

A Report of the 2003-2004 Civil Grand Jury
For the City and County of San Francisco

**ON-TIME PERFORMANCE AND SERVICE GOALS REMAIN A FICTION:
MUNI'S MISMANAGEMENT AND WORKER PROBLEMS**

Released June 2004

Pursuant to State law, reports of the Civil Grand Jury do not identify the names or identifying information about individuals who provided information to the Civil Grand Jury.

Departments and agencies identified in the report must respond to the Presiding Judge of the Superior Court within the number of days specified, with a copy sent to the Board of Supervisors. As to each finding of the Grand Jury, the response must either (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why. Further, as to each recommendation made by the Grand Jury, the responding party must report either (1) that the recommendation has been implemented, with a summary explanation of how it was; (2) the recommendation has not been implemented, but will be implemented in the future, with a timeframe for implementation; (3) the recommendation requires further analysis, with an explanation of the scope of that analysis and a timeframe for the officer or agency head to be prepared to discuss it (less than six months from the release of this Report); or (4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (Cal. Penal Code, secs. 933, 933.05.)

Summary of Recommendations

1. MUNI management should immediately address their inability to meet the on-time performance of 85% and service delivery of 98.5% set for July 2004 mandated by Proposition E (1999).
2. The Executive Director of MTA, the General Manager of MUNI, and other senior management personnel should adopt a proactive and highly visible leadership role to improve the administration of MUNI.
3. Management should compare MUNI to other metropolitan transit agencies of comparable size.
4. Controls are needed to ensure that only employees that meet the required provisions of the light-duty and battery-pay plans, and workers' compensation benefits receive remuneration for periods when their ability to perform at full capacity is legitimately compromised.
5. Management should justify the cost of providing benefit payments to those employees who cannot perform their assigned duties.
6. Office of the Controller and the Budget Analyst's Office should conduct an independent audit of the light-duty and battery-pay plans and workers' compensation benefits.
7. In order to establish a program to reduce both the number and the associated costs of settlements, management needs to establish a program to record, analyze and determine the cause of all accidents and incidents.

GLOSSARY

AC Transit – Alameda-Contra Costa Transit District that serves most of the East Bay communities in Alameda and Contra Costa County.

Accident – Usually an unexpected undesirable event or collision resulting in damage to person(s) or property.

Battery pay – San Francisco Civil Service Commission Rule 20.15 and Administrative Code Section 16.170 provide that an employee injured as the result of a criminal act of violence while on duty is eligible to receive full pay for a period of up to twelve months.

Incident – An event which is considered a minor occurrence or disruption.

Light-duty – Also known as Transitional Work or Transitional Work Program. A work plan that allows employees injured on the job to work reduced hours and/or in assignments requiring reduced physical activity while still receiving full pay for a period of up to 180 days. An employee can be on light duty as often as every

other year. AC Transit has a similar program (limited to three days); it is referred to as the modified work program.

Light-duty job assignments – Tasks that can be performed by light-duty workers include: “reduced hours driving, loader, receiver, passenger service clerk, service quality teams, training department clerk, central control clerk, yard starter, expediter, finance department assistant, auto attendant, station operations assistant, discount I.D clerk, Pac Bell (sic) park revenue collection and cable car turn-table assistant.”

MUNI CAC – Citizens’ Advisory Council formed by Proposition E.

Municipal Railway (MUNI) – The San Francisco public transportation system.

Municipal Transportation Agency (MTA) – The governing body responsible for the management of Municipal Railway (MUNI) and the Department of Parking and Traffic (DPT).

Proposition E – Passed by San Francisco voters in 1999 to incorporate MUNI and DPT into the MTA [proposition E, Section 8A.103 (c)] and to establish the following service standards:

1. On-time performance: of at least 85% of vehicles must run on-time, where a vehicle is considered on-time if it is no more than one minute early or four minutes late as measured against a published schedule that includes time points; and
2. Service delivery: 98.5 percent of scheduled service hours must be delivered, and at least 98.5 percent of scheduled vehicles must begin service at the scheduled time.

In this report the above referred to as "on-time performance" and "service delivery"

SamTrans – Part of the San Mateo Transit Authority that serves all of San Mateo County.

Statistician – A mathematician specializing in data analysis.

Third Party Administrator (TPA) – A person who processes claims and provides administrative services.

Valley Transit Authority (VTA) – VTA serves all of Santa Clara County.

OVERVIEW

The San Francisco Municipal Railway (MUNI) is the seventh-largest public transit system in the United States, operating a fleet of approximately 1,000 vehicles consisting of subway/surface light-rail trains (Metro), vintage street cars, electric trolley buses, diesel buses, and the world famous cable cars. There are, on average, approximately 700,000 passengers boarding each weekday. (This information was acquired from MUNI)

The 2003-2004 Civil Grand Jury investigated the operations of MUNI with respect to progress in meeting the goals mandated in Proposition E. This year, the MUNI

administration will not meet on-time performance and service delivery goals as set out in Proposition E. The Grand Jury was unable to obtain from MUNI a timeframe in which they plan to achieve the original goals.

The Grand Jury concluded that these failings result from management's lack of effective leadership--by not making the necessary changes and failing to develop new plans to meet goals, either through lack of competence or lack of will to do so.

The Grand Jury also looked into the administration's control over the light-duty and battery-pay plans, training program and effectiveness of overall management. It was determined that light-duty and battery-pay plans are not effectively managed and are subject to abuse. Management is aware of the situation but has done nothing to eliminate infractions. The CGJ also questioned the effectiveness of the existing training program, in light of the significant number and costs of claims that have occurred over the years.

The Grand Jury recommends that both the Office of the Controller and the Budget Analyst's Office conduct an audit of the light-duty and battery pay plans, and the workers' compensation benefits. Such an audit would determine the cost of these programs and recommend controls to prevent current and future misuse. In addition, the position of statistician was eliminated in 2003, and should be restored in order to develop accurate records of the number of incidents and accidents that result in personal or property damage, as well as causes and related settlement costs.

BACKGROUND

The Metropolitan Transit Authority was established with the passage of Proposition E in 1999. Proposition E mandated two operational goals for MUNI, an on-time performance of 85% and a service delivery of 98.5% by July 2004. Management does not expect to achieve Proposition E's goals by July 2004.

The mission statement of the Municipal Railway reads as follows:

Working together effectively, we serve our community. We provide safe, reliable, clean, accessible, and convenient transportation to any destination in the City. We are dedicated to creating the most satisfying experience possible for our employees and our riders. By placing people first, MUNI strives to offer the maximum opportunity for employees to contribute their best and achieve career growth. We are building a model urban transit organization, internationally recognized for excellence. We treat each other with respect; develop trust; encourage mutual understanding; and value our diversity. We promote accountability and take pride in our work. Above all, we are committed to living this mission daily in our relationships with each other and everyone in our community.

INVESTIGATIVE PROCESS

Members of the Grand Jury conducted over 30 interviews that included employees of MUNI at all levels, from the Executive Director of MTA to supervisory personnel, support personnel and operators. Comments of individuals interviewed were, in all cases, corroborated by one or more additional source. Members of the Grand Jury also interviewed and obtained information from the Board of Supervisors, the staff of the Office of the Controller, Office of the City Attorney, Budget Analyst's Office, and Local 250A. Members also interviewed staff of other transit agencies, including AC Transit, Valley Transit Authority (VTA) and Sam Trans. Relevant reviewed documents include applicable provisions of the San Francisco Charter, Civil Service and Administrative codes, and other relative materials listed in the Appendix.

Documents reviewed are as follows:

- MUNI, "A Vision for Rapid Transit in San Francisco"
- MUNI organizational chart(s)
- MUNI, "Short-Range Transit Plan, 2002—2021"
- MUNI, "Policy and Procedures Handbook"
- MUNI, "Rules and Instructions Handbook"
- Budget Analyst's Report, 1996
- Mayor Gavin Newsom, "Transition Report on MUNI"
- Collective Bargaining Agreement between MUNI and Local 250A
- Collective Bargaining Agreement between MUNI and Local 200
- Geary Division Alpha Roster
- "Memorandum on Transitional Work Program Jobs"
- MUNI letter regarding problem physicians
- MUNI letter regarding number of individuals on light-duty
- Light-duty time sheet
- Transitional Work Program agreement
- Confidential budget recommendations
- William Sisk, "MUNI Melting," a response to Matier and Ross
- 2001—2002 MTA bonuses and 100K Club
- SamTrans letter regarding their workers' compensation program and other statistics
- The Cities Group's letter to the Board of Directors regarding workers' compensation audits and CIPRA benchmark
- "California Transit District Workers' Comp Costs"
- AC Transit document containing workers' compensation facts
- Proposition E (1999)
- Battery pay policies for the City and County of San Francisco collected by Office of the City Attorney

I. MANAGEMENT PERFORMANCE

MUNI has encountered various types of problems throughout the years, documented in local media and print. There have been extensive changes in the leadership of both MTA and MUNI in recent years. The intention of the Grand Jury is that this report will assist management in addressing and correcting the issues identified herein.

MUNI will not meet the on-time performance of 85% or the service delivery of 98.5% by July 2004, and there is no plan as to how and when these goals will be achieved.

The SFCGJ has concluded from its interviews that management does not address problems in some of its programs (i.e. light-duty, battery pay, and workers' compensation) effectively. Numerous sources have expressed concern about management's failure to address the problems intrinsic in these programs. Employees at all levels have brought problems to the attention of management with no success, and they feel that they are not being heard and their concerns are not being addressed.

FINDINGS

- 1.1 Proposition E (1999) specifies that MUNI must achieve an on-time performance of 85% and service delivery of 98.5% by July 2004. MUNI management acknowledged that they will not achieve these standards for 2004, and they were unable to demonstrate a plan that would ultimately achieve these goals.
- 1.2 A strong leadership presence is non-existent. Some employees do not take the Executive Director's and General Manager's policies and statements seriously. Some individuals do not respect the Executive Director and General Manager.
- 1.3 Employees' disrespect of MUNI management has led to morale problems.
- 1.4 Management has failed to enforce its policies. As a result, many of management's instructions are disregarded.
- 1.5 MUNI does not compare the cost/benefits of its light-duty and battery pay plans and workers' compensation benefits with those of other major metropolitan transit agencies.
- 1.6 MUNI employees have stated that management is ignoring or not taking into consideration employee comments about safety, working conditions, and on-time efficiency.

RECOMMENDATIONS

- 1a. MUNI management should prepare detailed plans to attain the on-time performance of 85% and service delivery of 98.5% mandated by Proposition E.
- 1b. The Executive Director of MTA, the General Manager of MUNI, and other senior management personnel should adopt proactive and highly visible leadership roles, establish accountability at all levels of management, ensure that all policies are enforced, and inform all employees of policies and the consequences of failing to adhere to them. In order to enhance morale and job satisfaction, the administration should encourage open communication between workers and management.
- 1c. Management should determine where MUNI ranks, *vis-à-vis* other agencies, in terms of the cost/benefits of its light-duty and battery pay plans and workers' compensation benefits.
- 1d. Management should ensure that MUNI's training and accident prevention programs are consistent with current industry standards.
- 1e. Management should consider employee comments and recommendations at all levels. Such action can lead to improved working conditions and morale and, ultimately, to improved service.

REQUIRED RESPONSES

San Francisco Municipal Transportation Agency Board of Directors – 60 days

San Francisco Municipal Railway – 60 days

San Francisco Board of Supervisors – 90 days

II. BENEFITS PROGRAMS

The Grand Jury reviewed MUNI's light-duty and battery pay plans and workers' compensation benefits. In many instances, the benefits of these different plans provided similar coverage and, to a large degree, these benefits are being abused. Management is aware of abuses but has chosen not to take steps to correct them.

MUNI's current monitoring process is inadequate for verifying that all light-duty personnel performing their assigned duties. The two MUNI employees who are responsible for determining that light-duty personnel are performing their assigned tasks are, themselves, on light-duty. Assigning light-duty personnel to monitor other personnel on light-duty poses a possible conflict of interest. The responsibility for accounting for the attendance and performance of light-duty personnel should be that of the supervisors or managers in the departments to which light-duty personnel are assigned. There are

employees who work for a few hours and go home, as well as some who never report for work. In the words of one employee, this makes "the program a joke." Employees who consistently abuse light-duty are called "frequent flyers."

FINDINGS

- 2.1 The light-duty program at MUNI allows an employee to be on this status for up to 180 days at full pay--regardless of hours actually worked. After an elapsed period of one year, some employees apply again for light-duty. According to *Sec. 1.04 of the Transitional Work Program Manual*: "Transitional Work assignments will not adversely affect the employee's normal bi-weekly gross wages or retirement benefits."
- 2.2 Some MUNI employees have been known to be on light duty in excess of 90 days. This is contrary to MUNI's policy as stated in the "*Transitional Work Personnel Procedures Guide*," *Sec. 1.02 (1)*: "Transitional Work assignments will terminate on the date the employee is released for full duty. Under no circumstances will Transitional Work assignments exceed 90 days per injury."
- 2.3 A comparison of MUNI to other major transit agencies in the San Francisco Bay Area shows a higher percentage of MUNI workers are on light duty; the following table was prepared with information acquired from Human Resource Departments.

	MUNI	AC Transit	VTA No Such Plan	SamTrans No Such Plan
Employees on Light-Duty	145	18		
Percentage of total workers	3.3% 4,400	0.8% 2,200		
Percentage of Operators	6% 2,400	1% 1,300		
Approximate Cost	\$10 million	\$800,000		
Time limit	180 days Every other year	30 days Per year		

- 2.4 Representatives from VTA stated that they have no immediate plan to institute such a program. Officials at SamTrans have expressed views that such a program is subject to abuse if not properly managed, and they also stated that they have no immediate plan to create a light-duty program.

- 2.5 MUNI management officials are aware that some employees have filed questionable battery pay claims. These employees, who make fictitious claims, do so in order to collect compensation under the battery pay plan.
- 2.6 AC Transit is the only transit agency other than MUNI to have a battery pay plan in the San Francisco Bay Area. AC Transit's program is limited to a maximum of three days. After the third day, a worker may be eligible for workers' compensation.
- 2.7 Currently, the individuals who are responsible for verifying that light-duty personnel are present and performing their assigned duties are, themselves, on light-duty; this monitoring process gives rise to a possible conflict of interest.
- 2.8 Some department managers of employees on light-duty have not supervised employees on light-duty assignments, and they do nothing about light-duty workers who are absent and not performing assigned tasks.
- 2.9 MUNI management agrees that the current light-duty procedures can lead to various forms of abuse.
- 2.10 Neither the Office of the Controller nor the Budget Analyst's Office has ever conducted any audits of MUNI's light-duty and battery pay plans and/or workers' compensation program.
- 2.11 MUNI employees who are on light-duty, battery pay, absent without leave, or on sick leave are, for payroll purposes, categorized as being assigned to the "Geary Division," (a paper designation that is relatively unknown inside or outside of the MUNI organization).
- 2.12 The payroll cost of the "Geary Division" is unknown; this information, though specifically requested, could not be provided to the Grand Jury. It was stated that such information has never been compiled, and doing so could involve considerable time and effort.
- 2.13 Approximately 12% percent of all MUNI employees are under the "Geary Division" designation.
- 2.14 An employee who suffers a temporary and partial disability due to an industrial or non-industrial injury or illness can be placed on light-duty. The employee must get a written medical diagnosis stating that s/he is only able to work in a reduced capacity. It is management's position that some employees have been able to obtain a medical professional's release form, certifying that the employee can work only with restrictions, over the phone and without the employee ever being examined by a medical professional.

2.15 The cost to MUNI of employees on light-duty or battery pay is greater than if these individuals were placed on workers' compensation. In the state of California, benefits under workers' compensation plans are generally designed to replace two – thirds of lost wages, up to the current maximum of \$728 per week.

2.16 The following table compares the battery pay plans of the following transit agencies in the San Francisco Bay Area.

	MUNI (Average of two years)	AC Transit (As of 3/26/04)	VTA No Such Plan	SamTrans No Such Plan
Approximate percentage of employees	3%	Less than half of 1%		
Number of employees	56	2		
Length of program	365 days	3 days		
Approximate cost of program as stated by their respective Human Resource Departments.	\$1 to \$2 Million	Not known		

2.17 The table below compares workers' compensation costs of the major local transit agencies in the San Francisco Bay Area for fiscal year 2003.

	MUNI	SamTrans	VTA	AC Transit
Approximate Incurred Cost	\$20 million	\$1 million	\$4 million	\$9 Million
Open claims	2,167	115	1,269	1,070
Total Drivers	2,400	500	1,400	1,345
Total Employees	4,400	800	2,275	2,262

RECOMMENDATIONS

- 2a. Management should determine and control the cost of its benefit plans and act to prevent abuses.
- 2b. Management should consider basing pay under the light-duty plan on hours actually worked.
- 2c. Management must establish controls to ensure that those employees assigned to light-duty are eligible under the conditions of the plan and are actually performing their assigned tasks.
- 2d. The managers of the departments to which light-duty personnel are assigned should be responsible for their presence and performance.
- 2e. The Office of the Controller and the Budget Analyst's Office should conduct independent audits of the light-duty and battery pay plans and workers' compensation benefit programs to determine the actual costs of the plans and benefits and the feasibility of determining ways to reduce the overall costs of those programs.
- 2f. Compensatory plans should be examined to ensure that, although they may provide similar assistance, they do not duplicate benefits.

REQUIRED RESPONSES

San Francisco Municipal Transportation Agency Board of Directors – 60 days
San Francisco Municipal Railway - 60 days
San Francisco Board of Supervisors – 90 days
Office of the Controller – 60 days

III. TRAINING AND SAFETY

MUNI does not have a statistician who could establish a program to record and analyze the causes of all incidents and accidents.

The training periods of MUNI operators are less than those of other local major transit agencies. MUNI operators have stated that training has deteriorated in recent years. They have also stated that MUNI has relaxed safety standards in order to meet operating schedules.

FINDINGS

- 3.1 MUNI eliminated the position of statistician in 2003.
- 3.2 MUNI has a problem with multiple accident entries or accident duplication in its current method of tracking accidents.
- 3.3 MUNI does not have a computer-based program to categorize each incident/accident by type, operator, transit line, division, claims and/or settlement costs and to establish whether incidents/accidents were avoidable or unavoidable.
- 3.4 In the MUNI program, bus drivers receive 6 weeks' training. SamTrans, VTA and AC Transit bus drivers receive 8 weeks training.
- 3.5 MUNI employees claim that the current training is inadequate. An improved training program could lead to a reduction of incidents/accidents.
- 3.6 MUNI employees claim that safety standards have been relaxed in order to meet operating schedules.

RECOMMENDATIONS

- 3a. MUNI should establish a program to record and analyze the causes of all incidents/accidents. The system would categorize each incident/accident by type, operator, transit line, division, claims and/or settlement costs and whether avoidable or unavoidable. The system should be designed to prevent multiple accident entries. The data should be readily available so that it can be used to establish procedures to reduce claims and their associated costs.
- 3b. MUNI should evaluate the effectiveness of the current training program with an emphasis on accident prevention.

REQUIRED RESPONSE

San Francisco Municipal Transportation Agency Board of Directors – 60 days

San Francisco Municipal Railway – 60 days

San Francisco Board of Supervisors – 90 days

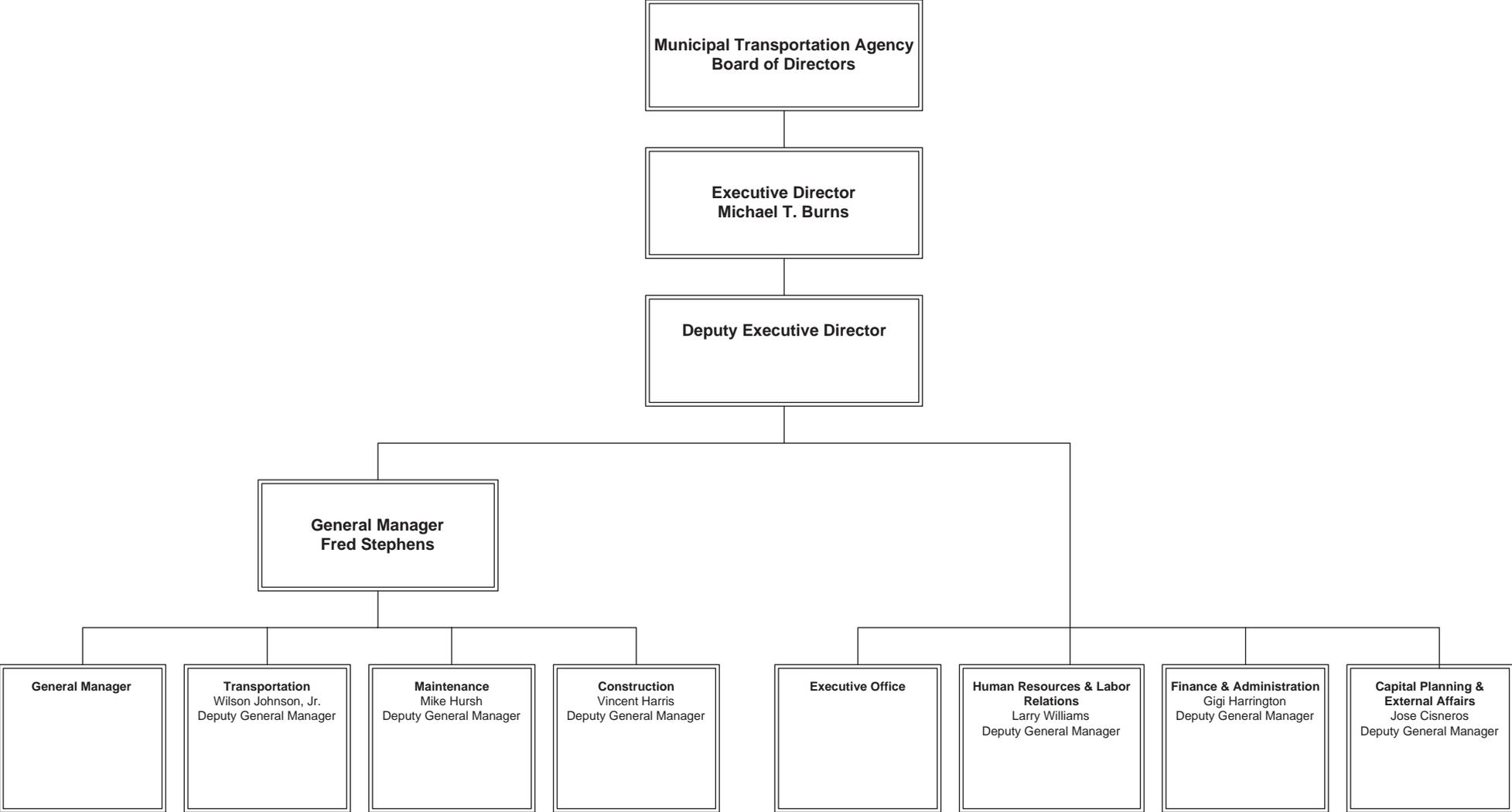
APPENDIX A

San Francisco Municipal Railway

Organizational Chart

2004

Municipal Railway Department



APPENDIX B

San Francisco Municipal Transportation Agency
Organizational Chart

MUNICIPAL TRANSPORTATION AGENCY

6/25/03

