Years 2000 and 2001

In response to funding designations contained in the conference reports accompanying DOT's appropriations acts for fiscal years 2000 and 2001, FTA changed its selection process and adopted a two-track process for the selection of Job Access projects. Specifically, FTA adopted a noncompetitive process for the entities designated in the conference reports or applicants selected by those entities. FTA set aside funding for the designated entities and selected them without scoring and ranking their applications—that is, comparing them to those submitted by other applicants. FTA continued to implement its existing competitive process for other applicants. In fiscal years 2000 and 2001, FTA selected 199 projects for grants totaling \$125 million on the basis of their designations in conference reports, rather than on the basis of its competitive review.¹⁰ According to FTA officials, the agency had determined that these projects met the program's basic requirements and its selection criteria for

⁸ Some of the Job Access program funds are "guaranteed," that is, subject to a procedural mechanism designed to ensure that minimum amounts of funding are made available each year. TEA-21 provided guaranteed funding of \$50 million for fiscal year 1999, \$75 million for fiscal year 2000, \$100 million for fiscal year 2001, \$125 million for fiscal year 2002, and \$150 million for fiscal year 2003.

⁹ These funding limitations were not applicable to the program in fiscal year 2001.

¹⁰ FTA selects program grantees on an annual basis. One hundred fifteen (115) of the 199 projects selected noncompetitively had been competitively evaluated, scored, and ranked in fiscal year 1999 or fiscal year 2000. The remaining 84 projects had never been competitively evaluated, scored, and ranked. According to the Coordinator of the Job Access program and other FTA officials, none of the 199 projects were selected for funding based on competitive evaluation, scoring, and ranking against other applicants.

competitively awarded grants. These 199 projects comprised about 61 percent of the 327 projects selected for grants during those 2 years and about 71 percent of the \$175 million that was made available for the program during those 2 years.

The Department of Transportation and Related Agencies Appropriations Act for fiscal year 2000¹¹ provided \$75 million for the Job Access program, and the conference report accompanying the appropriations act designated a total of \$49.6 million in specified amounts for grants to identified states, localities, and other organizations.¹² FTA's March 2000 request for project proposals provided detailed information to prospective grantees, including requirements for eligibility and guidelines for preparing grant applications.¹³ It also set forth selection processes for entities identified in the conference report and other applicants, stating that Congress had allocated \$49.6 million for specific states and localities and that the remaining \$25.4 million, along with about \$4 million in unobligated fiscal year 1999 funds, was available for competitive award.

FTA instructed entities identified in the conference report, or applicants selected by those entities, to submit applications responding to the same program selection criteria, including conformity with program requirements, as applicants for competitive awards.¹⁴ In addition, it advised applicants for "competitive grants" that—as in 1999—it would evaluate and score eligible applications according to four factors: (1) the degree of local coordination exhibited when a project was designed, (2) the demonstrated need for additional transportation services, (3) the extent to which proposed services would meet the need, and (4) the ability of an applicant to obtain resources to continue a project without grant funds. The notice indicated that, along with such factors as the time frame for implementation and the geographic distribution of project funding, these award criteria would provide the basis for project selections.

¹¹ P.L. No. 106-69, 113 Stat. 986, 1001, 1012 (1999).

¹² H.R. Conf. Rep. No. 106-355, at 112-113 (1999).

¹³ 65 Fed. Reg. 13210 (2000).

¹⁴ *Id.* According to FTA, if the conference report did not designate a specific organization to receive funding, the area to which funds were assigned designated applicants. In urbanized areas with populations of 200,000 or more, applicants were selected by the metropolitan planning organizations, which are organizations that implement federally funded transportation plans and programs. In areas with populations of fewer than 200,000, applicants were selected by the states.

The Department of Transportation and Related Agencies Appropriations Act for fiscal year 2001¹⁵ provided \$100 million for the Job Access program, and the accompanying conference report designated about \$75 million for identified states, localities, and other organizations.¹⁶ As in 2000, FTA proposed to allocate amounts to entities identified in the conference report for projects meeting basic program requirements, stating that it would “honor those allocated projects that meet the statutory intent of the program.”¹⁷ However, it did not solicit new proposals for competitive award; rather, it decided to make remaining selections from among proposals submitted in fiscal year 2000 that were not funded or only partially funded due to funding limitations in that year.

According to FTA, applicants for projects designated in the conference reports were notified by letter from the FTA regional administrators, as well as through its published notices, and instructed to submit project proposals addressing the criteria used for competitive awards, as well as standard FTA grant requirements. FTA officials noted that only those applications meeting the basic eligibility criteria for the Job Access program were awarded grants, explaining that FTA’s practice is to work with entities identified in the conference reports and include them in the program consistent with the underlying statutory requirements.

DOT’s Response to Conference Reports Decreased Opportunities to Fund Potentially More Promising Projects

During fiscal years 2000 and 2001, FTA’s two-track process for the selection of Job Access grantees decreased opportunities to fund projects that could have been identified as meritorious through the competitive evaluation process. Also, some projects selected in fiscal year 1999 were not selected for funding in fiscal years 2000 or 2001. As a result, according to grantee officials, some of these projects needed to reduce their services or ceased to operate.

¹⁵ P.L. No. 106-346, 114 Stat. 1356, 1356A-16, 1356A-20 (2000).

¹⁶ H.R. Conf. Rep. No. 106-940, at 140-141 (2000).

¹⁷ 66 Fed. Reg. 4900, 4911 (2001).

Opportunities for Competitive Awards Were Significantly Decreased in Fiscal Years 2000 and 2001

In response to TEA-21, FTA designed a competitive process consistent with the factors identified in the statute to help ensure that the projects selected for funding would improve the access of low-income individuals to employment and employment-related services through coordinated efforts of transportation providers, human service agencies, and others. In fiscal year 1999, FTA allocated all of the program funds—\$75 million—for projects that it had competitively selected by evaluating, scoring, and ranking them against each other.¹⁸ However, for fiscal years 2000 and 2001, FTA allocated \$125 million out of the \$175 million available to entities identified in the conference reports, or applicants selected by those entities, and only \$50 million to competitively selected entities that were not identified in the conference reports. According to the Coordinator of the Job Access program and other program officials, as a result of funding projects designated in the conference reports, many other worthy projects could not be funded.

In fiscal year 2001, FTA did not solicit new proposals. Instead, it selected projects from among project proposals submitted for fiscal year 2000 that, according to FTA, were “meritorious” but had not been funded or had been only partially funded because of funding limitations. This change foreclosed opportunities for FTA to consider projects in fiscal year 2001 that may have been more promising than those actually selected in that year. In addition, FTA decreased the minimally acceptable score for project selection from 76.5 ranking points to 54.5 points. As a result, in fiscal year 2001, FTA selected some projects that it had evaluated and ranked in fiscal year 1999 or 2000 but had not found suitable for award in those years.

Some Projects Funded in Fiscal Year 1999 Did Not Receive Additional Job Access Funding

According to FTA program officials and grantees, the decrease in funding for competitively selected projects during fiscal years 2000 and 2001 meant that about one-fifth of the fiscal year 1999 Job Access projects did not receive continued funding. To explore the impact of the reduction in funding available for competitive grants, we sent a questionnaire to 186 fiscal year 1999 grantees. About 83 percent of these grantees—or 155—responded to our questionnaire. These respondents generally indicated they were satisfied or very satisfied with the Job Access program. Eighty-five percent said that they were satisfied with how the Job Access program

¹⁸ Congress provided \$75 million for the program for fiscal year 1999. FTA awarded \$71 million in that year and the remaining \$4 million in fiscal year 2000.

has enabled their organization to help people get to work. However, 19 percent of the respondents—or 30 of them—faced reduced or discontinued funding during fiscal years 2000 and 2001. Furthermore, eight grantees reported that funding interruptions caused them to decrease the scope of service of their projects. For example, the Chesapeake Bay Agency on Aging (Urbanna, VA) reported that funding disruptions, accompanied by an inability to secure funding from alternative sources, resulted in some route cancellations and cutbacks in the number of riders served and the lengths of some routes. The Chesapeake Bay Agency on Aging and the Richmond (VA) Transit Authority stated that these service disruptions caused a loss of credibility with their clientele and cost some passengers their jobs. Three grantees that reported funding lapses said that, after their services were interrupted, they could not obtain alternative sources of funding, and their Job Access projects were permanently discontinued.

FTA's Process for Selecting Grantees in Fiscal Years 2000 and 2001 Was Not Consistent With TEA-21

In fiscal years 2000 and 2001, FTA selected 199 projects (about 61 percent of the 327 Job Access projects selected in those years) noncompetitively, based on language in the conference reports that accompanied the fiscal year 2000 and 2001 appropriations acts. This language designated specific dollar amounts for grants to states, localities, and organizations. FTA officials said that in administering the program, FTA complied with applicable statutory requirements for nationwide solicitation and competitive selection, while taking into account congressional views as expressed in this report language.

Section 3037 of TEA-21, which established the Job Access program, authorizes the Secretary of Transportation to make grants to assist qualified entities with financing eligible projects.¹⁹ It directs the Secretary to conduct a national solicitation for grant applications, and it requires that grantees be selected on a competitive basis.²⁰ Although the statute does not define the phrase “competitive basis,” it does identify several factors for the Secretary to consider in awarding grants, including the percentage of welfare recipients in the population of the area to be served, the need for additional services, and the degree of coordination with

¹⁹ Section 3037(b) defines the terms “access to jobs project,” “reverse commute project,” and “qualified entity,” thus establishing the basic eligibility requirements for participation in the program and the pool of potential applicants.

²⁰ See section 3037(g).

existing transportation service providers.²¹ In implementing TEA-21, FTA combined the statutory factors into the four essential elements referenced in its March 2000 request for grant applications and assigned points to each, on the basis of relative importance. In December 2000,²² we concluded that FTA’s program guidance and practices of evaluating and comparing program applicants were appropriate for helping to ensure that grantees would be competitively selected on a consistent basis.²³

The fiscal year 2000 and 2001 appropriations acts for the Department of Transportation and Related Agencies made specified amounts available for the award of Job Access grants under section 3037. Although the conference reports accompanying those acts contained language designating entities for project funding, the designations were not carried over into the appropriations acts.²⁴ It is well established that conference report language and other legislative history, indicating how funds should be spent, do not impose legally binding requirements;²⁵ nor does legislative history supersede or repeal existing statutory requirements.²⁶ Accordingly, FTA had no authority to use a noncompetitive process for the selection of Job Access grantees, including those designated in the conference reports.

²¹ See section 3037(f).

²² [GAO-01-133](#), Dec. 4, 2000.

²³ For our December 2000 report on the Job Access program, we reviewed changes made to the competitive selection process after fiscal year 1999—the first year of the program.

²⁴ Statutory language designating portions of a lump-sum amount for particular purposes are commonly referred to as earmarks.

²⁵ See, e.g., *Lincoln v. Vigil*, 508 U.S. 182, 193 (1993)(observing that “Congress may always circumscribe agency discretion to allocate resources by putting restrictions in the operative statutes (though not... just in the legislative history)”); *Tennessee Valley Authority v. Hill*, 437 U.S. 153, 191 (1978)(holding that a substantive statutory provision was not amended or repealed by language in a subsequent appropriation committee report on the grounds that “expressions of committees dealing with requests for appropriations cannot be equated with statutes enacted by Congress”); 55 Comp. Gen. 307, 319 (1975)(emphasizing that when the Congress appropriates amounts without statutorily restricting what can be done with those funds, a clear inference arises that it does not intend to impose legally binding restrictions).

²⁶ 64 Comp. Gen. 282 (1985)(holding that spending levels established for fiscal year 1984 in authorizing legislation for three Small Business Administration (SBA) loan programs were not superseded or repealed by higher levels indicated in tables contained in the conference report accompanying SBA’s fiscal year 1984 appropriation).

In response to our inquiries concerning FTA’s legal justification for its practices in fiscal years 2000 and 2001, FTA officials emphasized that— notwithstanding the designations in the conference reports—only those applications meeting the eligibility criteria in section 3037 were awarded grants and that projects of questionable eligibility were specifically reviewed by the Office of Chief Counsel to ensure eligibility. FTA officials also said that the selection of Job Access projects reflected the requirement of section 3037 to allocate 60 percent of the available funds to large urban areas, 20 percent to mid-sized urban areas, and 20 percent to rural areas.²⁷ According to Job Access program officials, including the Coordinator, FTA determined how many of the projects from entities identified in the conference reports fell into each funding category. FTA set aside funds for these projects in anticipation of awarding them grants. FTA then awarded grants with the remaining funds in each funding category to projects selected under the competitive process. FTA acknowledged that it did not undertake any effort to compare applications from entities identified in the conference reports to other applications for Job Access funds. While TEA-21 does not define “competitive basis,” competition necessarily requires the evaluation and comparison of applications for limited funding against other applications before making selections.

We have not assessed individual projects selected for Job Access grants in fiscal years 2000 and 2001 for compliance with program eligibility requirements or FTA’s processes for compliance with overall funding limitations. Thus, while we have determined that FTA’s two-track process for the award of Job Access grants did not conform to the statutory requirement to select grantees on a competitive basis, we have no basis to conclude that any specific grants, including those made as a result of conference report language, failed to satisfy the basic eligibility criteria or were otherwise not worthy of funding. In this respect, FTA has acknowledged the importance of ensuring that all grants, including grants to entities designated in conference reports, meet the requirements of the Job Access program.

Conclusion

In response to language in conference reports that accompanied DOT’s fiscal year 2000 and fiscal year 2001 appropriations acts, FTA implemented a noncompetitive selection process for entities designated in those

²⁷ These funding limitations were not applicable to fiscal year 2001.

reports, or applicants selected by those entities. At the same time, FTA sought to satisfy the requirements of TEA-21 by continuing to use a competitive process for grant applicants not designated in the conference reports. The noncompetitive process implemented by FTA did not satisfy the requirements of section 3037 of TEA-21. In addition, FTA's manner of implementing the program in fiscal years 2000 and 2001 decreased its opportunities to select projects that were potentially more promising.

Recommendation

We recommend that, in the absence of statutory authority to select Job Access grantees on a noncompetitive basis, the Secretary of Transportation ensure that future grants to entities designated in conference reports, including grants to applicants selected by those entities, be made on a competitive basis.

Agency Comments and Our Evaluation

We provided copies of the draft report to the Department of Transportation for review and comment. DOT officials, including the Coordinator of the Job Access program and representatives from FTA's Chief Counsel's office provided verbal comments regarding our draft report. Overall, DOT officials stated that in implementing the program, FTA complied with applicable statutory requirements for nationwide solicitation and competitive selection, while taking into account congressional views as expressed in appropriations report language.

According to DOT officials, TEA-21 requires DOT to (1) conduct a nationwide solicitation for Job Access grant applications, and (2) select grantees on a competitive basis. According to DOT officials, FTA solicited applications through a broad agency announcement published in the *Federal Register*, and letters addressed to entities identified in appropriations report language. DOT agrees that report language and other legislative history indicating how funds should be spent do not impose legally binding requirements, nor supersede or repeal statutory requirements. However, it also emphasizes that the statutory language does not define the term "competitive selection," leaving that to agency discretion. According to DOT officials, the agency employed separate competitive selection processes in fiscal years 2000 and 2001 for evaluating applications received in response to the different solicitation methods. DOT indicated that both pools of applicants were required to meet all statutory criteria for award. DOT maintains that both selection methods were competitive and represent a reasonable exercise of agency discretion in complying with applicable statutory requirements for nationwide solicitation and competitive selection, while taking into

account congressional views, as expressed in appropriations report language.

DOT also stated that the draft report could benefit by more fully discussing the results of GAO's survey. For example, DOT noted that 85 percent (132 of 155 respondents) were satisfied with the program, while 12 percent (19 of 155) had no opinion, and only 3 percent (4 of 155) were dissatisfied. DOT maintains that this high level of satisfaction among its partners clearly demonstrates FTA's effective implementation of this very important program.

We agree that Congress left the determination of exactly how to implement the requirement of TEA-21 to select grantees "on a competitive basis" to FTA's discretion. However, we do not agree that FTA employed competitive methods in selecting all Job Access grantees during this period or that the two-track approach it adopted in implementing the Job Access program represented a reasonable exercise of agency discretion. As noted in this report, the competitive selection of grantees necessarily requires a comparison of applications for available funding against each other, rather than a mere determination that they meet the criteria for award. Although DOT asserted that FTA used a competitive selection process for entities identified in the conference reports accompanying the fiscal year 2000 and 2001 appropriations acts, DOT officials also stated that FTA did not compare applications from entities designated in these conference reports, either to each other or to applications from entities that were not so designated. Applications from entities designated in the conference reports were neither scored nor ranked but were selected on the basis of the conference report language. FTA's public notices support this characterization of FTA's approach. These notices did not describe FTA's process for those entities identified in the conference reports as "competitive"; rather, they distinguished between funds "reserved for specific projects" and funds "available for competitive award." Importantly, FTA's description of its Job Access formula proposal clearly stated with reference to the fiscal year 2000 and 2001 conference reports that "earmarking of funds does not allow for projects to emerge from a competitive process." Therefore, DOT has not provided us with any basis to agree with its view that projects for entities identified in conference reports were competitively selected or to change our recommendation.

Regarding DOT's comments concerning the results of our survey of fiscal year 1999 Job Access grantees, we have incorporated additional information about the survey in our report. However, the survey does not show whether FTA implemented the program effectively. Our survey's

respondents made no statement about FTA's overall effectiveness in implementing the program. Instead, respondents generally indicated they were satisfied or very satisfied with how the program enabled them to help people get to work. As indicated in appendix III, respondents identified areas for improvement in the program's implementation.

Scope and Methodology

TEA-21 requires us to report on DOT's implementation of the Job Access program. As discussed in appendix I, we have issued four reports addressing various aspects of the program since May 1998. In connection with our last two reviews, we met with FTA officials, grantees, and others who suggested that funding designations contained in the conference reports accompanying the Department of Transportation and Related Agencies Appropriations Acts for fiscal years 2000 and 2001 had a significant impact on the operation of the program. In addition, in proposing the allocation of Job Access funds by formula, FTA stated that the funding designations resulted in many highly worthy applicants not receiving funding and pointed out that such designations did not allow some projects to emerge successfully from a competitive process. Accordingly, this report examines the Job Access program in fiscal years 2000 and 2001.

Specifically, this report addresses (1) how DOT implemented the program in fiscal years 2000 and 2001, including its response to funding designations contained in conference reports in those fiscal years; (2) the impact on the program of DOT's response to the funding designations; and (3) whether the manner in which DOT interpreted and applied the conference report funding designations in fiscal years 2000 and 2001 was consistent with applicable statutory requirements. To address the first and second objectives, we interviewed FTA officials, examined Job Access program documentation, and conducted a mail survey of all of the fiscal year 1999 Job Access program grantees (see app. III). The rate of response to our survey was about 83 percent. A detailed description of our scope and methodology appears in appendix II. We also reviewed the strategic plans and reports that DOT filed under the Government Performance and Results Act of 1993. To address the third objective we reviewed the requirements of TEA-21, the appropriations acts for fiscal years 2000 and 2001, and applicable case law. We also sent a letter of inquiry to FTA to obtain its explanation of the actions taken in response to the designations in the conference reports that accompanied DOT's appropriations acts for fiscal years 2000 and 2001. Our review focused on FTA's processes for implementing the Job Access program. Our objectives did not include reviewing individual grants made in fiscal years 1999, 2000, or 2001 and the

associated projects, or individual grant applications under the Job Access program. We conducted our review from July 2001 through November 2001 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the cognizant congressional committees; the Secretary of Transportation; the Administrator, Federal Transit Administration; and other interested parties. We will make copies available to others on request. If you have any questions about this report, please call me at (202) 512-2834 or E-mail me at heckerj@gao.gov. Key contributors to this report are listed in appendix IV.



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Infrastructure Issues

Appendix I: Brief Description of Previous GAO Reports on the Job Access Program

Without adequate transportation, welfare recipients face significant barriers in moving from welfare to work. In 1998, Congress found that three-fourths of welfare recipients lived in central cities or rural areas, but two-thirds of new, entry-level jobs were located in the suburbs. Public transportation facilities, such as buses or subways, often offer limited or no access to many of these jobs. Although the jobs can be reached by car, many welfare recipients do not have cars. To address this mismatch, the Transportation Equity Act for the 21st Century (TEA-21) authorized up to \$750 million for fiscal years 1999 through 2003 to implement the Job Access and Reverse Commute (Job Access) program. The program authorizes the Department of Transportation (DOT) to provide grants to local agencies, nonprofit organizations, transit authorities, and others to improve transportation to employment. Within DOT, the Federal Transit Administration (FTA) is responsible for implementing the program. From fiscal year 1999 through 2001, FTA selected Job Access projects for grants totaling \$247 million for 368 Job Access projects.

To date, we have issued four reports on the program: in May 1998—before the program was established²⁸—as well as in November 1999,²⁹ December 2000,³⁰ and August 2001.³¹ In May 1998, we reported that the proposed Job Access program would support reform of the nation's welfare system by, among other things, providing additional resources to transport welfare recipients to work. We recommended that DOT (1) establish specific objectives, performance criteria, and goals for measuring the program's progress; (2) require grantees to coordinate transportation strategies with local job placement and other social service agencies; and (3) work with other federal agencies to coordinate welfare-to-work activities. TEA-21 reflected these recommendations and required appropriate action by DOT.

In November 1999, we reported on the implementation of the program in fiscal year 1999—its first year. We found that DOT had implemented our second and third recommendations in carrying out TEA-21. DOT had also taken preliminary steps to implement our recommendation that it establish specific objectives, performance criteria, and goals for measuring the program's progress. However, we also found that DOT's process for

²⁸ [GAO/RCED-98-161](#), May 29, 1998.

²⁹ [GAO/RCED-00-14](#), Nov. 26, 1999.

³⁰ [GAO-01-133](#), Dec. 4, 2000.

³¹ [GAO-01-996R](#), Aug. 17, 2001.

selecting Job Access grant proposals was not consistent in fiscal year 1999, and the basis for some selections was unclear.

Our December 2000 report examined DOT's implementation of the program in fiscal year 2000. We found that DOT had taken steps to improve its process for selecting Job Access proposals. For example, to promote greater consistency in the evaluation and selection of grantees, DOT developed a standard format for reviewing Job Access proposals and provided more detailed guidance to its reviewers. Almost 90 percent of the fiscal year 1999 Job Access grantees that responded to a GAO survey were satisfied with the goals and intent of the program. However, 51 percent said that satisfying various standard FTA grant requirements took too long—about 9 months, on average. As a result, about one-third of respondents reported experiencing problems in obtaining matching funds. Also, seven projects were withdrawn (about 4 percent of Job Access projects) for varied reasons, including, in one case, the loss of matching funds. Also, DOT implemented our recommendation that it develop specific objectives, performance criteria, and measurable goals for the Job Access program by developing an evaluation plan and by requesting specific data from the grantees. DOT developed a goal to increase new employment sites by 4,050 in fiscal year 2000 and 8,050 in fiscal year 2001.

Our August 2001 report provided our preliminary observations on (1) DOT's proposal to use a formula for allocating grant funds to the states, (2) the status of obligations for the Job Access program, and (3) DOT's plans for reporting on the program to the Congress. At the time of our report, DOT had proposed a change to the Job Access program, beginning in fiscal year 2002, under which it would allocate funding to the states via a formula, instead of to individual grantees. DOT proposed this change in response to language in the conference reports accompanying DOT's appropriations acts for fiscal years 2000 and 2001 that designated Job Access funding for specific states, localities, and organizations. Second, as of August 7, 2001, DOT had obligated 94 percent of the funds for fiscal year 1999, 67 percent of the funds for fiscal year 2000, and 20 percent of the funds for fiscal year 2001. Third, DOT had missed its June 2000 deadline for a status report to the Congress but expected to report instead in September 2001. However, as of November 26, 2001, DOT had not sent the report to Congress.

Appendix II: Objectives, Scope, and Methodology

TEA-21 requires us to report on FTA's implementation of the Job Access program. This report examines (1) how DOT implemented the Job Access program in fiscal years 2000 and 2001, including its response to funding designations in conference reports in those fiscal years; (2) the impact on the program of DOT's response to the funding designations; and (3) whether the manner in which DOT interpreted and applied the conference report funding designations in fiscal years 2000 and 2001 was consistent with applicable statutory requirements.

To describe FTA's continued implementation of the Job Access program in fiscal years 2000 and 2001, we obtained and analyzed documents and interviewed FTA officials about the agency's solicitation, selection, and award procedures and how these were implemented. We also asked agency management to explain any changes made in the implementation of the program for projects selected in fiscal years 2000 and 2001.

We examined the consequences of changes in the manner in which FTA selected Job Access proposals by obtaining and analyzing FTA's records regarding projects selected for award during fiscal years 1999 through 2001, including the operating status of the associated projects during those years and those projects that were withdrawn. In addition, we conducted a mail survey of the fiscal year 1999 grantees. (See app. III for the questionnaire and the results.) FTA identified 186 Job Access projects for fiscal year 1999.³² We mailed questionnaires to each of these grantees and received responses from 155 of them—a response rate of 83 percent as of September 30, 2001.

To examine the legality of FTA's approach to the solicitation and selection of grantees in fiscal years 2000 and 2001, we reviewed TEA-21, the appropriations acts for fiscal years 2000 and 2001, and applicable case law. We also obtained the views of cognizant agency officials. Specifically, we asked FTA about its legal justification for its approach to implementing the Job Access program regarding entities identified in the conference reports accompanying recent DOT appropriations acts. Our examination

³² When we issued our November 1999 report on DOT's Job Access program, FTA had selected 179 projects from among 266 applications and awarded almost \$71 million in grants. This number grew to 194 because some proposals were consolidated, and some organizations chose to have their own grants rather than participate as subgrantees under consolidated grants. However, we surveyed organizations representing 186 projects because several organizations withdrew their projects from the program and did not receive their grants.

**Appendix II: Objectives, Scope, and
Methodology**

was limited to FTA's processes and did not include a review of awards designated to particular states, local governments, or organizations.

Appendix III: Survey of Fiscal Year 1999 Access to Jobs Program Grant Recipients



U.S. General Accounting Office

Survey of FY 1999 Job Access Grantees

Introduction

The General Accounting Office (GAO) is an agency of the legislative branch of the federal government that performs studies of federal programs. We have been mandated by the Transportation Equity Act for the 21st Century (TEA-21) to periodically examine how the Department of Transportation's Federal Transit Administration (FTA) is implementing the Access to Jobs Program (Job Access/Reverse Commute Program).

To obtain perspectives on this program, we are asking all organizations that were selected to receive FY 1999 project grants from the Access to Jobs Program to complete this second, short questionnaire. It covers a variety of topics including the funding grantees may or may not have received under this program for FY 2000 or FY 2001.

Instructions

Please review the label above and respond to the questions in this questionnaire as they relate to the project named. If you have a question about the information on the label or it is incorrect, please call one of the GAO contact persons listed below.

In addition, when responding to these questions, please coordinate with the appropriate members of your staff as well as any subrecipients or subgrantees, as appropriate.

Please complete the questionnaire and return it to the address below within 10 working days of receipt. We have provided a postage-paid business reply envelope to facilitate the return of your questionnaire. If the return envelope is misplaced, please send or fax your completed questionnaire to:

U.S. General Accounting Office
Attn: Frank Taliaferro
200 W. Adams Street, Suite 700
Chicago, Illinois 60606-5219

FAX #: (312) 220-7726

If you have any questions, please call Frank Taliaferro on (312) 220-7715 or Bonnie Leer on (312) 220-7636. Your response will be combined with others and used in our report to the congress on this program. Thank you for your help.

Please provide the following information for the person we should contact if we have any questions.

Name: _____

Title: _____

Organization: _____

Phone #: () _____

E-mail: _____

(Note: percentages may not total 100 due to rounding.)

General Information About Your Project

1. What is the name and address of the grant recipient for this Job Access project?

N=155

2. Who provides the Job Access services? (Please check one.) (N=155)

- 1. [48%] The grant recipient
- 2. [37%] A sub-grantee
- 3. [15%] A contractor

3. How does this Job Access project (your organization or sub-grantee) primarily provide transportation services (including mobility manager services) to program participants? (Please check one.) (N=154)

- 1. [46%] Provides transportation services directly to program participants
- 2. [25%] Hires contractors to provide services such as bus companies, vans, or taxis
- 3. [1%] Provides vouchers to participants to obtain transportation to work
- 4. [29%] Uses any combination of direct transportation service, contractors, or vouchers

4. What type of service does your project provide to help people get to work? (Please check all that apply.) (N=155)

- 1. [66%] Fixed route service
- 2. [36%] Variable or flexible route service
- 3. [56%] Demand-response service
- 4. [21%] Other (Please specify)

5. When did this project begin providing transportation services using funds provided from the FY 1999 Job Access grant? (Please check one.) (N=153)

- 1. [8%] Service has not yet started
- 2. [92%] Service began: (Please enter date.)

___/___/___--___/___/___/___
 Month Year
 Range: 1/1999 – 9/2001

Experiences With Job Access Project

6. Did your organization receive fiscal years 2000 or 2001 Job Access grants for this project? (Please check one.) (N=155)

- 1. [42%] Yes, both FY 2000 and FY 2001
- 2. [26%] Yes, FY 2000 only
- 3. [13%] Yes, FY 2001 only
- 4. [4%] No, sought Job Access funding but was not successful
- 5. [16%] No, did not seek Job Access funding (please explain why your organization did not seek to continue receiving Job Access funds then → (Go to Question 12).)

<p>7. Was there any period when funds from FY 1999 were depleted and FY 2000 or FY 2001 funds were not available? <i>(Please check one.)</i> (N=136)</p> <p>1. [19%] Yes → <i>(Continue)</i></p> <p>2. [81%] No → <i>(Go to Question 14)</i></p> <p>8. If Job Access funds were either depleted or funds were not available, how were your project's Job Access transportation services affected, if at all? <i>(Please check all that apply.)</i> (N=21)</p> <p>1. [81%] Project services were not affected → <i>(Go to Question 12)</i></p> <p>2. [0%] All Job Access services were stopped</p> <p>3. [0%] Mobility manager discontinued</p> <p>4. [5%] Transit routes discontinued</p> <p>5. [10%] Reduced hours of transit service</p> <p>6. [5%] Reduced number of transit service vehicles on the road</p> <p>7. [10%] Reduced number of clients</p> <p>8. [14%] Reduced number of trips</p> <p>9. [5%] Reduced types of trips (day care)</p> <p>10. [14%] Reduced number of passengers</p> <p>11. [0%] Other <i>(Please specify)</i> _____ _____</p>	<p>9. If services were reduced or discontinued as a result of the loss of Job Access funding, during what period did this occur? <i>(Please enter the month and year service was affected and when service was resumed. If there was more than one break in funding, identify each period.)</i></p> <p>1. From: /_/_/_/--/_/_/_/_/_/_____ Month Year</p> <p>To: /_/_/_/--/_/_/_/_/_/_____ Month Year</p> <p>[1%] Services were not resumed</p> <p>2. From: /_/_/_/--/_/_/_/_/_/_____ Month Year</p> <p>To: /_/_/_/--/_/_/_/_/_/_____ Month Year</p> <p>[0%] Services were not resumed</p> <p>10. Did any Job Access transportation services continue in the absence of Job Access funding? <i>(Please check one.)</i> (N=8)</p> <p>1. [75%] Yes → <i>(Continue)</i></p> <p>2. [25%] No → <i>(Go to Question 12)</i></p> <p>11. In the absence of Job Access funding, what sources of funds were used to continue Job Access transportation services? <i>(Please check all that apply.)</i> (N=6)</p> <p>1. [50%] State TANF funds</p> <p>2. [17%] State transportation funds</p> <p>3. [0%] Other State funds</p> <p>4. [17%] Local government funds</p> <p>5. [33%] Local transit operator funds</p> <p>6. [17%] Private organizations/donations</p> <p>7. [17%] Other <i>(Please specify)</i> _____</p>
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12. Were there any non-monetary effects on your organization, transportation providers, or clients that occurred as a result of reduced or discontinued Job Access funding? (N=43)

1. [21%] Yes
(Please identify the effects in the space provided below. You may use additional sheets of paper if necessary.)

2. [79%] No, no other effects

13. When the Job Access funds services were either reduced or discontinued, did any community organizations or agencies in your area either replace or take over similar transportation services previously offered by this project? *(Please check one.)* (N=42)

1. [5%] Yes *(Please specify the community organizations or agencies)*

2. [74%] No

3. [21%] Don't know

14. Does your organization keep records of the ridership for your Job Access project? (N=155)

1. [95%] Yes → *(Continue)*

2. [5%] No → *(Go to Question 16)*

15. How does your organization record the ridership for your Job Access project? *(Please check all that apply.)* (N=147)

1. [52%] Number of passengers per day

2. [63%] Number of trips per day

3. [29%] Other *(Please specify)*

16. How satisfied or not are you with the grant application process to obtain Job Access funding? *(Please check one.)* (N=155)

1. [11%] Very satisfied

2. [36%] Generally satisfied

3. [17%] Neither satisfied nor dissatisfied

4. [34%] Generally dissatisfied

5. [2%] Very dissatisfied

17. How satisfied or not are you with how the Job Access program has enabled your organization to help people get to work? *(Please check one.)* (N=155)

1. [37%] Very satisfied

2. [48%] Generally satisfied

3. [12%] Neither satisfied nor dissatisfied

4. [3%] Generally dissatisfied

5. [0%] Very dissatisfied

Appendix III: Survey of Fiscal Year 1999 Access to Jobs Program Grant Recipients

18. In your opinion, how helpful would each of the following suggestions be in improving the Job Access program? (Check one for each row.)

	Very helpful	Somewhat helpful	Neither helpful nor unhelpful	Somewhat unhelpful	Very unhelpful	No basis to judge
1. DOT competitively selecting and funding Job Access projects in the same manner as was done for FY 1999 grant. (N=155)	25%	19%	14%	18%	6%	18%
2. DOT selecting and funding Job Access projects in the same manner as was done for FY 2000 grants. (N=154)	22%	16%	13%	18%	12%	18%
3. DOT selecting and funding Job Access projects in the same manner as was done for FY 2001 grants. (N=155)	20%	17%	14%	13%	14%	23%
4. DOT allocating Job Access funding by formula to the states (letting states decide on funding for individual projects). (N=155)	30%	29%	9%	10%	11%	10%
5. DOT awarding grant funding for selected projects for at least 3 years. (N=155)	70%	16%	10%	1%	1%	3%
6. DOT providing technical assistance to grantees on effective ways to implement your project's transportation services, such as setting up transit routes. (N=154)	15%	25%	42%	10%	3%	6%
7. DOT providing more assistance to help your organization understand the grant application process. (N=155)	21%	37%	33%	4%	1%	3%
8. DOT providing better guidance for meeting record-keeping and reporting requirements. (N=155)	26%	50%	17%	3%	1%	3%
9. Increasing coordination between federal agencies' program requirements such as those of the Department of Health and Human Services and DOT. (N=155)	63%	21%	9%	1%	1%	4%
10. Other (Please specify) (N=20)						

Comments

19. In your community, how has the Job Access project been integrated with other organizations or agencies that provide transportation services seeking to help people move from welfare-to-work. *(Please use additional sheets if needed.)*

(N=136 comments)

20. Please provide below any additional comments you have about the implementation of the Job Access program, your project, the transportation needs of people moving from welfare-to-work, or any issues raised by questions contained in this questionnaire. *(Please use additional sheets if needed.)*

(N=106 comments)

Thank you for your help!

8/16/2001

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

JayEtta Z. Hecker (202)512-2834

Acknowledgments

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