

Executive Committee

June 14, 2023 | 3:30 p.m. – 5:00 p.m.



Onsite:

Greater Portland Transit District
114 Valley Street, Conference Room A | Portland, ME 04102

Remote:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85686361578?pwd=OTluMjRjY0Y5dTFUang0TzEzb1NtUT09>

Passcode: 822577 | Webinar ID: 856 8636 1578

Phone: (646) 558-8656 | Telephone participants: *9 to raise hand, *6 to unmute

MEETING AGENDA

AGENDA ITEM	PRESENTER	ACTION or INFORMATION
1. Call Meeting to Order (3:30)	Mike Foley, Board President	N/A
2. Public Comment (3:30-3:35) The Executive Committee welcomes public comments at this time for items <u>not listed</u> on this agenda at this time. For items listed on the agenda, the chair will allow members of the public to comment following the staff presentation. There is a <i>three-minute time limit</i> per speaker. (Comments will be paraphrased in meeting minutes)	Mike Foley, Board President	Information
3. Approval of Meeting Minutes (3:35-3:40) Review and approve the minutes from the April 12, 2023 meeting of the Executive Committee.	Mike Foley, Board President	ACTION
4. Standardized Transit Pass Program (3:40-4:00) Consider approving a standardized transit pass program with a narrow range of uniform terms that can be executed under staff authority.	Greg Jordan, Executive Director	ACTION
5. Federal Transit Administration's (FTA) 2023 Triennial Review Draft Report (4:00-4:15) FTA conducted its Triennial Review of Metro's compliance with FTA requirements during the first half of 2023. Staff will review the draft report with the committee and provide information on next steps.	Greg Jordan, Executive Director	Information
6. State Legislative Update (4:15-4:30) Staff will update the committee on efforts to increase state funding for statewide transit agency operations and local match needs as well as other proposed transit related legislation.	Greg Jordan, Executive Director	Information

7. Agency Strategic Planning (4:30-4:45) Review and finalize agenda for June 22 Board Workshop.	Greg Jordan, Executive Director	Information
8. Update on PACTS Items (4:45-4:55) Staff will provide an update on current issues and projects under consideration at PACTS including Transit Together, ARPA funded projects, Rapid Transit Study, Connect2045, and upcoming processes to allocate annual formula funding and new formula “set-aside” funding.	Greg Jordan, Executive Director	Information
9. Future Agenda Items (4:55-5:00) <ul style="list-style-type: none"> • Agency Strategic Planning (Ongoing) • PACTS Initiatives and Reforms (Ongoing) • Engaging New Stakeholders (Ongoing) 	Mike Foley, Board President	Information
10. Upcoming Meetings (4:55-5:00) <ul style="list-style-type: none"> • Board of Directors – June 22, 2023 at 4:00 p.m. No July Meetings • Executive Committee – August 9, 2023 at 3:30 p.m. • Finance Committee – August 16, 2023 at 4:00 p.m. • Ridership Committee – TBD • Board of Directors – August 24, 2023 at 4:00pm 	Mike Foley, Board President	Information
11. Adjournment (5:30)	Mike Foley, Board President	N/A

As of November 9, 2022 Greater Portland METRO is holding meetings of the Board of Directors (and its committees) in hybrid format, both in person at METRO’s offices and via webinar. The remote portions of all meetings are conducted in accordance with the requirements of [METRO’s Remote Participation Policy](#) (adopted August 25, 2022) as well as LD 1772, PL 2022 Ch. 666, and 1 MRSA Chapter 13, Subchapter 1.



**Executive Committees Meeting
April 12, 2023 at 3:30 p.m.
DRAFT Meeting Minutes**

Municipality	Representative	Title	Attendance
Westbrook	Mike Foley	President-Committee Chair	Present
Yarmouth	Nat Tupper	Vice President – Committee Vice Chair	Present
Portland	Paul Bradbury	Treasurer	Present
Westbrook	John Thompson	Secretary	Present
Falmouth	Hope Cahan	Past President	Present
Other Board Members Present			

Staff Present	Members of the Public
Greg Jordan, Executive Director Glenn Fenton, Chief Transportation Officer Shelly Brooks, Chief Financial Officer Mike Tremblay, Director of Transit Development	None

Attendance roll call taken by Greg Jordan, Executive Director.

- 1. With a quorum in place, the meeting was called to order at 3:33 p.m. by Mike Foley, Board President.**
- 2. Public comment:** No members of the public were present.
- 3. Approval of February 8, 2023 Meeting Minutes**
Nat Tupper made a motion to approve the February 8, 2023 meeting minutes. Paul Bradbury seconded the motion. After a roll call vote of the members present, the minutes were unanimously approved.
- 4. Agency Strategic Planning**
Greg Jordan reported on the logistics of the planned April 27 kick-off board meeting for the strategic planning process. Mr. Jordan reviewed the draft agenda for the meeting with which the members were in general agreement.
- 5. Request for Additional State Funding**
Greg Jordan provided an update on advocacy work being done by the Maine Transit Association to increase funding for statewide transit operations. Mr. Jordan reviewed the major elements of the Maine Department of Transportation’s multi-modal budget and where existing operating support funding fits in. Mr. Jordan also shared MTA’s letters to the Maine DOT Commissioner and the legislature’s Joint Standing Committee on Transportation. These letters outline MTA’s request for additional operating assistance and lays out several supporting arguments.

Paul Bradbury asked Mr. Jordan to clarify what the additional \$20 million can be used for in the MaineDOT budget. Mr. Jordan responded that it is currently an “initiative” that is not part of the baseline budget and may have to be voted in separately. Also, this \$20 million is currently stipulated for capital projects only.

Mr. Bradbury also asked for clarifications on the metrics comparing ridership, revenue hours and state funding allocations across the bus, rail and ferry modes. Mr. Bradbury suggested that passenger miles may be a factor that offers greater comparability.

Hope Cahan suggested that Metro and MTA members should strongly communicate that agencies are facing fiscal cliffs and the potential for service reductions.

Mr. Jordan closed with indicating that MTA is pursuing two tracks to acquire the requested funding: one is through MaineDOT within existing or anticipated budgets, and the other is an additional appropriation through the legislature.

6. Partnership with the Town of Gorham

Greg Jordan reported that discussion with the Town of Gorham have been on hold as a result of staffing capacity constraints, but will restart in the coming months.

7. Update on PACTS Items

Greg Jordan provided updates on Transit Together (approved by PACTS Policy Board in January) and ARPA funded improvements which are moving into the implementation planning process. Mr. Jordan also provided updated on the development of annual allocation of federal formula funding, and Gorham-Westbrook-Portland Rapid Transit Study.

8. Future Agenda Items

None added.

9. Upcoming meetings

These are upcoming meetings as presently scheduled:

- Board of Directors – April 27, 2023 at 4:00 p.m.
- Finance Committee – May 3, 2023 at 4:00 p.m.
- Executive Committee – May 10, 2023 at 3:30 p.m.

10. Adjournment

John Thompson made a motion to adjourn the meeting. Paul Bradbury seconded the motion, at which point, Mike Foley adjourned the meeting at 4:35 p.m.

DATE

June 14, 2023

SUBJECT

Standardized Transit Pass Program

PURPOSE

Staff is seeking approval of a standardized transit pass program that can be implemented with partner organizations under staff authority.

BACKGROUND/ANALYSIS

Metro (and regional transit partners) have steadily increased the number of unlimited access transit pass programs since the first programs were introduced during the 2010s. These programs provide free unlimited access transit passes to an organization’s constituent population (e.g., students, employees, clients, tenants) and the organization covers the cost of boarding at a discounted rate.

Table 1 lists Metro’s current roster of transit pass programs.

Table 1: Current Transit Pass Programs

Active	Pending
Portland Public Schools	Portland Adult Education
University of Southern Maine/Maine Law School	Roux Institute
Southern Maine Community College	
Baxter Academy	
Maine Medical Center	
University of New England	
Abbot Labs	
City of Portland’s Resettlement Program	
Waterston Developer, LLC (Rock Row)	

With the first pass programs and the uncertainty around cost and effectiveness, there was usually a need to allow for customized terms with different organizations. As the number of pass programs has increased, there is a need to ensure an appropriate zone of fairness and standardization between all programs. Secondly, Metro staff can more quickly and efficiently implement a standardized program that has minimal variation on key terms and fixed non-business terms and conditions. Also, a standard program will incur less cost in legal review. Finally, with board approval of a standard program, board and committees would not be required to review individual programs.

Figure 1: Transit Pass Program Contract Excerpt (Key Terms Table)

Effective Date:		
Expiration Date:		
Buyer:		
Buyer's Headquarters:		
Buyer's Designee:	Name:	
	Title:	
	Address:	
	Phone:	
	Email:	
Buyer's Pass Holders: (e.g., employees, students, tenants, lessees, occupants)		
Discounted Fare Percentage:	<input type="checkbox"/>	75% - Buyer is a private or for-profit entity
	<input checked="" type="checkbox"/>	66.6% - Buyer is a public or nonprofit entity
	<input type="checkbox"/>	50% - Buyer is a public or nonprofit entity; Pass Holders are minors
Boardings Payment Caps:	Cap:	Boardings Payment Cap Term:
Dirigo Transit Pass Type:	<input checked="" type="checkbox"/>	Dirigo Smart Card
	<input type="checkbox"/>	Mobile App
	<input type="checkbox"/>	Authorized Buyer ID
Dirigo Smart Card Initial Supply (at no charge):	Up to __ upon Buyer's request	
Additional/Replacement Per Diem Card Cost:	\$ 2.00	

With this standard agreement, most terms and conditions would be fixed and not-negotiable with partner organizations (e.g., Scope of Services, Termination, Insurance, Dispute Resolution and other legal terms). The terms that could vary would include:

- **Contract term** – staff would be authorized to execute contracts for varying terms up to 5 years.
- **Discount Fare Percentage** – staff would be authorized to offer 3 discount types in accordance with organization's status as either private or public/non-profit entity, and whether the program serves adults or minors. The discount categories are:
 - 75% - Buyer is a private or for-profit entity;
 - 66.6% - Buyer is a public or nonprofit entity;
 - 50% - Buyer is a public or nonprofit entity and the pass holders are minors.

Staff will not be authorized to approve discount fare percentages apart from these categories.

- **Boardings Payment Caps** – this provision would be offered on new pass programs only as this measure is designed to protect organizations from higher than anticipated costs if the ridership exceeds expectations. Staff would be authorized to include reasonable boardings payment caps for the first 1-2 years of a new program. Boardings caps beyond year 2 are not permitted without board approval.
- **Dirigo Transit Pass Type** – this is not a negotiated term, but rather reflects whether the organization has a population that already possess chip enabled IDs which can be read by the Dirigo fare payment platform. If not, Metro provides a supply of Dirigo Smart Cards.
- **Dirigo Smart Card Initial Supply (at no charge)** – For organizations that need physical smart cards, Metro staff would be authorized to provide an initial supply of cards at no charge based on the size of the organization.
- **Additional/Replacement Per Diem Card Cost** – Metro incurs a \$2.00 per card unit cost for all smart cards it acquires from Cubic (fare collection vendor). Following this initial supply, additional or replacement cards will be provided at a cost of \$2.00 per card.

FISCAL IMPACT

Staff anticipate a reduction in direct legal expenses as well as a reduction in internal staff time to develop these agreements.

PRIOR COMMITTEE REVIEW

None.

RECOMMENDATION

Recommend the board approve the standard transit pass program contract and authorize staff to negotiate non-fixed terms in accordance with the limits stipulated in this memo.

CONTACT

Greg Jordan
Executive Director
207-517-3025
gjordan@gpmetro.org

ATTACHMENTS

Item 4 – Attachment A: Draft Transit Pass Program Agreement

TRANSIT PASS PROGRAM AGREEMENT

Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

Effective Date:		
Expiration Date:		
Buyer:		
Buyer's Headquarters:		
Buyer's Designee:	Name:	
	Title:	
	Address:	
	Phone:	
	Email:	
Buyer's Pass Holders: (e.g., employees, students, tenants, lessees, occupants)		
Discounted Fare Percentage:	<input type="checkbox"/>	75% - Buyer is a private or for-profit entity
	<input checked="" type="checkbox"/>	66.6% - Buyer is a public or nonprofit entity
	<input type="checkbox"/>	50% - Buyer is a public or nonprofit entity; Pass Holders are minors
Boardings Payment Caps:	Cap:	Boardings Payment Cap Term:
Dirigo Transit Pass Type:	<input checked="" type="checkbox"/>	Dirigo Smart Card
	<input type="checkbox"/>	Mobile App
	<input type="checkbox"/>	Authorized Buyer ID
Dirigo Smart Card Initial Supply (at no charge):	Up to __ upon Buyer's request	
Additional/Replacement Per Diem Card Cost:	\$ 2.00	

THIS TRANSIT PASS PROGRAM AGREEMENT ("Agreement"), dated as of the Effective Date, is entered into by and between Buyer and Greater Portland Transit District, a Maine public transit district with a principal place of business at 114 Valley Street in Portland, Maine ("METRO") (collectively, the "Parties").

RECITALS

WHEREAS, METRO is a participant in a regional fare payment system known as the Dirigo UMO Fare Payment System in partnership with certain Transit Partners, as defined hereinbelow; and

WHEREAS, the Parties have agreed upon terms for METRO to provide free and unlimited access bus transit passes to Buyer for distribution to Buyer's Pass Holders for the purpose of using the public transportation services operated by METRO and its Transit Partners (the "Transit Pass Program").

NOW, THEREFORE, in consideration of the payments and mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Term.** The term of this Agreement shall commence on the Effective Date and shall expire at the earlier of (i) the termination of this Agreement in accordance with its terms or (ii) the Expiration Date (the "Initial Term"), except that this Agreement shall automatically renew for a term of one year provided that neither Party has given the other Party a written notice of non-renewal of this Agreement prior to the end of the Initial Term or, as applicable, any Renewal Term (each, a "Renewal Term," and collectively with the Initial Term, the "Term").

2. **Scope of Services.**

A. **Transit Passes.** METRO agrees to grant all qualified Pass Holders the privilege to ride on the systems of public bus transportation (including all existing and future public bus transit routes) operated by METRO and its Transit Partners as part of the regional bus transit fare payment system known as the Dirigo UMO Fare Payment System (the "Dirigo Bus Routes"), upon the display or electronic validation of a duly issued Dirigo Transit Pass, subject to the conditions of ridership privileges set forth in Section 2.C of this Agreement.

For purposes of this Agreement, "Transit Partners" are the South Portland Bus Service, the Biddeford-Saco-Old Orchard Beach Transit System, and any other public transit agency that owns and operates a separate system of public bus transportation now or in the future and has partnered with METRO to participate in the Dirigo Bus Routes.

Notwithstanding anything to the contrary in this Agreement, all decisions regarding the Transit Pass Program, the Dirigo Bus Routes, transit system design and service levels (including without limitation route alignments and bus stop placements) are at the sole discretion of METRO and the Transit Partners.

B. **Transit Program Eligibility.** Pass Holders' eligibility for inclusion in the Transit Pass Program under this Agreement shall be determined by Buyer in its sole discretion.

C. **Conditions of Ridership Privileges.** Pass Holders shall have the privilege of riding the Dirigo Bus Routes during service hours upon the display or electronic validation of a duly issued Dirigo Transit Pass. Pass Holders shall at all times be required to observe all rules and regulations applicable generally to passengers of the Dirigo Bus Routes. METRO or a Transit Partner may revoke a Pass Holder's privilege of ridership at any time, as METRO or the Transit Partner deems necessary or appropriate in its sole discretion. Upon request and to the extent allowed by applicable law, METRO shall provide or shall request its Transit Partners to provide after-the-fact written notice to Buyer for any such revocation of ridership privileges.

3. **Payment.**

A. **Discounted Fare.** Buyer agrees to pay METRO a Pass Holder per-boarding fare equal to the Discounted Fare Percentage of METRO's or the Transit Partner's full one-way cash fare charged to the general public in effect at the time of boarding ("Discounted Fare"). Refer to Exhibit A for the current METRO and Transit Partner fare pricing structure, which may be adjusted by METRO or its Transit Partners at any time during the Term in their sole discretion. The Discounted Fare shall be charged each time a Pass Holder boards a Dirigo Bus Route bus (without regard to the place of boarding, the place of disembarkation, or the distance traveled) until such time that any applicable Boardings Payment Caps are reached; thereafter, METRO will continue to provide Pass Holders with free and unlimited access to the Dirigo Bus Routes for the remainder of the Boardings Payment Cap Term, subject to the provisions of Section 2.

- B. **Dirigo Transit Passes.** Buyer shall select the Type of Dirigo Transit Passes from those identified in the Definitions section, above. A Buyer ID may be used as a Dirigo Transit Pass only with METRO's prior authorization. If the Dirigo Transit Pass Type is a Dirigo Smart Card, METRO will provide Buyer with the Initial Supply of Dirigo Smart Cards at no charge upon Buyer's request. METRO will supply additional or replacement Dirigo Smart Cards to Buyer upon its request at the Additional/Replacement Per Diem Card Cost.
- C. **Invoices.** METRO shall invoice Buyer monthly in arrears for any additional or replacement Dirigo Smart Cards and actual Pass Holder boardings, up to any applicable Boardings Payment Cap, and Buyer shall pay all undisputed invoices, or portions thereof, within thirty (30) days after the date of the invoice.
- D. **Revenue Distribution.** METRO will be responsible for distributing to the Transit Partners any revenue associated with Pass Holder boardings that occur on Transit Partner systems.

4. Termination; Default.

- A. **Default by METRO.** In the event of any material breach of the terms of this Agreement by METRO, Buyer agrees to notify METRO in detail in writing of such breach and to give METRO a reasonable time, not to exceed sixty (60) days or such reasonable longer period as the circumstances may require if METRO is diligently pursuing a cure, to cure the breach to Buyer's reasonable satisfaction, before taking any steps to terminate this Agreement. If METRO fails or refuses to cure any breach as aforesaid, Buyer may terminate this Agreement upon seven (7) days' written notice to METRO in writing without further liability to METRO.
- B. **Default by Buyer.** In the event of any failure by Buyer to pay sums due hereunder when they are due, in addition to all other remedies available to it, METRO may notify Buyer in writing of such non-payment and if such non-payment is not cured by payment in full of all sums due within thirty (30) days, may thereupon terminate this Agreement by giving Buyer written notice of termination, without further liability to Buyer hereunder. In the event of any material breach of the terms of this Agreement by Buyer other than the failure to pay money, METRO agrees to notify Buyer in detail in writing of such breach and to give Buyer a reasonable time, not to exceed sixty (60) days or such reasonable longer period as the circumstances may require if Buyer is diligently pursuing a cure, to cure the default to METRO's reasonable satisfaction, before taking any steps to terminate this Agreement. If Buyer fails or refuses to cure any breach as aforesaid, METRO may terminate this Agreement upon seven (7) days' written notice to Buyer in writing without further liability to Buyer.
- C. **Termination Without Cause.** Either Party may terminate this Agreement without cause, including for its convenience, providing that the terminating Party must provide at least thirty (30) days' written notice prior to the effective date of termination. Buyer shall compensate METRO for ridership services in accordance with Section 3 ("Payment") of this Agreement up to and including the date of termination.
- D. **Compensation.** In the event of termination, METRO shall forthwith disable Buyer's Pass Holder transit passes and ridership privileges. Buyer shall compensate METRO for ridership services in accordance with Section 3 ("Payment") of this Agreement up to and including the date of termination.

- 5. Amendment; Binding Effect.** Neither this Agreement nor any term or provision hereof may be changed, waived, discharged, or terminated orally or in any manner other than by a written instrument signed by each of the Parties. Each Party represents and warrants to the other that it has the requisite power and authority to enter into and perform this Agreement, that it has been duly authorized thereunto, and that this Agreement is binding and enforceable according to its terms. This Agreement shall insure to the benefit of and be binding on the respective Parties and their respective successors and assigns.
- 6. Administration of Agreement.** The Parties agree to work collaboratively in good faith to achieve the purposes of this Agreement and to attempt to informally address any problems or disagreements that arise. Buyer (through its Designee) and METRO (through its Chief Transportation Officer) shall meet annually to review the implementation of this Agreement, to discuss any previously unanticipated issues, to attempt to resolve any problems, and to attempt in good faith to negotiate amendments to this Agreement if needed to ensure that the Agreement will serve the mutual interests of the Parties. Any amendment to this Agreement must comply with Section 5 (“Amendment, Binding Effect”) of this Agreement. The Parties shall each designate a person responsible for day-to-day communication concerning the administration of this Agreement.
- 7. Insurance.** During the term of this Agreement, METRO shall maintain insurance, including general liability, motor vehicle liability, and workers’ compensation insurance, in amounts not less than required by law. Upon request by Buyer, METRO shall provide proof of such insurance to Buyer and shall name Buyer an additional insured on its policies.
- 8. Indemnification.** METRO, its successors and assigns, hereby agrees to indemnify and hold harmless Buyer, its successors and assigns, from any claim, costs, liability and expense to the extent arising from or attributable to any acts or omissions of the servants or employees of METRO in performing its obligations pursuant to this Agreement. Nothing herein is intended, nor shall it be deemed, to expand or extend either Party’s liability, or to waive any immunity, or any defenses or limitations of liability, to which it is entitled under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 *et seq.* and other applicable law, and nothing in this Agreement shall be interpreted or operate in any practical effect to waive any such defenses, immunities, or limitations of liability with respect to claims by third parties. The provisions of this Section 8 (“Indemnification”) shall survive the termination or expiration of this Agreement.
- 9. Dispute Resolution.** The Parties will make good faith efforts to first resolve informally and internally any legal controversy or claim (“Dispute”) under this Agreement by escalating it to higher levels of management. If for any reason the Dispute is not informally resolved within thirty (30) days after delivery of written notice of the Dispute by the aggrieved Party to the other Party, any Party may serve on the other Party a written request for non-binding mediation of the Dispute. The mediation shall be conducted in Portland, Maine by one mediator mutually agreeable to the Parties, shall not exceed one full day or two half days in length, and shall be completed within thirty (30) days from the date of receipt of notice of a request for mediation by the last Party to receive notice. In the event that the Parties are unable to agree on a mediator within ten (10) days, or to resolve the dispute through mediation within thirty (30) days, the Parties reserve the right to file a civil action in a court of competent jurisdiction located in Cumberland County, governed by and construed in accordance with the laws of the State of Maine. This dispute resolution mechanism shall be binding upon the successors, assigns, foreclosing mortgagee, and any trustee or receiver of the Parties.

A Party may seek a preliminary injunction or other preliminary judicial relief if in its judgment such action is necessary to avoid irreparable damage. Despite any such action, the Parties will continue to

participate in good faith in the procedures set forth in this Section 9 (“Dispute Resolution”). All applicable statutes of limitation will be tolled during the pendency of any Dispute Resolution hereunder, and the Parties agree to take such action, if any, required to effectuate such tolling.

The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by METRO or Buyer shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

- 10. Notice.** Any notice that is required for purposes of this Agreement must be given in writing and is effective when received in person by the individual designated to receive notice, or after being mailed, post paid, by certified mail, to the individual designated to receive notice according to this Section 10 (“Notice”). The individual designated to receive notice for each Party is as follows:

METRO

Executive Director
Greater Portland Transit District
114 Valley Street
Portland, ME 04102
(207) 517-3025
gjordan@gpmetro.org

Buyer: Buyer’s Designee, as identified in the Definitions section, above.

- 11. Governing Law; Other.** This Agreement has been delivered and is intended to be performed in the State of Maine and shall be construed and enforced in accordance with the laws of Maine without regard to its conflict of laws provisions. In the event that any provision of this Agreement shall be held to be invalid, the other provisions hereof shall remain in full force and effect. This Agreement may be executed electronically and in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 12. Non-Discrimination.** At no time shall either Party discriminate against anyone on the grounds of race, color, religion, sex, sexual orientation, including transgender status or gender expression, national origin or citizenship status, age, disability, genetic information or veteran status. METRO agrees that it shall provide reasonable accommodations to individuals with disabilities in accordance with applicable laws.
- 13. Confidentiality; Trademarks.** The Parties agree to implement and maintain reasonable safeguards to protect the security and confidentiality of Pass Holders’ personally identifiable records and information, protect against anticipated threats to the security or integrity of such records and information, and protect against unauthorized access to, or use of, such records and information. METRO shall use such records and information only for the purposes for which the disclosure to METRO was made, and shall not use or disclose such records or information except as permitted or required by this Agreement or as required by law or a valid order of the court.

Neither Party shall use the other Party’s name, symbols, trademarks, or service marks in external advertising, marketing, or promotional materials without the prior written consent of the other Party; provided that Buyer may use METRO’s name in literature and other media distributed to Pass Holders

and other public information in promoting the ridership of METRO to Pass Holders. Any use by a Party, without the approval of the other Party, of the name, symbols, trademarks or service marks of such other Party shall cease immediately upon the earlier written notice of such other party or termination of this Agreement.

- 14. Independence.** For the purposes of this Agreement, METRO is an independent contractor of Buyer, not a partner, agent, or joint venture of Buyer and neither Party shall hold itself out contrary to these terms by advertising or otherwise, nor shall either Party be bound by any representation, act, or omission whatsoever of the other Party.
- 15. No Assignment.** This Agreement, or any part thereof, may not be assigned, transferred, or subcontracted by either Party without the prior written consent of the other Party.
- 16. Compliance with Applicable Law.** In performing under this Agreement, METRO shall comply with all applicable Federal, State and local laws, regulations, and ordinances. METRO shall secure at its expense all licenses and permits required for performing under this Agreement.
- 17. Additional Terms and Conditions.** The additional terms and conditions set forth in Exhibit B, if any, are attached hereto and made a part hereof as if fully set forth herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this TRANSIT PASS PROGRAM AGREEMENT to be executed by their respective undersigned authorized officer as of _____, 20__.

BUYER

By: _____
Name:
Title:

GREATER PORTLAND TRANSIT DISTRICT (METRO)

By: _____
Greg Jordan
Executive Director

**TRANSIT PASS PROGRAM AGREEMENT
EXHIBIT A**

Current Fare Pricing Structure



FARE PRICES

CASH Fares

	LOCAL	EXPRESS	ZOOM
Full Fare	\$2.00	\$4.00	\$5.00
Reduced Fare	\$1.00	\$2.00	\$2.50
Transfers	Not Available*	Not Available	Not Available

* South Portland Bus Service accepts transfer between routes #21, #24A, and #24B

90-Minute Pass (available on limited basis at select locations only)

	LOCAL	EXPRESS	ZOOM
Full Fare	\$2.00	\$4.00	x
Reduced Fare	\$1.00	\$2.00	x

SMART CARD/MOBILE APP

Single Ride (90 Minute Pass)

	LOCAL	EXPRESS	ZOOM
Full Fare	\$2.00	\$4.00	\$5.00
Reduced Fare**	\$1.00	\$2.00	\$2.50

Daily Fare Cap

	LOCAL	EXPRESS	ZOOM
Full Fare	\$6.00	\$12.00	\$15.00
Reduced Fare**	\$3.00	\$6.00	\$7.50

Monthly Fare Cap

	LOCAL	EXPRESS	ZOOM
Full Fare	\$60.00	\$120.00	\$150.00
Reduced Fare**	\$30.00	\$60.00	\$75.00

Connections to more expensive routes pay difference in fares.

Local Routes:

METRO Routes 1, 2, 3, 4, 5, 7, 8, 9A, 9B, Husky Line
BSOOB Transit: 50-Orange, 51-Black, 52-White, 53-Blue, 60-Green
South Portland: 21, 24A, 24B

Express Routes:

METRO BREEZ

ZOOM

BSOOB Transit: Purple

****REDUCED FARE:**

Persons with Disabilities; Veterans
Seniors (65+); Youth (6-18),
and Medicare card holders.
w/ Valid ID or Application

TRANSIT PASS PROGRAM AGREEMENT
EXHIBIT B

Additional Terms

- B-1. Non-Appropriation (applicable to Buyer if Buyer is a governmental or quasi-governmental entity).** Notwithstanding any other provision of this Agreement, if Buyer is, at any time during the Term, not appropriated sufficient funds to pay for the services to be performed under this Agreement or if funds are de-appropriated, then this Agreement shall automatically terminate on the last day of the fiscal period for which appropriations were received, without penalty or expense to Buyer, except as to the payments or portions thereof for which funds have been appropriated. All obligations of Buyer accruing prior to such automatic termination shall survive any such termination. For purposes of this Section, “non-appropriation” or “de-appropriation” means the failure of the governing body of Buyer to appropriate funds for the payment of Buyer’s obligations under this Agreement in accordance with applicable law and procedures.

DATE

June 14, 2023

SUBJECT

Federal Transit Administration's (FTA) 2023 Triennial Review Draft Report

PURPOSE

Staff will review with the committee the results of Metro's 2023 FTA Triennial Review.

BACKGROUND/ANALYSIS

From January through May 2023, the Federal Transit Administration (FTA) conducted its standard Triennial Review of Metro's compliance with the federal requirements governing transit. The review focused on Metro's compliance in 23 areas. No deficiencies were found with the FTA requirements in 20 areas, and there were no repeat deficiencies from the Fiscal Year 2019 Triennial Review. Out of a possible 382 deficiencies, three (3) deficiencies were found in three separate areas: Procurement, Disadvantaged Business Enterprise, and Title VI.

- Section 9: Procurement – One of Metro's Requests for Proposals (RFP) and subsequent contract did not contain a recently released FTA clause as part of the standard terms and conditions.
- Section 10: Disadvantaged Business Enterprise – As part of developing its DBE program and semi-annual DBE reports, Metro included contract information associated with its revenue generating advertising contract. Although past federal reviews had not flagged this issue, Metro was informed that "revenue contracts" cannot be included in the formulation of DBE goals or included in semi-annual reports. As a result, Metro will need to revise its DBE Goal and correct semi-annual reports submitted since this previous goal was submitted to FTA.
- Section 11: Title VI – Four (4) complaints received in 2022 that were identified as Title VI complaints were not investigated and resolved in accordance with the timeframes required by Metro's Title VI program. Since then, these complaints were fully investigated and closed, and the agency has made organizational and procedural changes to ensure compliance with both the agency's program and federal requirements.

Attachment A provides FTA's draft report which provides more information on the 3 deficiencies as well FTA's required corrective actions. Metro staff are in the process of developing, or have already completed, the requested corrective actions. The draft report will be made final after Metro staff submits corrective action due dates to FTA.

FISCAL IMPACT

None.

PRIOR COMMITTEE REVIEW

None.

RECOMMENDATION

This item is for information

CONTACT

Greg Jordan

Executive Director

207-517-3025

gjordan@gpmetro.org

ATTACHMENTS

Item 5 – Fiscal Year 2023 Federal Transit Administration (FTA) Triennial Review – Draft Report



U.S. Department
of Transportation

**Federal Transit
Administration**

REGION 1
Connecticut, Maine,
Massachusetts,
New Hampshire,
Rhode Island, Vermont

Volpe Center
55 Broadway, Suite 920
Cambridge, MA 02142-1093
617-494-2055
617-494-2865 (fax)

June 5, 2023

Mr. Greg Jordan
Executive Director
Greater Portland Transit District
114 Valley Street
Portland, ME 04102

Re: Fiscal Year 2023 Federal Transit Administration (FTA) Triennial Review – Draft Report

Dear Mr. Jordan:

I am pleased to provide you with a copy of this Federal Transit Administration (FTA) report as required by 49 U.S.C. Chapter 53 and other Federal requirements. The enclosed draft report documents the FTA's Fiscal Year (FY) 2023 Triennial Review of the Greater Portland Transit District (GPTD) in Portland, ME. Although not an audit, the Triennial Review is the FTA's assessment of GPTD's compliance with Federal requirements, determined by examining a sample of award management and program implementation practices. As such, the Triennial Review is not intended as, nor does it constitute, a comprehensive and final review of compliance with award requirements.

Due to the Coronavirus 2019 (COVID-19) Public Health Emergency, a virtual site visit was conducted for this Triennial Review. In addition, the review was expanded to address GPTD's compliance with the administrative relief and flexibilities FTA granted and the requirements of the COVID-19 Relief funds received through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Coronavirus Response and Relief Supplemental - Appropriations Act (CRRSAA) of 2021, and the American Rescue Plan (ARP) Act of 2021.

The Triennial Review focused on GPTD's compliance in 23 areas. No deficiencies were found with the FTA requirements in 20 areas. Deficiencies were found in three areas: Procurement, Disadvantaged Business Enterprise, and Title VI. GPTD had no repeat deficiencies from the Fiscal Year 2019 Triennial Review.

Subsequent to the site visit, GPTD provided a corrective action response to address and close part of the Procurement deficiency, as noted in the report that follows.

This year, FTA is implementing new procedures to close Civil Rights findings. Please see Section VII of the report for more information. The corrective actions to your Disadvantaged Business Enterprise and Title VI deficiencies must follow these procedures.

Please review this draft report for accuracy and provide your comments to both the reviewer and your FTA Program Manager within ten business days from the date of this letter. **The response should include a proposed due date for each corrective action.** A final report that incorporates your comments to the draft report will be provided to you within 14 business days of your response.

Thank you for your cooperation and assistance during this Triennial Review. If you need any technical assistance or have any questions, please do not hesitate to contact Alex Hammond, General Engineer, at (617) 494-2304 or by email at alex.hammond@dot.gov; or Keith Carlson, your reviewer, at (608) 780-8141 or by email at keith.carlson@adstm.com.

Sincerely,

Peter S. Butler
Regional Administrator
FTA Region 1

DRAFT REPORT

**FISCAL YEAR 2023
TRIENNIAL REVIEW**

of the

**Greater Portland Transit District
(GPTD)
Portland, ME
ID: 1348**

Performed for:

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
REGION I**

Prepared By:

**Advanced Systems Technology & Management, Inc.
under subcontract to Qi Tech, LLC**

**Scoping Meeting Dates: February 24 & 27, 2023
Virtual Site Visit Entrance Conference Date: March 28, 2023
Virtual Site Visit Exit Conference Date: May 9, 2023
Draft Report Date: June 5, 2023**

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I. Executive Summary

This report documents the Federal Transit Administration’s (FTA) Triennial Review of the Greater Portland Transit District (GPTD) of Portland, ME. The FTA wants to ensure that awards are administered in accordance with the requirements of Federal public transportation law 49 U.S.C. Chapter 53. The review was performed by Advanced Systems Technology & Management, Inc. under subcontract to Qi Tech, LLC. During the virtual site visit, the reviewer discussed the administrative and statutory requirements and reviewed recipient documents.

Due to the Coronavirus 2019 (COVID-19) Public Health Emergency, the FTA conducted a virtual site visit for this Triennial Review. In addition, the FTA expanded the review to address GPTD’s compliance with the administrative relief and flexibilities that the FTA granted, and the requirements of the COVID-19 Relief funds received through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) of 2021, and the American Rescue Plan (ARP) Act of 2021. The FTA also requested the GPTD share if and/or how it suspended, deviated from, or significantly updated or altered its transit program due to the public health emergency.

The FY2023 Triennial Review focused on GPTD’s compliance in 23 areas. Deficiencies related to the COVID-19 Relief funds have been clearly identified as part of the deficiency description in the respective review area. There were no repeat deficiencies from the FY 2019 Triennial Review.

Deficiencies were found in the areas listed below.

Review Area	Deficiencies	
	Code	Description
Procurement	P11-1	Missing FTA clauses
Disadvantaged Business Enterprise	DBE5-1	DBE uniform reports contain inaccuracies and/or are missing required information
Title VI	TVI4-1	Title VI complaint process not implemented in accordance with Title VI Program

Subsequent to the site visit, the GPTD provided a corrective action response to address part of the deficiency noted in the Procurement area of this report. As a result, that part of the deficiency is closed.

II. Review Background and Process

1. Background

The Triennial Review includes a review of the recipient's compliance in 23 areas. The basic requirements for each of these areas are summarized in Section IV. The FTA contracts with experienced Reviewers to lead and conduct the Triennial Reviews, in partnership with the staff of the regional office.

This report presents the findings from the Triennial Review of the recipient. The review concentrated on procedures and practices employed since the recipient's previous Triennial Review in 2019; however, coverage was extended to earlier periods as needed to assess the policies in place and the management of award funds. The specific documents reviewed and referenced in this report are available at the FTA's Region 1 office or the recipient's office.

2. Process

The Triennial Review includes a pre-review assessment, a desk review and scoping meetings with the FTA regional office, and a site visit to the recipient's location. Due to the COVID-19 Public Health Emergency, a virtual site visit was conducted of each recipient. In addition, the review was expanded to address the recipient's compliance with the administrative relief and flexibilities FTA granted and the requirements of the COVID-19 relief funds received through the CARES Act, CRRSAA of 2021, and the ARP Act of 2021. The FTA also requested that the recipient share if and/or how it suspended, deviated from, or significantly updated or altered its transit program due to the public health emergency.

The fiscal year (FY) 2023 process began with the regional office transmitting a notification of the review and a Recipient Information Request (RIR) to the recipient on November 23, 2022, indicating a review would be conducted. While the recipient prepared its response to the RIR, the regional office and review team conducted the scoping meeting on February 24 and 27, 2023. Regional office staff provided electronic files as necessary to the reviewers who also accessed recipient information in the FTA electronic award management (TrAMS) and oversight (OTrak) systems. Following the desk review and scoping meeting, the reviewer and the recipient corresponded and exchanged information and documentation in preparation for the virtual site visit. Prior to the virtual site visit, the reviewer sent to the recipient on April 3, 2023, an agenda package indicating the issues that would be discussed, records to be reviewed, and interviews to be conducted.

The virtual site visit portion of the review began with an entrance conference on March 28, 2023, at which the reviewers and regional staff discussed the purpose of the Triennial Review and the review process. The reviewers conducted additional interviews and reviewed documentation to evidence the recipient's compliance with FTA requirements.

The operations/management contractor, Regional Transportation Program, Inc., was reviewed virtually to provide an overview of activities related to the FTA-funded project. The reviewer also examined a sample of procurement files during this review.

Upon completion of the virtual site visit, the reviewer and the FTA regional office staff provided a summary of preliminary findings to the recipient at the exit conference on May 9, 2023. Section VI of this report lists the individuals participating in the site visit.

3. Metrics

The metrics used to evaluate whether a recipient is meeting the requirements for each of the areas reviewed are:

- *Not Deficient*: An area is considered not deficient if, during the review, nothing came to light that would indicate the requirements within the area reviewed were not met.
- *Deficient*: An area is considered deficient if any of the requirements within the area reviewed were not met.
- *Not Applicable*: An area can be deemed not applicable if, after an initial assessment, the recipient does not conduct activities for which the requirements of the respective area would be applicable.

III. Recipient Description

1. Organization

GPTD is a quasi-municipal organization that is chartered in accordance with Maine State Statutes. GPTD is a standalone agency governed by a Board of Directors that represent the municipalities it serves. The service area includes the municipalities of Brunswick, Falmouth, Freeport, Gorham, Portland, South Portland, Westbrook, and Yarmouth with a combined population of approximately 204,000 persons.

GPTD directly operates a network of nine local fixed-routes and one express bus route Monday through Friday from 5:10 a.m. to 11:45 p.m., Saturdays from 6:00 a.m. to 11:45 p.m., and Sundays from 7:45 a.m. to 7:45 p.m. Complementary paratransit service is provided under contract with the Regional Transportation Program, Inc. (RTP), a private, non-profit agency. ADA complementary paratransit service is provided during the same hours and service areas as the GPTD fixed-route service.

The regular, full one-way fare for local bus routes is \$2.00 and \$4.00 for express service. Half fares are offered at all times to senior citizens, persons with disabilities, and passengers who hold a Medicare card. GPTD offers various multi-ride tickets and passes. The fare for ADA paratransit service is \$2.50 per one-way trip.

GPTD operates 44 FTA-funded transit buses in fixed-route service. Its bus fleet consists of 35- and 40-foot low floor transit coaches. GPTD operates from its operations and maintenance facility located at 114 Valley Street and from a downtown transportation center located at 17 Elm Street. Both facilities are FTA-funded. RTP operates out of its own facility at 1 Ledgeview Drive in Westbrook, Maine.

2. Award and Project Activity

Below is a list of the Greater Portland Transit District’s open awards at the time of the review.

Award Number	Award Amount	Year Executed	Description
ME-2019-013	\$1,245,000	2019	GPTD Battery Electric Bus Project
ME-2020-010	\$8,398,713	2021	Greater Portland Transit District Section 5307 CARES ACT Operating and Planning
ME-2020-025	\$4,656,052	2021	2020 Operating Asst. and Capital Program Grant
ME-2017-008	\$5,309,844	2017	2017 Operating Asst. and Capital Program Grant
ME-2021-016	\$3,796,528	2021	2021 Operating Asst. and Capital Program Grant
ME-2019-010	\$6,026,080	2019	2019 Operating Asst. and Capital Program Grant
ME-2022-011	\$5,114,800	2022	2022 Operating and Capital Grant

Award Number	Award Amount	Year Executed	Description
ME-2017-007	\$173,840	2017	GPTD Northern Service Expansion - Capital Grant Phase 2
ME-2016-017	\$875,398	2016	Regional Bus Shelter-Sign Project
ME-2016-016	\$5,247,318	2016	2016 Operating and Capital Grant

GPTD received Supplemental Cares Act funding for operating assistance in award number ME-2020-010. This is not GPTD’s first time receiving operating assistance from the FTA.

Projects Completed

In the past few years, GPTD completed the following noteworthy projects:

- Replaced some of the bus fleet
- Procured electric buses and charging equipment
- Purchased bus shelters
- Completed several facility renovations.

Ongoing Projects

GPTD is currently implementing the following noteworthy projects:

- Continuing to replace the bus fleet
- Installing ADA accessibility improvements at bus stops
- Implementing regional bus system recommendations, including improvements to frequencies and hours, making route alignments, and adding a microtransit pilot project
- Implementing transit signal priority.

Future Projects

GPTD plans to pursue the following noteworthy projects in the next three to five years:

- Purchase property in support of operations-maintenance facility reconstruction/expansion
- Reconstructing and expanding the operations-maintenance facility
- Expand service including implementation of a bus rapid transit project connecting the municipalities of Portland, Westbrook, and Gorham.

IV. Results of the Review

1. Legal

Basic Requirement: The recipient must promptly notify the FTA of legal matters and additionally notify the USDOT Office of Inspector General (OIG) of any instances relating to false claims under the False Claims Act or fraud. Recipients must comply with restrictions on lobbying requirements.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Legal.

2. Financial Management and Capacity

Basic Requirement: The recipient must have financial policies and procedures; an organizational structure that defines, assigns, and delegates fiduciary authority; and financial management systems in place to manage, match, and charge only allowable costs to the award. The recipient must conduct required Single Audits, as required by 2 CFR Part 200, and provide financial oversight of subrecipients.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Financial Management and Capacity.

3. Technical Capacity – Award Management

Basic Requirement: The recipient must report progress of projects in awards to the Federal Transit Administration (FTA) and close awards timely.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Technical Capacity – Award Management.

4. Technical Capacity - Program Management & Subrecipient Oversight

Basic Requirement: States must document and follow a public involvement process for the development of the long-range statewide transportation plan and State Transportation Improvement Program (STIP). Designated recipients of Sections 5310, 5311, and 5339 funds must develop and submit a State Management/Program Management Plan to the FTA for approval. Recipients must enter into an agreement with each subrecipient, obtain required certifications from subrecipients, report in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) on subawards, and ensure subrecipients comply with the terms of the award.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Technical Capacity – Program Management & Subrecipient Oversight.

5. Technical Capacity – Project Management

Basic Requirement: The recipient must be able to implement the FTA-funded projects in accordance with the award application, the FTA Master Agreement, and applicable laws and regulations using sound management practices.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Technical Capacity – Project Management.

6. Transit Asset Management

Basic Requirement: Recipients must comply with 49 CFR Part 625 to ensure public transportation providers develop and implement transit asset management (TAM) plans.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Transit Asset Management.

7. Satisfactory Continuing Control

Basic Requirement: The recipient must ensure that FTA-funded property will remain available to be used for its originally authorized purpose throughout its useful life until disposition.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Satisfactory and Continuing Control.

8. Maintenance

Basic Requirement: Recipients must keep federally-funded vehicles, equipment, and facilities in good operating condition. Recipients must keep Americans with Disabilities Act (ADA) accessibility features on all vehicles, equipment, and facilities in good operating order.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Maintenance.

9. Procurement

Basic Requirement: The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, and conform to applicable Federal law and the standards identified in 2 CFR Part 200. State recipients can use the state's overall policies and procedures. When applied to Federal procurements, those policies and procedures must still be compliant with all Federal requirements as applied to non-state recipients. The flexibility afforded by 2 CFR Part 200 should not be misconstrued as absolving a state from Federal requirements. For example, the FTA does not require each State DOT to have policies and procedures separate from the state education department.

Finding: During this Triennial Review of GPTD, a deficiency was found with the FTA requirements for Procurement.

Deficiency Description:

Missing FTA clauses (P11-1)

In one of GPTD’s reviewed procurements, the purchase of New Flyer buses, the required clause regarding the prohibition of certain telecommunications and video surveillance services or equipment was missing. This clause, as found in 2 CFR 200.216, went into effect on August 13, 2020. GPTD awarded the contract for the vehicles on March 31, 2022, so the clause should have been included in the contract.

Corrective Actions and Schedule: For the deficiency *Missing FTA clauses (P11-1)*, by **Month Day, 2023**, GPTD must submit to the FTA regional office revised procurement procedures that address inclusion of all FTA-required third-party contract clauses through use of a clause checklist or other mechanism. For GPTD’s next procurement, it must submit to the FTA regional office documentation that the required process was implemented.

Subsequent to the site visit, GPTD provided documentation of a revised clause checklist to ensure that future procurements include all FTA-required third-party contract clauses. This action was deemed acceptable by the FTA regional office to close this part of the finding on May 9, 2023.

10. Disadvantaged Business Enterprise (DBE)

Basic Requirement: Recipients must comply with 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipients also must create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts.

Finding: During this Triennial Review of GPTD, a deficiency was found with the US DOT requirements for DBE.

Deficiency Description:

DBE uniform reports contain inaccuracies and/or are missing required information (DBE5-1)

GPTD included in its semi-annual DBE Uniform Reports revenue contract funds generated and retained by a DBE advertising firm. GPTD maintained a revenue contract with the advertising firm, which sold advertising space on GPTD’s buses to third-party advertisers. The advertisers paid the advertising firm and, based on a revenue-sharing agreement with GPTD, the advertising firm kept its portion of the revenue generated (30%) from the sale of advertising space and passed through to GPTD its portion of the revenue. During the site visit, GPTD stated it reported the portion of revenue kept by the advertising company as an award and payment to a DBE firm in its semi-annual DBE Uniform Reports. The Regional Civil Rights Officer (RCRO) explained that revenue contracts cannot be counted as awards or payments toward DBE attainment.

Corrective Actions and Schedule: For the deficiency *DBE uniform reports contain inaccuracies and/or missing requirement information (DB5-1)* by **Month Day, 2023** GPTD must submit to the FTA Office of Civil Rights corrected reports for 2020, 2021, and 2022, along with implemented procedures for correctly completing Uniform Reports of DBE Awards or Commitments and

Payments. GPTD must also develop a DBE goal that includes a description of the revised methodology used to establish the new goal, upload it to TrAMS, and notify the FTA Office of Civil Rights once complete.

11. Title VI

Basic Requirement: The recipient must ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance without regard to whether specific projects or services are federally funded. The recipient must ensure that all transit services and related benefits are distributed in an equitable manner.

Finding: During this Triennial Review of GPTD, a deficiency was found with the FTA requirements for Title VI.

Deficiency Description:

Title VI complaint process not implemented in accordance with Title VI Program (TVI4-1)

The Title VI regulations at 49 CFR Section 21.9(b), Requirement to Develop Title VI Complaint Procedures and Complaint Form, require that all recipients shall develop procedures for investigating and tracking Title VI complaints filed against them. During the review, GPTD provided a Title VI Log of Investigations, Lawsuits, and Complaints that included four complaints received in 2022 that had not been resolved. GPTD’s Title VI Plan states in part: “If the complaint is deemed to have investigative merit: A complete investigation will be conducted, and an investigative report will be completed within sixty (60) days from receipt of the complaint.” GPTD acknowledged that these four complaints were not handled and resolved in accordance with the timeframes outlined in its Title VI program requirements.

Corrective Actions and Schedule: For the deficiency *Title VI complaint process not implemented in accordance with Title VI Program (TVI4-1)*, by **Month Day, 2023**, GPTD must prepare and submit to the FTA Office of Civil Rights evidence that it processes complaints as detailed in its Title VI Program. GPTD must also submit a revised Title VI Program to correctly describe how it processes complaints.

12. Americans with Disabilities Act (ADA) – General

Basic Requirement: Titles II and III of the Americans with Disabilities Act of 1990 provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility and the provision of service, including complementary paratransit service.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the US DOT requirements for ADA – General.

13. ADA – Complementary Paratransit

Basic Requirement: Under 49 CFR 37.121(a), each public entity operating a fixed-route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed-route system. “Comparability” is determined by 49 CFR 37.123-37.133. Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the US DOT requirements for ADA – Complementary Paratransit.

14. Equal Employment Opportunity

Basic Requirement: The recipient must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age or disability be excluded from participating in, or denied the benefits of, or be subject to discrimination in employment under any project, program or activity receiving Federal financial assistance under the Federal transit laws.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Equal Employment Opportunity.

15. School Bus

Basic Requirement: Recipients are prohibited from providing school bus service in competition with private school bus operators unless the service qualifies and is approved by the FTA Administrator under an allowable exemption. Federally-funded equipment or facilities cannot be used to provide exclusive school bus service.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for School Bus.

16. Charter Bus

Basic Requirement: Recipients are prohibited from using the FTA-funded equipment and facilities to provide charter service that unfairly competes with private charter operators. Recipient may operate charter only when the service meets a specified exception defined in rule.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Charter Bus.

17. Drug Free Workplace Act

Basic Requirement: Recipients are required to maintain a drug free workplace for all award-related employees; report any convictions occurring in the workplace timely; and have an ongoing drug free awareness program.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Drug-Free Workplace Act.

18. Drug and Alcohol Program

Basic Requirement: Recipients receiving Section 5307, 5309, 5311, or 5339 funds that have safety-sensitive employees must have a drug and alcohol testing program in place for such employees.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Drug and Alcohol Program.

19. Section 5307 Program Requirements

Basic Requirement: The recipient must participate in the transportation planning process in accordance with FTA requirements and the metropolitan and statewide planning regulations.

Recipients shall develop, publish, afford an opportunity for a public hearing on, and submit for approval, a program of projects (POP).

Recipients are expected to have a written, locally developed process for soliciting and considering public comment before raising a fare or carrying out a major transportation service reduction.

For fixed-route service supported with Section 5307 assistance, fares charged seniors, persons with disabilities or an individual presenting a Medicare card during off peak hours will not be more than one half the peak hour fares.

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Section 5307 Program Requirements.

20. Section 5310 Program Requirements

Basic Requirement: Recipients must expend Section 5310 funds on eligible projects that meet the specific needs of seniors and individuals with disabilities. Projects selected for funding must be included in a locally developed, coordinated public transit-human services transportation plan. Recipients must approve all subrecipient leases of Section 5310-funded vehicles. Leases of Section 5310-funded vehicles must include required terms and conditions. Either the recipient or subrecipient must hold title to the leased vehicles.

This section only applies to recipients that receive Section 5310 funds directly from FTA; therefore, the related requirements are not applicable to the Triennial Review of GPTD.

21. Section 5311 Program Requirements

Basic Requirement: States must expend Section 5311 funds on eligible projects to support rural public transportation services and intercity bus transportation.

This section only applies to recipients that receive Section 5311 funds directly from FTA; therefore, the related requirements are not applicable to the Triennial Review of GPTD.

22. Public Transportation Agency Safety Plan (PTASP)

Basic Requirement: Recipients must comply with the Public Transportation Agency Safety Plan (PTASP) regulation (49 CFR Part 673) to ensure public transportation providers develop and implement an Agency Safety Plan (ASP).

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for PTASP Requirements.

23. Cybersecurity

Basic Requirement: Recipients that operate rail fixed guideway public transportation systems must certify compliance with the requirements for establishing a cybersecurity process under 49 U.S.C. § 5323(v), a new subsection added by the National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, § 7613 (Dec. 20, 2019).

Finding: During this Triennial Review of GPTD, no deficiencies were found with the FTA requirements for Cybersecurity Requirements.

V. Summary of Findings

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
1. Legal	ND				
2. Financial Management and Capacity	ND				
3. Technical Capacity – Award Management	ND				
4. Technical Capacity – Program Management and Subrecipient Oversight	ND				
5. Technical Capacity – Project Management	ND				
6. Transit Asset Management	ND				
7. Satisfactory Continuing Control	ND				
8. Maintenance	ND				
9. Procurement	D	P11-1: Missing FTA clauses	GPTD must submit to the FTA regional office revised procurement procedures that address inclusion of all FTA-required third-party contract clauses through use of a clause checklist or other mechanism. For GPTD’s next procurement, it must submit to the FTA regional office documentation that the required process was implemented.	Month Day, 2023	May 9, 2023
10. Disadvantaged Business Enterprise	D	DBE5-1: DBE uniform reports contain inaccuracies and/or are missing required information	GPTD must submit to the FTA Office of Civil Rights corrected reports for 2020, 2021, and 2022, along with implemented procedures for correctly completing Uniform Reports of DBE Awards or Commitments and Payments. GPTD must also develop a DBE goal that includes a description of the revised methodology used to establish the new goal, upload it to TrAMS, and notify the FTA Office of Civil Rights once complete.	Month Day, 2023 Month Day, 2023	

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
11. Title VI	D	TVI4-1: Title VI complaint process not implemented in accordance with Title VI Program	GPTD must prepare and submit to the FTA Office of Civil Rights evidence that it processes complaints as detailed in its Title VI Program. GPTD must also submit a revised Title VI Program to correctly describe how it processes complaints.	Month Day, 2023 Month Day, 2023	
12. Americans with Disabilities Act (ADA) - General	ND				
13. ADA – Complementary Paratransit	ND				
14. Equal Employment Opportunity	ND				
15. School Bus	ND				
16. Charter Bus	ND				
17. Drug Free Workplace Act	ND				
18. Drug and Alcohol Program	ND				
19. Section 5307 Program Requirements	ND				
20. Section 5310 Program Requirements	NA				
21. Section 5311 Program Requirements	NA				
22. Public Transportation Agency Safety Plan	ND				
23. Cybersecurity	ND				

The metrics used to evaluate whether a recipient is meeting the requirements for each of the areas reviewed are: Deficient (D)/Not Deficient (ND)/Not Applicable (NA)

VI. Attendees

Name	Title	Phone Number	E-mail Address
<i>Greater Portland Transit District</i>			
Greg Jordan	Executive Director	207-517-3025	gjordan@gpmetro.org
Glenn Fenton	Chief Transportation Officer	207-517-3029	gfenton@gpmetro.org
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Alex Hammond	General Engineer	617-494-2304	alexander.hammond@dot.gov
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<i>AdSTM, Inc.</i>			
Keith Carlson	Reviewer	608-780-8141	keith.carlson@adstm.com

VII. Appendices

Civil Rights Corrective Action Procedures:

Please submit corrective actions for all Civil Rights deficiencies to the following email address and copy your FTA Region I Program Manager:

FTACivilRightsSupport@dot.gov

1. A separate email should be sent to address each deficiency separately with attached supporting documentation.
2. Email Subject Line: FY 23 CORTAP Review Corrective Actions – Findings Code – Recipient Name/Acronym + TrAMS ID

Example: FY23 CORTAP Review Corrective Actions – DBE5-1 – Greater Portland Transit District/GPTD #1348

3. The body of the email should contain a short summary of the corrective action.
4. Supporting documents should be sent as PDF files. Do not send MS Word or Excel spreadsheets.