

---

*Final*

# FY09-FY12 Performance Audit Compliance Review

Prepared for



**Metropolitan Transit Authority of Harris County**

May 2013

**CH2MHILL®**

14701 St. Mary's Lane, Suite 300  
Houston, Texas 77079

In Association with

**Matt & Associates**  
**McConnell & Jones**

# Contents

---

<b>Section</b>	<b>Page</b>
1.0 Introduction .....	1
2.0 Authority Compliance .....	4
3.0 Board Matters Complaine .....	10
4.0 Conflict of Interest Compliance .....	19
5.0 Contract Compliance .....	25
6.0 Energy Efficiency Compliance .....	30
7.0 Finance and Administration Compliance .....	32
8.0 Open Meetings and Public Information Compliance .....	39
9.0 Real Estate Compliance .....	50
10.0 Records Management Compliance .....	57
11.0 Findings and Recommendations .....	61

# Section 1: Introduction

---

Pursuant to Section 451.454 of the Texas Transportation Code, metropolitan rapid transit authorities in which the principal municipality's population is over 1.9 million are required to have a performance audit conducted every four years. The purpose of the audit is two-fold:

- Provide evaluative information necessary for State and local officers to perform oversight functions
- Provide information useful to METRO for improving the efficiency and effectiveness of their operations.

The performance audit is required to assess METRO's:

- Collection and compilation of the base statistics and measurement of specified performance indicators
- Compliance with applicable state law
- Performance in one of three areas: administration and management, transit operations, or system maintenance.

METRO's FY 2008 – FY 2012 performance audit has been conducted by CH2M HILL, working closely with METRO staff and in association with Matt & Associates and McConnell & Jones.

This report summarizes the results of the assessment of METRO's compliance with applicable state law for Fiscal Years 2009, 2010, 2011, and 2012, which consist of the period from October 1, 2008 through September 30, 2012. The results of the performance indicators assessment and the functional review of the Finance Department and the Information Technology Department are the subjects of separate audit reports.

Pursuant to Section 451.454 of the Texas Transportation Code, the performance audit must include an examination of the authority's compliance with the Act and applicable state law. Applicable State laws are as follows:

- Texas Transportation Code, Chapter 451
- Texas Government Code, Chapter 551, Sections 002, 005 (a) and (e), 021(a) and (b), 022, 023, 041, 0411, 043, 045, 054(a), 056, 071-074, 084, 101-103(c), 104(a)-(c), 141-146, 221(a)-(c), 222-225(b), 518
- Texas Government Code, Chapter 552, Sections 004, 012(a)-(c), 201, 221(a)-(d), 223-225, 228, 230, 263(a), 267(a), 268, 301(a), (b), (d), and (e), 302, 303(b)-(e), 305, 307, 352(a)
- Texas Government Code, Chapter 573, Sections 023(c), 024(a), 041, 062(a)(1)(2) and (b)
- Texas Government Code, Section 617.002
- Texas Government Code, Chapter 791, Sections 011(d) and (e), 027(a)
- Texas Government Code, Chapter 2251, Sections 021(a) and (b), 042(a)-(c)
- Texas Government Code, Chapter 2253, Sections 021, 027
- Texas Government Code, Chapter 2254, Sections 003, 004
- Texas Government Code, Chapter 2256, Sections 005(a), (b), (e), (f), (i), and (m), 008(a)(1)and(2), 023(d)
- Texas Government Code, Chapter 2257, Sections 021, 023, 025(a), 041(c)
- Texas Government Code, Chapter 2258, Sections 022(c) and (d), 052
- Texas Local Government Code, Chapter 171, Sections 001-005
- Texas Local Government Code, Chapter 176, Sections 003(a) and (b), 006(d), 009, 011
- Texas Local Government Code, Chapter 203, Sections 025, 041, 045, 046
- Texas Local Government Code, Section 272.001

# Section 1: Introduction

---

- Texas Local Government Section 302.004
- Texas Property Code, Section 21.042
- Texas Health and Safety Code, Section 382.133
- Texas Health and Safety Code, Section 388.005 (b), (c), (d), and (e)
- Texas Penal Code, Chapter 36, Sections 02(a) and (c), 07(a) and (b), 08 (e)
- Texas Property Code, Chapter 21, Sections 0111, and 042 (a)-(e)

METRO's governance codes and policies guide the activities of the authority towards the achievement of its objectives and compliance with laws and regulations. The review team examined the following documents in conjunction with the compliance assessment:

- Board Bylaws established by Resolution No. 80-59 (amended by Resolution No. 2004-32), which guide matters relating to Board composition, responsibilities, and meeting procedures.
- Code of Ethics of the Metropolitan Transit Authority as adopted by the Board of Directors on November 21, 1988 and as amended on July 23, 1992.
- Conflicts of Interest Policies of the Metropolitan Transit Authority
- Board Agenda, Minutes, Meeting Notices, Resolutions, and meeting materials located in the offices of the Chief Executive Officer or Office General Counsel.
- METRO's Multi-Modal Transportation Program, the 21<sup>st</sup> Century High Capacity Transit Vision, adopted by the Board on August 26, 1999.
- Metropolitan Transit Authority of Harris County Texas Investment Policies adopted for each fiscal year during the audit period.
- METRO's Real Estate Management Guidelines detailing the procedures required for appraising and acquiring real property.
- Procurement Manual, as revised, which establishes guidelines relating to the procurement of supplies, equipment, materials, services, and construction projects.
- Records management Policies dated May 17, 2010 and December 2010, to establish the manner in which METRO defines and manages records in accordance with Texas Local Government Code requirements as directed in Board Resolution No. 2010-36.
- Energy efficiency plans and report

The remainder of the report contains compliance matrices which address requirements in the following areas:

- **Authority:** Creation and operation of a transit system, authority to tax and contract
- **Board Matters:** Board membership, responsibility, meetings, resolutions, and authority
- **Conflicts of Interest:** Disclosure statements and requirements, determination of affinity and bribery
- **Contract Compliance:** Procurement and competitive bidding requirements, determining prevailing wages, and performance bond requirements
- **Energy Efficiency Standards:** Establishment of goals to reduce electric consumption, reporting requirements, and energy savings performance contracts

# Section 1: Introduction

---

- **Finance and Administration:** Investment policies, investment strategies, designated investment officer, budget, and audit requirements.
- **Open Meetings and Public Information:** public meeting notices, training requirements, and executive session
- **Real Estate:** Land acquisition, sale, and eminent domain requirements
- **Records Management:** Establishment of records management officer and records management plan

METRO's compliance with each requirement in each of these areas is assessed as follows:

- **Compliance:** METRO has complied with the actions required by the State Code
- **Partial Compliance:** in instances where a sample of records was reviewed, METRO has complied in most but not all instances
- **Non-Compliant:** METRO has not complied with the requirement of the State Code
- **Not Applicable:** The requirement does not apply to METRO.

Findings and recommendations related to the compliance findings are provided in the last section of this report.

## Section 2: Authority Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. If the votes cast are such that the Authority will continue to exist, the Board shall enter the results on its minutes and adopt an order declaring that the creation of the Authority is confirmed and describing the territory which comprises the Authority.</p> <ul style="list-style-type: none"> <li>A certified copy of the order and map shall be filed with the Texas Department of Transportation or its successor, and with the comptroller of public accounts, and in the deed records of each county in which the Authority is located.</li> <li>The order shall include the date of the election, the proposition voted on, the number of votes cast for and against the proposition in each election unit, and the number of votes by which the proposition was approved in each election unit in which it was approved and shall be accompanied by a map of the Authority clearly showing the boundaries of the Authority.</li> </ul>	<p>Texas Trans Code 451.661(b) (1) &amp; (2)</p> <p>451.661(d)(1)-(3)</p> <p>451.661(b)(3)-(6) &amp; (c)</p>	<p>Compliance. Resolution 78-8 confirms the creation of the Authority and describes the territory that comprises the Authority. Resolution 78-8 states that a copy of the order and map shall be filed with the Texas Department of Transportation and in the deed records of each county in which the Authority is located.</p>
<p>2. As soon as practicable after an election, the Board shall canvass the returns of the election and declare the results.</p>	<p>451.660</p>	<p>Compliance. The Board canvassed the results of the election. Refer to resolution 78-8 for results. There were no referendums held during the audit period.</p>
<p>3. The Authority may acquire rolling stock or other property under a contract or trust agreement, including a conditional sales contract, lease, and equipment trust certificate.</p>	<p>451.057</p>	<p>Compliance. METRO has acquired rolling stock under contracts and other property under Series A and B leases.</p>
<p>4. The Authority shall by resolution make all rules and regulations governing the use, operation and maintenance of the system and shall determine all routings and change the same whenever it is deemed advisable by the Authority.</p>	<p>451.107(a)</p> <p>451.056(d)</p>	<p>Compliance. Article II, Section I of the Board Bylaws specifies that responsibility for management, control and operation of the Authority and its properties is vested with the Board.</p>
<p>5. An Authority may not (construct, reconstruct or maintain any highway, road, thoroughfare, or arterial or local street...) in a municipality without: (1) the consent of the governing body of the municipality; or (2) a contract with the municipality that specifies the actions the Authority may take in the municipality.</p> <ul style="list-style-type: none"> <li>An Authority confirmed before 1985 may, in the Authority: (1) construct or maintain a sidewalk, hiking trail, or biking trail; (2) install or maintain streetlights, and (3) in performing an activity under Subdivision (1) or (2), make drainage improvements and take drainage-related measures as</li> </ul>	<p>451.065(d)(1)</p> <p>451.065(b)</p>	<p>Compliance. METRO has reconstructed sidewalks as paving in connection with approved inter-local agreement during the audit period.</p>

## Section 2: Authority Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>reasonable and necessary for the effective use of the transportation facility being constructed or maintained.</p> <ul style="list-style-type: none"> <li>An Authority confirmed before 1980 in which the principal municipality has a population of more than 1.2 million may not spend, during any five-year period, more than seven percent of its revenue from sales and use taxes and interest income during that period for all items described by Section 451.065 (b).</li> </ul>	451.066(a)	
<p>6. An inter-local contract must: (1) be authorized by the governing body of each party to the contract; (2) state the purpose, terms, rights, and duties of the contracting parties; and (3) specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.</p>	Texas Govt Code 791.011(d)	Compliance. Inter-local agreements are executed according to State requirements and are renewed annually if the period covered is more than one year.
<p>7. An inter-local contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract.</p>	791.011(e)	Compliance. Inter-local agreements specify funding arrangements and compensation levels.
<p>8. A local government may provide emergency assistance to another local government, whether or not the local governments have previously agreed or contracted to provide that kind of assistance, if: (1) in the opinion of the presiding officer of the governing body of the local government desiring emergency assistance, a state of civil emergency exists in the local government that requires assistance from another local government and the presiding officer requests the assistance; and (2) before the emergency assistance is provided, the governing body of the local government that is to provide the assistance authorizes that local government to provide the assistance by resolution or other official action.</p>	791.027(a)	Compliance. METRO continues to provide emergency services through TranStar, the region's consolidated emergency management center. METRO's partners in TranStar are the City of Houston, Harris County and the Texas Department of Transportation. Under the TranStar agreement, METRO participates in a standing arrangement to provide consolidated emergency management services for the region, along with other agencies that include FEMA and the Houston police and fire departments. METRO has a standard agreement with the City of Galveston to provide buses for emergency evacuations.
<p>9. Any revenue bond indenture may provide limitations upon the exercise of the powers stated in this section and such limitations shall apply so long as any of the revenue bonds issued pursuant to such indenture are outstanding and unpaid.</p>	451.353(b)	Not applicable. METRO did not issue any bonds during the scope period.
<p>10. The Authority shall have power to lease the system or any part thereof to, or contract for the use or operation of the</p>	451.056(a)(3) & (b)	Not applicable. METRO has not leased the system or any part thereof during the scope period.

## Section 2: Authority Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>system or any part thereof by, any operator; provided, however, that a lease of the entire system shall be subject to the written consent and approval of the governing body of the principal city.</p>		
<p>11. The Authority may contract with any city, county, or other political subdivision for the Authority to provide public transportation services to any area outside the boundaries of the Authority on such terms and conditions as may be agreed to by the parties.</p>	451.056	<p>Compliance. Inter-local agreements were executed according to State requirements and are renewed annually if the period covered is more than one year. METRO executed one agreement during the scope period with Harris County to provide service to Baytown.</p>
<p>12. If an Authority in which a local sales and use tax has been imposed changes or alters its boundaries, the presiding officer of the Board shall forward to the comptroller of public accounts by United States registered mail or certified mail a certified copy of the order adding territory to the Authority or of the order canvassing the returns and declaring the result of the election.</p> <ul style="list-style-type: none"> <li>The order shall reflect the effective date of the tax and shall be accompanied by a map of the Authority clearly showing the territory added or detached</li> </ul>	451.555(b)(1) & (c) 451.555(b)(2) & (d)	<p>Not applicable. METRO boundaries have remained unchanged during the audit period. However, when a city changes its boundaries, METRO's boundaries may change.</p>
<p>13. An Authority may impose any kind of tax except an ad valorem property tax.</p> <ul style="list-style-type: none"> <li>An Authority may not impose a tax or increase the rate of an existing tax unless a proposition proposing the imposition or rate increase is approved by a majority of the votes received at an election held for that purpose.</li> <li>The board shall, on or before November 1 of each year, certify to the county assessor-collector of each county having territory in the Authority the motor vehicle emissions tax rate for each class of motor vehicles for the succeeding tax year. The board shall furnish to the county assessor-collector motor vehicle emissions tax receipts in triplicate.</li> </ul>	451.401  451.402 (a)  451.418(d)	<p>Not applicable. METRO has not levied a motor vehicle emission tax.</p>
<p>14. The Authority shall furnish to the tax assessor-collector of each county situated in whole or in part within the boundaries of the Authority, motor vehicle emission tax receipts in triplicate each of which shall, when issued bear a number of other identifying symbol of the motor vehicle for which issued.</p>	451.418(b) & (d)	<p>Not applicable. METRO has not levied a motor vehicle emission tax.</p>



# Section 2: Authority Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS												
<p>15. The maximum emissions tax which may be levied by any Authority shall not exceed the respective annual sums shown in the following table:</p> <table border="0" style="margin-left: 40px;"> <tr> <td style="text-align: center;"><u>Cubic Inches of Cylinder Displacement</u></td> <td style="text-align: center;"><u>Annual Tax Per Vehicle</u></td> </tr> <tr> <td style="text-align: center;">51-100</td> <td style="text-align: center;">\$6</td> </tr> <tr> <td style="text-align: center;">01-200</td> <td style="text-align: center;">\$7</td> </tr> <tr> <td style="text-align: center;">01-300</td> <td style="text-align: center;">\$8</td> </tr> <tr> <td style="text-align: center;">01-900</td> <td style="text-align: center;">\$10</td> </tr> <tr> <td style="text-align: center;">901 or more</td> <td style="text-align: center;">\$15</td> </tr> </table> <ul style="list-style-type: none"> <li>• The Board of an Authority shall each year fix the rate of tax for each group by fixing the percentage (not more than 100) of the foregoing respective maximum rates, which percentage shall apply equally and uniformly to all groups and to all members of each group.</li> </ul>	<u>Cubic Inches of Cylinder Displacement</u>	<u>Annual Tax Per Vehicle</u>	51-100	\$6	01-200	\$7	01-300	\$8	01-900	\$10	901 or more	\$15	<p style="text-align: center;">451.414(a)</p>          <p style="text-align: center;">451.414(b)</p>	<p>Not applicable. METRO has not levied a motor vehicle emission tax.</p>
<u>Cubic Inches of Cylinder Displacement</u>	<u>Annual Tax Per Vehicle</u>													
51-100	\$6													
01-200	\$7													
01-300	\$8													
01-900	\$10													
901 or more	\$15													
<p>16. In addition to or in lieu of the motor vehicle emission taxes provided for in this Act, the Board of an Authority may levy and collect any kind of tax, other than an ad valorem tax on property, which is not prohibited by the Texas Constitution.</p>	<p style="text-align: center;">451.401</p>	<p>Not applicable. METRO has not levied a motor vehicle emission tax.</p>												
<p>17. No tax of any kind may be levied and collected by the Board until a proposition proposing the tax has first been submitted to and approved by a majority of the qualified electors of an Authority voting at an election held by the Board for that purpose.</p> <ul style="list-style-type: none"> <li>• A separate proposition must be submitted for each kind of tax proposed, and propositions may be submitted in the alternative with provision for the method of determining the results of the election.</li> <li>• Each proposition must include a brief statement of the nature of the proposed tax.</li> <li>• The notice of the election must include a statement or description of the basis of or rate at which the tax is proposed to be levied.</li> <li>• Any subsequent increase in a tax must also be approved at an election.</li> </ul>	<p style="text-align: center;">451.402(a)-(c)</p>	<p>Compliance. The election in which voters approved the creation of METRO and sales tax was held in August 1978. Additional taxes or sales tax increases have not been sought by METRO since the 1978 election.</p>												
<p>18. Prior to an election to authorize a tax other than motor vehicle emission taxes or a sales and use tax, the Board shall adopt</p>	<p style="text-align: center;">451.403 (a) &amp; (b)</p>	<p>Not applicable. METRO has not requested authorization for</p>												

## Section 2: Authority Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>a complete tax code and rules and regulations providing for the nature and amount of any tax with provisions for complete administration and enforcement, including the time and manner of payment, exemptions, liens, interest, penalties, discounts for advance payment, refunds for erroneous payment, fees for collection, collection procedures, manner of enforcement, required returns, registration and reports of taxpayers, the duties and responsibilities of tax officers and taxpayers, the delegation to tax officers to make additional rules and regulations and determination as and to obtain records as may be appropriate, and every other provision which may be determined to be desirable, including incorporation of any tax laws and remedies for the administration and enforcement that are available to the state or any political entities under general law.</p>		<p>taxes other than the 1978 one-percent sales tax.</p>
<p>19. A tax code and rules and regulations may be amended by the Board from time to time after an election approving a tax, but no amendment may increase the amount of a tax unless the increase is approved at an election.</p>	<p>451.403(c)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the 1978 one-percent sales tax.</p>
<p>20. In addition, the qualified voters of an Authority by petition may require that an election be held on the question of increasing the tax rate.</p>	<p>451.408(b)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the 1978 one-percent sales tax.</p>
<p>21. After receiving a petition, the Board shall submit the petition to the secretary of state for validation.</p> <ul style="list-style-type: none"> <li>• If the secretary of state finds the petition valid or fails to act within the time allowed, the Board shall call an election.</li> <li>• The Authority shall pay the costs of determining the validity of a petition, if any, and of the election.</li> </ul>	<p>451.409(b) 451.409(d) 451.409(e)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the 1978 one-percent sales tax.</p>
<p>22. At the election, the ballots shall be prepared to permit voting for or against the following proposition: "The increase (decrease) of the local sales and use tax rate to (percentage)."</p> <ul style="list-style-type: none"> <li>• A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation or its successor and the comptroller of public accounts and shall be</li> </ul>	<p>451.410 451.411(b)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the 1978 one-percent sales tax.</p>

## Section 2: Authority Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>filed in the deed records of each county in which the Authority is located in the same manner as provided for a confirmation and tax election by Section 5 of this Act.</p>		
<p>23. An Authority may not adopt a sales and use tax or increase the rate of its sales and use tax under this section if as a result of the adoption of the tax or the tax increase the combined rate of all sales and use taxes imposed by the Authority and other political subdivisions of this state having territory in the Authority would exceed two percent at any location in the Authority.</p>	<p>451.405(a)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the 1978 one-percent sales tax.</p>
<p>24. The board, subject to Section 451.402, may impose for an Authority a sales and use tax at the rate of: (1) one-quarter of one percent; (2) one-half of one percent; (3) three-quarters of one percent; or (4) one percent.</p> <p>Chapter 322, Tax Code, applies to an Authority's sales and use tax.</p> <ul style="list-style-type: none"> <li>• In an election ordered by a board:               <ol style="list-style-type: none"> <li>(1) the board shall give notice of the election by publication in a newspaper of general circulation in the Authority at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election; and</li> <li>(2) a resolution ordering the election and the election notice must show, in addition to the requirements of the Election Code, the hours of the election and polling places in election precincts.</li> </ol> </li> <li>(b) Subsection (a) does not apply to an election under Subchapter N.</li> </ul>	<p>451.404(a)</p> <p>451.404(b)</p> <p>451.407</p> <p>451.070(b)</p> <p>451.070(a)(1)</p> <p>451.070(a)(2)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the 1978 one-percent sales tax.</p>

## Section 3: Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. All vacancies on the Board, whether by death or resignation shall be filled for the remainder of the term in the manner provided for the original appointment.</p>	<p>Texas Trans Code 451.504</p>	<p>Compliance. All vacancies on the Board during the audit period were filled in the same manner as the original appointment for those who resigned during the period. Other Board member appointments made during the audit period were to replace outgoing Board members before the position was vacant.</p>
<p>2. Each member of the Board shall be reimbursed for his necessary and reasonable expenses incurred in the discharge of his duties.</p> <ul style="list-style-type: none"> <li>• Each member of a Board is entitled to \$50 for each meeting of the Board attended, not to exceed five meetings in a calendar month.</li> </ul>	<p>451.519(a)  451.519(b)</p>	<p>Compliance. The Board Liaison Officer prepared a monthly list of Committee and Board meetings attended for each Board member. This list was submitted to the Director of Accounting for review and approval prior to payment. A review of sample payments indicated compliance with the \$250 per month maximum allowed. The review of other payments to Board Members indicates that Board Members were reimbursed for necessary and reasonable expenses incurred in the discharge of their duties.</p>
<p>3. The members of the Board, who shall be resident citizens, and qualified voters of the Authority, shall elect from among their number a chairman, a vice-chairman and a secretary.</p> <ul style="list-style-type: none"> <li>• The Board shall elect from among its membership a presiding officer, an assistant presiding officer and a secretary.</li> <li>• The Board may appoint such assistant secretaries, either members or nonmembers of the Board, as it deems necessary.</li> <li>• The secretary and assistant secretaries shall, in addition to keeping the permanent records of all proceedings and transactions of the Authority, perform such other duties as may be assigned to them by the Board.</li> <li>• No member of the Board or officer of the Authority shall be peculiarly interested or benefited, directly or indirectly, in any contract or agreement to which the Authority is a party.</li> </ul>	<p>451.507 451.520 (a) - (c) 451.112</p>	<p>Compliance. Appointed METRO Board members meet the qualifications of residency and voting.</p> <p>METRO is in compliance with the other sections of this requirement, as established in Section III B of the METRO Code of Ethics.</p>

## Section 3: Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>4. It is a ground for removal from the Board if a member: (i) does not have at the time of appointment the qualifications required by Section 451.507 of this Act; (ii) does not maintain during service on the Board the qualifications required by Section 451.507 of this Act; (iii) violates a prohibition established by Chapter 171, Local Government Code or Section 451.112 of this Act; (iv) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or (v) is absent from more than half of the regularly scheduled Board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the Board.</p>	<p>451.510</p>	<p>Not applicable. METRO did not request the removal of any individual serving on the Board.</p>
<p>5. The Board shall hold at least one regular meeting during each month for the purpose of transacting the business of the Authority.</p> <ul style="list-style-type: none"> <li>• Upon written notice, the chairman or the general manager may call special meetings as may be necessary.</li> <li>• The Board, when organized, shall by resolution recorded in the minutes, set the time, place and day of the regular meetings, and shall likewise adopt rules and regulations and such bylaws as it may deem necessary for the conduct of its official meetings.</li> <li>• A majority of the members shall constitute a quorum of the Board for the purpose of conducting its business and exercising its powers and action may be taken by the Authority upon a vote of a majority of the Board members present unless the bylaws require a larger number for a particular action.</li> </ul>	<p>451.514(a)</p> <p>451.514(b)</p> <p>451.514(a), 451.517</p> <p>451.515 (a)</p>	<p>Compliance. At least one regular meeting was held each month during the audit period.</p> <p>Compliance. As established in Article II Section 6 of the METRO Bylaws.</p> <p>Compliance. As established in Article II Section 8 of the METRO Bylaws.</p>
<p>6. The Board shall post notices and hold its meetings pursuant to Chapter 551, Govt. Code, except that the Board shall have notices of its meetings posted on a bulletin Board located at a place convenient to the public at its administrative offices and a bulletin Board located at a place convenient to the public at the county courthouse of the most populous county in which the principal city is located.</p>	<p>451.518</p>	<p>Compliance. A sample review of the Board Meeting postings indicated receipt by courthouse personnel and posting of the notices in the METRO Administrative Office.</p>

## Section 3: Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>7. Each member shall serve a term of two years. A person may not serve more than eight years on the same board. A term limitation provided by this section does not apply to service on the board by a holdover pending the qualifications of a successor.</p>	<p>451.505(a) &amp; 451.506(b) 451.506(d)</p>	<p>Compliance. The METRO Bylaws Article II, Section 2 established the board term as eight years. The terms of the members of the Board are staggered. A review of Board member service dates indicated that Board member service had not exceeded eight years.</p>
<p>8. The Board of an Authority in which the principal city has a population of more than 1,900,000, according to the most recent federal census, may establish advisory committees to make recommendations to the Board or general manager about the operation of the Authority.</p> <p>A member of an advisory committee may not be compensated by the Authority for committee service but is entitled to reimbursement for actual and necessary expenses incurred in the performance of committee service.</p>	<p>451.109(a) &amp; (d)  451.109(c)</p>	<p>Not applicable. The Board had not established special advisory committees. Resolution 99-1 established four Standing Committees for the Board; Future Programs, Internal Operations, Transit Services; and Budget and Finance. The number of Standing Committees was increased to five with Resolution 2004-32: Finance Committee/Audit, Future Programs/Planning Committee, Government and Public Relations Committee, Human Resources Committee and the Operations Committee. Resolution 2010-83 modified the names of four of the five standing committees.</p>
<p>9. The Board shall appoint members to an advisory committee from a list of persons recommended by the general manager to serve at the pleasure of the Board.</p> <ul style="list-style-type: none"> <li>In making appointments to an advisory committee established under this section, the Board shall appoint persons who have knowledge about and interest in and represent a broad range of viewpoints concerning the work of the committee.</li> </ul>	<p>451.109(b)</p>	<p>Not applicable. The Board had not established special advisory committees.</p>
<p>10. The Board shall specify the purpose, powers, duties, and manner of reporting the results of the work of an advisory committee established under this section.</p>	<p>451.109(a)</p>	<p>Not applicable. The Board had not established special advisory committees.</p>
<p>11. Except as provided by Section 451.106, the responsibility for the management, operation and control of the properties belonging to an Authority shall be vested in its Board.</p>	<p>451.053</p>	<p>Compliance. As established in Article II Section I of the METRO Bylaws.</p>

## Section 3: Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>12. The Board may: (1) employ all persons, firms, partnerships or corporations deemed necessary by the Board for the conduct of the affairs of the Authority, including, but not limited to, a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers and operating or management companies, and prescribe the duties, tenure and compensation of each. (all employees may be removed by the Board); (2) become a subscriber under the Texas workers' compensation laws with any old-line legal-reserve insurance company authorized to write policies in the State of Texas; (3) adopt a seal of the Authority; (4) invest funds of the Authority in direct or indirect obligations of the United States, the state, or any county, city, school district or other political subdivision of the state; funds of the Authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas; the Board, by resolution, may provide that an authorized representative of the Authority may invest and reinvest the funds of the Authority and provide for money to be withdrawn from the appropriate accounts of the Authority for the investments on such terms as the Board considers advisable; (5) fix the fiscal year for the Authority; (6) establish a complete system of accounts for the Authority and each year shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection; and (7) designate one or more banks to serve as the depository for the funds of the Authority.</p>	<p>451.101 and 451.105 (a)</p>	<p>Compliance. The Board had employed the services of the President &amp; Chief Executive Officer of METRO to administer the daily operations of the Authority. Board resolutions authorize the President to contract with individuals, corporations, etc. to perform services and provide materials to the Authority.</p>

## Section 3: Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>13. The Board of an Authority in which the principal has a population of less than 850,000 or more than 1,900,000, shall employ a general manager to administer the daily operations of the Authority. The general manager may employ persons to conduct the affairs of the Authority and may prescribe their duties and compensation, subject to Board approval of the budget of the Authority and in accordance with personnel policies adopted by the Board. Subject to those policies, only the general manager may remove any employee. The general manager may, subject to approval of the Board, contract with individuals, partnerships, corporations, or other entities to perform work or provide materials for the Authority.</p>	<p>451.106(a)-(c)</p>	<p>Compliance. The Board had employed the services of the President &amp; Chief Executive Officer of METRO to administer the daily operations of the Authority. Board resolutions authorize the President to contract with individuals, corporations, etc. to perform services and provide materials to the Authority.</p>
<p>14. The Board of an Authority in which the principal city has a population of less than 850,000 or more than 1,900,000, shall develop and implement policies that clearly define the respective responsibilities of the Board and the staff of the Authority.</p>	<p>451.106(d)</p>	<p>Compliance. As established in Article II Section 11 of the METRO Bylaws.</p>
<p>15. The Board of an Authority to which this section applies shall establish a program to promote the availability and use of the transportation services of the Authority by physically handicapped individuals.</p> <ul style="list-style-type: none"> <li>• Before establishing the program, the Board shall hold public hearings relating to the establishment and operation of the program.</li> <li>• The program must address the specific transportation problems of physically handicapped individuals and establish mechanisms by which transportation services are to be provided to those individuals.</li> </ul>	<p>451.254(a) 451.254(b) 451.254(a)</p>	<p>Compliance. Resolution Number 87-90 reaffirmed and restated METRO's policy of providing transportation services to the elderly and disabled. METRO followed the Federal Americans with Disabilities Act and other laws with regard to accessibility of its system, programs, and services.</p>



## Section 3: Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>16. The Board may adopt and enforce reasonable rules and regulations: (1) to secure and maintain safety and efficiency in the operation and maintenance of its system; (2) governing the use of the Authority's system and services by the public and the payment of fares, tools and charges; (3) regulating privileges on any land, easement, right-of-way, rolling stock or other property owned, leased, rented or otherwise controlled by the Authority; and (4) regulating the collection and payment of emission taxes levied by the Board.</p>	<p>451.107 451.420</p>	<p>Not Applicable. The Board has not adopted rules and regulations, but rather has developed policies, enacted by Resolutions, to guide day-to-day management of areas such as procurement; real estate, operations, and fare policy.</p>
<p>17. A condensed substantive statement of the rules and regulations shall be published after adoption once a week for two consecutive weeks in a newspaper with general circulation in the area in which the Authority is located, which notice shall advise that the full text of the rules and regulations is on file in the principal office of the Authority where it may be read by any interested person.</p>	<p>451.107(b)</p>	<p>Not Applicable. The Board has not adopted rules and regulations.</p>
<p>18. An Authority may employ and commission its own peace officers with power to make arrests in all counties where the system is located when necessary to prevent or abate the commission of an offense against the laws of the state or a political subdivision of the state when the offense or threatened offense occurs on or involves the system of the Authority, to make arrests in cases of an offense involving injury or detriment to the system, to enforce all traffic laws and investigate traffic accidents which involve or occur in the system, and to provide emergency and public safety services to the system or person who use the system.</p>	<p>451.108</p>	<p>Compliance. A sample review of peace officer personnel information files indicated peace officers are commissioned by the Authority.</p>
<p>19. Any person, commissioned under this section must be a certified peace officer who meets the requirements of the Texas Commission on Law Enforcement Officer Standards and Education, who shall file with the Authority the sworn oath required of peace officers, and who is vested with all the powers, privileges and immunities of peace officers in all counties where the system is located, provides services, or is supported by a general sales and use tax.</p>	<p>451.108(d)</p>	<p>Compliance. A sample review of peace officer personnel information files and training records indicated peace officers were certified.</p>

## Section 3: Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>APPLIES ONLY IF AUTHORITY HAS TAKEN THIS ACTION</p> <p>20. Any member of the Board may be removed from office by a majority vote of the remaining members of the Board for inefficiency, neglect of duty or malfeasance in office, not having at appointment or maintaining during service on the ; provided, however, that the Board shall furnish to such member a statement in writing of the nature of the charges as grounds for such removal, and the member, before the 11th day after receipt of the statement, may request a hearing before the Board and opportunity to be heard in person or through counsel.</p> <ul style="list-style-type: none"> <li>• After any such hearing, if the Board by a majority vote finds that the charges are true, it shall confirm its decision to remove the member.</li> </ul>	<p>Texas Trans. Code 451.508 451.510 451.511(a) 451.511(b) &amp; (c)</p>	<p>Not applicable. The Board did not take action against any Board member for inefficiency, neglect of duty or malfeasance in office during the audit period.</p>
<p>21. In an Authority in which the principal municipality has a population of more than 850,000, a member of the board may be removed for any ground described by Section 451.510 by the person or entity that appointed the member. If the person who appointed the member is the mayor of the principal municipality, the removal is by recommendation of the mayor and confirmation by the municipality's governing body. If the member to be removed was appointed by the mayor of the principal municipality, the statement required by Section 451.511(a) shall be given by the mayor, and confirmation of removal by the governing body of the municipality is necessary.</p>	<p>451.509(c)</p>	<p>Not applicable. There were no Board members subject to the recall procedure during the audit period.</p>

## Section 3: Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>22. A board member of an Authority that has a principal municipality with a population of more than 850,000 may be removed, as provided by this section, on a petition for the recall of the member submitted by the registered voters of the Authority. Recall of a member under this section is in addition to any other method for removal under this subchapter. This is the wording in the code.</p> <ul style="list-style-type: none"> <li>• A petition is valid if (1) it states that it is intended to require a reconsideration on the question of removing an identified Board member; (2) it is signed by qualified voters equal in number to at least 10% of the number of voters of the Authority voting in the previous governor's election; (3) if the signatures are collected within a period of 90 days prior to the date on which the petition is presented to the appointing political subdivision, and (4) it is submitted to the appointing political subdivision before the first day of the final six months of the term of the member whose removal is sought.</li> </ul>	451.513(a) & (c)	Not applicable. There were no petitions from qualified voters regarding the removal from office of a Board member during the audit period.
<p>23. After receiving a petition, the appointing political subdivision shall submit it to the secretary of state, who, not later than the 10<sup>th</sup> day after the day he or she receives the petition, shall determine.</p> <ul style="list-style-type: none"> <li>• If the secretary of state fails to act within the time allowed, the petition is treated as if it had been found valid.</li> </ul>	451.513(d)	Not applicable. There were no petitions from qualified voters regarding the removal from office of a Board member during the audit period.
<p>24. If the appointing political subdivision receives notice from the secretary of state that the petition is valid or if the secretary of state has failed to act within the time allowed, the appointing political subdivision shall reconsider such appointment and take action to either remove or reconfirm such appointee.</p>	451.513(b)	Not applicable. There were no petitions from qualified voters regarding the removal from office of a Board member during the audit period.
<p>25. The appointing Authority that appointed the member removed by recall shall fill the vacancy not later than the 30th day after the day of removal.</p>	451.513(e)	Not applicable. There were no petitions from qualified voters regarding the removal from office of a Board member during the audit period.

## Section 3: Board Matters Compliance

---

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>26. A member removed by recall is not eligible for reappointment to fill the vacancy and is not eligible for appointment to any other position on the Board for a length of time after the day of removal equal to the length of a normal term of a member of the Board.</p>	<p>451.513(e)</p>	<p>Not applicable. There were no petitions from qualified voters regarding the removal from office of a Board member during the audit period.</p>
<p>27. If the general manager of the Authority has knowledge that a potential ground for removal exists, the general manager shall notify the chairman of the Board of the ground.</p> <ul style="list-style-type: none"> <li>• The chairman shall then notify the appointing agency that a potential ground for removal exists.</li> </ul>	<p>451.509(d)</p>	<p>Not applicable. There were no Board members removed from the Board by the agency that appointed them during the audit period.</p>

# Section 4: Conflict of Interest Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
1. Regulation of conflicts of interest of officers of transit authorities	Texas Local Government Code 171.001	Compliance. As established in Section III B of the METRO Code of Ethics.
2. A local public official commits an offense if the official knowingly violates Section 171.004; acts as surety for a business entity that has work, business, or a contract with the governmental entity; or acts as surety on any official bond required of an officer of the governmental entity.	171.002 171.003	Compliance. METRO Code of Ethics defines substantial interest in Section II, O. The METRO policy meets or exceeds the requirement of the code. There were no such incidents during the audit period
<p>3. If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if: (1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or (2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.</p> <ul style="list-style-type: none"> <li>• The affidavit must be filed with the official record keeper of the governmental entity.</li> <li>• If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.</li> </ul>	171.004	Compliance. As established in Section III B of the METRO Code of Ethics. Board members disclosed all real property in which they have a substantial interest. Such disclosures are on file with METRO's Office of General Counsel.
4. The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest. Except as provided by Section 171.004(c), the affected member may not participate in that separate vote. The member may vote on a final budget if: (1) the member has complied with this chapter; and (2) the matter in which the member	171.005 (a), (b)	Compliance. METRO Code of Ethics defines substantial interest in Section II, O. The METRO policy meets or exceeds the requirement of the Board aides by the policy.

# Section 4: Conflict of Interest Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
is concerned has been resolved.		
<p>5. Conflicts disclosure statement required. (a) A local government officer shall file a conflicts disclosure statement with respect to a person described by Section 176.002(a) if: (1) the person enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the person; and</p> <p>(2) the person: (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that:</p> <p>(web) a contract described by Subdivision (i) has been executed; or (ii) the local governmental entity is considering entering into a contract with the person; or</p> <p>(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that:</p> <p>(i) a contract described by Subdivision (1) has been executed; or (ii) the local governmental entity is considering entering into a contract with the person.</p> <p>A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is given by a family member of the person accepting the gift, a political contribution as defined by Title 15, Election Code, or food, lodging, transportation, or entertainment accepted as a guest.</p>	<p>176.003 (2) (B) 176.003 (a-1)</p>	<p>Compliance. METRO Code of Ethics defines substantial interest in Section II, O and Section III, B. Section III (G) includes these exceptions and there were no conflict of interests disclosure requirements related to the criteria</p>
<p>6. A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a).</p>	<p>173.003(b)</p>	<p>Compliance. METRO Code of Ethics Section III (B) policy lines with the criteria. Conflict of Interest statements are file with the Office of General Counsel. Sample tested disclosure statements file by Board members.</p>
<p>7. Disclosure requirements for vendors and other persons; questionnaire. A person described by Subsection (a) shall file an</p>	<p>176.006 (d)</p>	<p>Compliance. METRO Code of Ethics Section III (B) policy lines with the criteria. Conflict of interest vendor</p>

# Section 4: Conflict of Interest Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate.</p>		<p>questionnaires are required. As part of procurement process. Sample tested vendor questionnaires for compliance.</p>
<p>8. The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:</p> <ul style="list-style-type: none"> <li>(1) the date that the person:               <ul style="list-style-type: none"> <li>(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or</li> <li>(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or</li> </ul> </li> <li>(2) the date the person becomes aware:               <ul style="list-style-type: none"> <li>(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a); or</li> <li>(B) that the person has given one or more gifts described by Subsection (a).</li> </ul> </li> </ul>	<p>176.006</p>	<p>Compliance. Conflict of interest policies Chapter 21 of the Procurement Manual require vendors to prepare a questionnaire as part of the contracting process. Disclosures are made and the questionnaires may be accessed by the public on METRO's website.</p>
<p>9. A local governmental entity that maintains an Internet website shall provide access to the statements and to questionnaires required to be filed under this chapter on that website. This subsection does not require a local governmental entity to maintain an Internet website.</p> <p>(b) This subsection applies only to a county with a population of one million or more or a municipality with a population of 500,000 or more. A county or municipality shall provide, on the Internet website maintained by the county or municipality, access to each report of political contributions and expenditures filed under Chapter 254, Election Code, by a member of the commissioners court of the county or the governing body of the municipality in relation to that office as soon as practicable after the officer files the report.</p>	<p>176.009</p>	<p>Compliance. METRO provides access to Conflict of Interest disclosure statements and questionnaires on its website @ <a href="http://www.RideMetro.Org">www.RideMetro.Org</a>.</p>
<p>10. Maintenance of records. A records administrator shall maintain the statements and questionnaires that are required to be filed under this chapter in accordance with the local governmental entity's records retention schedule.</p>	<p>176.011</p>	<p>Compliance. Conflicts of Interest statements are maintained as part of the Records Management Policy and are included on the Law departments file plan for record retention.</p>

# Section 4: Conflict of Interest Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>11. A person commits an offense (bribery) if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:  any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;  (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official;</p>	<p>Texas Penal Code  36.02 (a) (1) (3)</p>	<p>Compliance. Section III (A) of the METRO Code of Ethics defines these as prohibited acts.</p>
<p>12. It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:  (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or  (2) the public servant ceases to be a public servant</p>	<p>36.02(c)</p>	<p>Compliance. Section III (A) of the METRO Code of Ethics defines these as prohibited acts.</p>
<p>13. Acceptance of honorarium. A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.</p>	<p>36.07(a)</p>	<p>Compliance. METRO Code of Ethics Policy Section III (A) (4) includes this criteria related to acceptance of an honorarium.</p>
<p>14. Acceptance of honorarium. This section does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event.</p>	<p>36.07(b)</p>	<p>Compliance. Section III (G) of the METRO Code of Ethics Policy defines the exceptions for receiving an honorarium.</p>
<p>15. Gift to public servant by person subject to his jurisdiction. A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.</p>	<p>36.08</p>	<p>Compliance. METRO Code of Ethics Section III (A) (4) prohibits Board members and employees from the actions described.</p>



# Section 4: Conflict of Interest Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>16. Prohibition applicable to public official. A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:</p> <p>(1) the individual is related to the public official within a degree described by Section 573.002; or</p> <p>(2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.</p>	<p>Texas Government Code 573.041(a)</p>	<p>Compliance. Section III (A) of the METRO Code of Ethics and the METRO Conflict of Interest Polices include the 573.041(a) criteria as prohibited acts.</p>
<p>17. Computation of degree of consanguinity. An individual's relatives within the third degree by consanguinity are the individual's:</p> <p>(1) parent or child (relatives in the first degree);</p> <p>(2) brother, sister, grandparent, or grandchild (relatives in the second degree); and</p> <p>(3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).</p>	<p>573.023( c)</p>	<p>Compliance. METRO Conflict of Interest and Code of Ethics are consistent with the code requirements regarding consanguinity and determination of affinity</p>
<p>18. Determination of affinity. (a) Two individuals are related to each other by affinity if:</p> <p>(1) they are married to each other; or</p> <p>(2) the spouse of one of the individuals is related by consanguinity to the other individual.</p> <p>(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.</p> <p>(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.</p>	<p>573.024 (a)</p>	<p>Compliance. METRO Conflict of Interest and Code of Ethics are consistent with the code requirements regarding consanguinity and determination of affinity.</p>

# Section 4: Conflict of Interest Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>19. Continuous employment. (a) A nepotism prohibition prescribed by Section 573.041 or by a municipal charter or ordinance does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:</p> <p>(1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and</p> <p>(2) that prior employment of the individual is continuous for at least:</p> <p>(A) 30 days, if the public official is appointed;</p> <p>(B) six months, if the public official is elected at an election other than the general election for state and county officers; or</p> <p>(C) one year, if the public official is elected at the general election for state and county officers.</p> <p>(b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.</p>	<p>573.062 (a) (1) (2), 573.062 (b)</p>	<p>Compliance. METRO Code of Ethics Section III, (C), (D), (E), and (F) is consistent with the code requirements regarding consanguinity and determination of affinity.</p>

# Section 5: Contract Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. An Authority that does not have an up-to-date disadvantaged business enterprise program, as defined by 49 C.F.R. Part 23 and 49 C.F.R. Part 26, to assist minorities and women in participating in Authority contracts should establish goals for that participation. The recommended contract goals are: (1) 17 percent for construction, 11 percent for purchasing, and 24 percent for professional services; or (2) the weighted average equivalent of the categories in Subdivision (1).</p> <p>The Board of an Authority to which this section applies shall establish a program to encourage participation in contracts of the Authority by businesses owned by minority or disadvantaged individuals.</p>	<p>Texas Trans Code 451.251</p> <p>451.252(a)</p>	<p>Compliance. METRO's Small Business/Disadvantaged Business Enterprise Program and operational procedures, which are race and gender neutral, ensured opportunities for Small Business and Disadvantaged Businesses to participate in METRO's contracting activities.</p>
<p>2. An Authority shall contract with the Texas Dept of Human Services (DHS) to provide transportation services to a person who: (1) resides in the area served by the Authority; (2) is receiving financial assistance under Chapter 31, Human Resources Code; and (3) is registered in the jobs opportunities and basic skills training program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682). The contract must include provisions to ensure that: (1) the Authority is required to provide transportation services only to a location: (A) to which the person travels in connection with participation in the jobs opportunities and basic skills training program; and (B) that the Authority serves under the Authority's authorized rate structure and existing services; (2) the authority provides directly to the Texas DHS trip vouchers for distribution by the dept to a person who is eligible under this section; (3) the Texas DHS reimburses the authority for costs, at the applicable federal matching rate; and (4) the Texas DHS may return undistributed trip vouchers.</p>	<p>451.255(a) 451.255(b)</p>	<p>Not applicable. METRO staff reports that the authority has contracted Medical Transportation Management Inc, to provide outsourced fare media for the Medicaid program and METRO-lift for disabled students to Texas Department of Human Services. DHS has not requested METRO to provide services or trip vouchers for the jobs opportunities and basic skills training program.</p>
<p>3. Contracts for more than \$50,000 for the construction of improvements or the purchase of material, machinery, equipment supplies and all other property except real property, shall be let on competitive bids after notice published once a week for two consecutive weeks, the first publication to be at least 15 days before the date fixed for receiving bids, in a newspaper of general circulation in the area in which the Authority is located.</p> <ul style="list-style-type: none"> <li>The Board may adopt rules governing the taking of bids and the</li> </ul>	<p>451.110(a)&amp;(c)</p> <p>451.110(b)</p> <p>451.111</p>	<p>Compliance. METRO's Procurement Manual details the competitive bidding process in Chapter 7. Chapter 7.4 defines advertising requirements.</p> <p>Compliance. METRO has Emergency and Urgent Purchasing Guidelines. The President &amp; CEO may declare the existence of an emergency such that competitive bidding is deemed inappropriate for a procurement valued over \$50,000. The CEO's declaration</p>

# Section 5: Contract Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>awarding of such contracts and providing for the waiver of this requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that, except for construction of improvements on real property, in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, except for construction of improvements on real property, after solicitation it is ascertained that there will be only one bidder. (This subsection does not apply to personal and professional services or to the acquisition of existing transit systems.)</p> <ul style="list-style-type: none"> <li>The Board of an Authority may not let a contract (1) that is not subject to competitive bidding requirements, (2) that is for more than \$50,000 and (3) that is for the purchase of real property or for consulting or professional services, unless an announcement that a contract is being considered is posted in a prominent place in the principal office of the Authority for at least two weeks before the contract is awarded. (This subsection does not apply to the acquisition of existing transit systems.)</li> </ul>		<p>is subject to ratification by the Board of Directors in the next meeting.</p> <p>Compliance. METRO's Procurement Manual, Chapter 3.2 establishes policies and procedures which adhere to the criteria required by 451.111.</p>
<p>4. No state agency, political subdivision, county, municipality, district, Authority or publicly-owned utility of the State of Texas shall make any contract for, or engage the professional services or group or association thereof, selected on the basis of competitive bids submitted for such contract or for such services to be performed, but shall select and award such contracts and engage such services on the basis of demonstrated competence and qualifications for the type of professional services to be performed and at fair and reasonable prices, as long as professional fees do not exceed the maximum provided by any state law.</p>	<p>Texas Government Code 2254.003(a)</p> <p>2254.003(b)</p>	<p>Compliance. Chapter 8.5 of METRO's Procurement Manual specifies methods of selecting sources. Chapter 8.9 identifies appropriate evaluation factors. Chapter 3 of METRO's Procurement Manual includes policies relating to the selection of service contracts and includes six criteria for the evaluation of proposal responses.</p>
<p>5. In the procurement of architectural, engineering, or land surveying services, a governmental entity described by Section 2 of this Act, the entity shall negotiate a contract for the services on the basis of a two-step process: (1) initial selection shall be based on the demonstrated competence and qualifications of the person, including any firm, who is to provide the services; and (2)</p>	<p>2254.004(a)</p>	<p>Compliance. Chapter 3 of METRO's Procurement Manual includes six criteria for the evaluation of proposal responses, including: (1) qualifications and experience of personnel; (2) experience in related work/past performance; (3) management plan and ideas for coordinating work; (4) responsiveness to Small Business</p>

## Section 5: Contract Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>after the entity makes its selection according to Subsection (a) of this section, it shall proceed to negotiate a contract at a fair and reasonable price.</p>		<p>goal; (5) financial viability to accomplish the project; and (6) cost data.</p>
<p>6. If the entity is unable to negotiate a satisfactory contract with the most highly qualified person, the entity shall formally end negotiations with that person and begin negotiations with the second most highly qualified person.</p> <ul style="list-style-type: none"> <li>• Negotiations shall be undertaken in this sequence until a contract is made.</li> </ul>	<p>2254.004(b)  2254.004(c)</p>	<p>Compliance. A test sample of contracts was reviewed during the audit period.  Chapter 8 of METRO's Procurement Manual establishes the sequence for negotiating contracts.</p>
<p>7. It is declared to be against the public policy of the State of Texas for any official or group of officials of the State, or of a County, City, Municipality or other political subdivision of the State, to enter into a collective bargaining contract with a labor organization respecting the wages, hours, or conditions of employment of public employees, and any such contracts entered into after the effective date of this Act shall be null and void.</p>	<p>617.002(a) 617.002(b)</p>	<p>Compliance. METRO agreements predate State law and were a requirement as a condition of operation of transit services under Federal 13(c) requirements. METRO's agreement is unilateral.</p>

# Section 5: Contract Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>8. A governmental entity that makes a public works contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity: (1) a performance bond if the contract is in excess of \$100,000 and (2) a payment bond if the contract is in excess of \$25,000.</p> <p>A bond required by this section must be executed by a corporate surety or corporation sureties in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code). In the case of contracts of the State or a department, Board, or agency thereof, the aforesaid bonds shall be payable to the State and shall be approved by the Attorney General as to form. In case of all other contracts subject to this Act, the bonds shall be payable to the governmental awarding Authority concerned, and shall be approved by it as to form.</p> <p>Any bond furnished by any prime contractor in an attempted compliance with this Act shall be treated and construed as in conformity with the requirements of this Act as to rights created, limitations thereon, and remedies provided. Any provision in any bond furnished by a prime contractor in attempted compliance with this Act that expands or restricts the rights or liabilities provided under this Act shall be disregarded and the provisions of this Act shall be read into that bond.</p> <ul style="list-style-type: none"> <li>• A Performance Bond in the amount of the contract conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. Said bond shall be solely of the protection of the State or the governmental Authority awarding the contract, as the case may be.</li> </ul>	<p>2253.021(a) 2253.021(d) 2253.021(e) &amp; (f) 2253.021(b) 2253.021(c) &amp; 2253.021(a)(2) 2253.027</p>	<p>Compliance. Item No. 30 of METRO's Procurement Checklist is for Bonds (Payment, Performance, etc.). A sample review of construction contracts for the audit period indicated that METRO complied with those requirements of Chapter 17 of METRO's Procurement Manual specifies criteria for determining bonding requirements.</p>
<p>9. DETERMINATION OF PREVAILING WAGE RATES.</p> <ul style="list-style-type: none"> <li>• For a contract for a public work awarded by a political subdivision of the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by:(1) conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the state in</li> </ul>	<p>2258.022</p>	<p>Compliance. METRO policies and procedures indicate that the adopted method of compliance with the prevailing wage rate is the Davis- Bacon. Procurement documentation reviewed and selected contracts required compliance with Davis Bacon. Certified contractor payrolls are monitored for compliance.</p>

# Section 5: Contract Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>which the public work is to be performed; or (2) using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments.</p> <ul style="list-style-type: none"> <li>• the public body must determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents.</li> <li>• A public body shall specify in the call for bids for the contract and in the contract itself the wage rates determined under this section.</li> </ul>		

## Section 6: Energy Efficiency Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. Energy efficiency programs: Each political subdivision, institution of higher education, or state agency shall implement all energy efficiency measures that meet the standards established for a contract for energy conservation measures under Section 302.004(b) Local Government Code, in order to reduce electricity consumption by the existing facilities of the entity.</p>	<p>Texas Health and Safety Code 388.005 (b)</p>	<p>Compliance. METRO's plan includes development of an energy management program to educate employees on energy efficiency, identify and implement energy conservation measures, track utility usage, perform energy audits, and reduce METRO's utility consumption. METRO has initiated the development of an Energy Performance Contract in partnership with the City of Houston. METRO has procured a utility auditor to identify billing and meter errors. The energy efficiency program requirement commenced September 1, 2011. METRO began implementing the plan in FY 2012.</p>
<p>2. Energy efficiency programs: Each political subdivision, institution of higher education, or state agency shall establish a goal to reduce the electric consumption by the entity by at least five percent each state fiscal year for 10 years, beginning September 1, 2011.</p>	<p>388.005 (c)</p>	<p>Compliance. METRO has established an energy efficiency goal of a 5% reduction each year. The energy efficiency program requirement commenced September 1, 2011. METRO began implementing the plan in FY 2012.</p>
<p>3. Energy efficiency programs in institutions of higher education and certain governmental entities.</p> <ul style="list-style-type: none"> <li>• A political subdivision, institution of higher education, or state agency that does not attain the goals established under Subsection (c) must include in the report required by Subsection (e) justification that the entity has already implemented all available cost-effective measures. An entity that submits a report under this subsection indicating that the entity has reviewed its available options, has determined that no additional measures are cost-effective, and has already implemented all available cost-effective measures is exempt from the annual reporting requirement of Subsection (e) if a subsequent report would indicate no change in status. An entity may be required to provide notice that it is exempt to the State Energy Conservation Office.</li> <li>• A political subdivision, institution of higher education, or state agency annually shall report to the State Energy Conservation Office, on forms provided by that office, regarding the entity's goal, the entity's efforts to meet the goal, and progress the entity has made under this section. The State Energy Conservation Office shall provide assistance and information to</li> </ul>	<p>388.005 (d) &amp; (e)</p>	<p>Compliance. METRO filed the first required report on November 18, 2012. The report provided an overview of METRO's plans and steps implemented to reduce energy cost, including procuring a utility auditor to identify billing and meter errors. The initial report did not include an Exemption Request Certification which would indicate that METRO has implemented all available cost-effective measures.</p>



## Section 6: Energy Efficiency Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>the entity to help the entity meet goals established under this section. The office must develop and make available a standardized form for reporting purposes.</p>		
<p>4. An energy savings performance contract shall contain provisions requiring the provider of the energy or water conservation or usage measures to provide a guarantee. If the term of the contract exceeds one year, the local government's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy and water savings, the net operating cost savings, and the stipulated or agreed upon increase in billable revenues resulting from the estimated increase in meter accuracy, divided by the number of years in the contract term.</p>	<p>Texas Local Government Code 302.004 (b)</p>	<p>Not applicable. METRO has executed an energy savings performance contract. As noted in its first report filed with the State Energy Conservation Office, METRO is developing an Energy Performance Contract in partnership with the City of Houston.</p>

# Section 7: Finance and Administration Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. The issuance of bonds (to finance project costs of an eligible project) shall be authorized by resolution, order or ordinance of the governing body of Houston METRO (see statute for contents).</p>	<p>Texas Trans Code §451.352</p>	<p>Compliance. All bonds issued during the audit period were approved by resolution of the METRO Board.</p>
<p>2. The Authority shall establish and maintain rates, fares, tolls, charges, rents or other compensation for the use of the facilities of the system acquired, constructed, operated or maintained by the Authority which shall be reasonable and nondiscriminatory and which, together with receipts from taxes collected by the Authority, shall be sufficient to produce revenues adequate: (1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the Authority; (2) to pay the interest on and principal of all bonds issued by the Authority under this Act which are payable in whole or in part from such revenues, when and as the same shall become due and payable; (3) to pay all sinking fund and reserve fund payments agreed to be made in respect of any such bonds, and payable out of such taxes and revenues, when and as the same shall become due and payable; and (4) to fulfill the terms of any agreements made with the holders of such bonds or with any person in their behalf.</p>	<p>451.061(a)</p>	<p>Compliance. The Authority pays for all operating and capital expenses from fare box revenues, the one-percent sales tax, miscellaneous operating revenues, and other State and Federal grant funds.</p>
<p>3. Taxes levied and the rates, fares, tolls, charges, rents and other compensation for the use of the facilities of the system shall not be in excess of what may be necessary to fulfill the obligations imposed upon the Authority by this Act.</p>	<p>451.061(b)</p>	<p>Compliance. Review of the Authority's Fiscal Year 2008, 2009 and 2010 and 2012 financial statements and METRO's Vision for 21<sup>st</sup> Century High Capacity Transit Plan (adopted August 26, 1999) it is reasonable to conclude that all compensation for the use of facilities of the system were not in excess of what is necessary to fulfill the obligations imposed upon the Authority.</p>
<p>4. The Authority, however, shall have the full power to issue bonds and notes, from time to time and in such amounts as it shall consider necessary or appropriate, for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement or extension of such rapid transit system or systems and all properties thereof whether real, personal or mixed.</p> <ul style="list-style-type: none"> <li>• All such bonds and notes shall be fully negotiable and may be made redeemable before maturity, at the option of the</li> </ul>	<p>451.352(a) 451.353(a) 451.354</p>	<p>Compliance. METRO issued bonds which were approved by board resolutions during the audit period.</p>

## Section 7: Finance and Administration Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
issuing Authority, at such price or prices and under such terms and conditions as may be fixed by the issuing Authority in the resolution au or private sale whichever the Board may deem more advantageous.		
5. Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination	451.355(a)	Compliance. Approval was received from the Attorney General prior to delivery of all bonds issued during the audit period.
6. Refunding bonds or notes may be issued for the purposes and in the manner provided by general law, including, chapter 1207, government code.	451.359	Not Applicable. METRO did not issue refunding bonds during the audit period.
7. Bonds payable solely from revenues may be issued by resolution of the Board, but no bonds, except refunding bonds, payable wholly or partially from taxes, may be issued until authorized by a majority vote of the qualified voters of the Authority voting in an election called and held for that purpose.	451.352(b) 451.352(c)	Compliance. Bonds issued by METRO during the audit period were approved by the board and by previous election of the voters.
8. Notwithstanding other provisions of this chapter and except as provided by Subsections (c) and (d), the board, by order or resolution, may issue bonds that are secured by revenue or taxes of the Authority if the bonds: (1) have a term of not more than 12 months; and (2) are payable only from revenue or taxes received on or after the date of their issuance and before the end of the fiscal year following the fiscal year in which the bonds are issued.  • In an Authority in which the principal municipality has a population of 1.5 million or more, bonds may have a term of not more than five years. The bonds are payable only from revenue on taxes received on or after the date of their issuance.	451.362(a)          451.362(c)	Not Applicable. METRO did not issue short- term bonds during the audit period.
9. The Board of an Authority by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate.  • If the Board of an Authority decreases the tax rate by its own order, it may increase the tax rate by a subsequent order to	451.407 451.408(a) 451.408(c)	Not applicable. METRO did not increase or decrease the local sales and use tax rate during the audit period.

## Section 7: Finance and Administration Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>a rate that does not exceed the rate in effect before the order to decrease the tax rate was approved.</p>		
<p>10. All funds of the Authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the Authority's bonds or notes.</p> <ul style="list-style-type: none"> <li>• To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.</li> <li>• The Board by resolution may authorize a designated representative to supervise the substitution of securities pledge to secure the authorities funds.</li> </ul>	<p>451.105(b)</p> <p>451.105(c)</p> <p>451.101(10)</p>	<p>Compliance. Article IV of METRO's Bylaws states that except for petty cash, all funds shall be deposited in banks designated by the Board. Designated banks were identified in investment policies approved in board resolutions.</p>
<p>11. Prior to the commencement of a fiscal year, the Board shall adopt an annual operating budget which specifies major expenditures by type and amount.</p> <ul style="list-style-type: none"> <li>• Before the Board adopts its annual operating budget, it shall conduct a public hearing and shall make the proposed annual operating budget available to the public at least 14 days prior to the hearing.</li> <li>• An annual operating budget must be adopted before the Authority conducts business in a fiscal year.</li> <li>• The Authority may not make operating expenditures in excess of the total budgeted operating expenditures for a fiscal year unless the Board amends the operating budget by order after public notice and hearing.</li> </ul>	<p>451.102(a)</p> <p>451.102(b)</p> <p>451.102(c)</p> <p>451.103</p>	<p>Compliance. The Board approved the annual operating and capital budgets as follows:</p> <p>FY2009 - approved by Resolution No. 2008-77 on 10/16/08 due to Hurricane Ike. Resolution 2008-71 dated 9/23/08 postponed approval due to Ike and adopted the use of FY2008 budget until a new budget could be approved.</p> <p>FY2010 – approved by Resolution No. 2009-75 on 9/17/09.</p> <p>FY2011 – approved by Resolution No. 2010-78 on 9/28/10</p> <p>FY2012 – approved by Resolution No. 2009-84 on 9/19/11.</p>
<p>12. The Board of an Authority to which this section applies shall have prepared a financial audit of the affairs of the Authority by an independent certified public accountant or a firm of independent certified public accountants.</p> <ul style="list-style-type: none"> <li>• The Board of the Authority shall deliver a copy of the report of an audit performed under this section to the presiding officer of the governing body of each county or municipality having territory in the Authority, to the county judge of each county or municipality having territory in the Authority, to the governor, to the lieutenant governor, to the speaker of the</li> </ul>	<p>451.451(a)</p> <p>451.452(a)</p>	<p>Compliance. Annual financial audits were completed and distributed as follows:</p> <p>FY 09 August 12, 2010  FY 10 April 27, 2011  FY 11 April 2, 2012  FY 12 March 28, 2013</p> <p>The annual financial audit reports were delivered electronically via e-mail notifications for two of the four years reviewed.</p>

## Section 7: Finance and Administration Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>house of representatives, and to the state auditor.</p> <ul style="list-style-type: none"> <li>The Board of an Authority in which the principal city has a population of more than 1,900,000, shall deliver a copy of the report of an audit performed under this subchapter to the state auditor for review and comment.</li> </ul>	451.452(b)-(d)	
<p>13. The Board of an Authority in which the principal city has a population of more than 1,900,000 or less than 850,000 shall contract at least once every four years for a performance audit of the Authority to be conducted by a firm that has experience in reviewing the performance of transit agencies.</p>	Texas Trans Code 451.454(a)	Compliance. During the audit period, METRO contracted with Booz Allen Hamilton for the FY05-FY08 performance audit. Board Resolution 2008-83.
<p>14. The Board shall determine one or more subjects for a particular audit from among the subjects of management of the Authority, transit operations, and system maintenance. Each of those subjects must be examined at least once in every third performance audit.</p>	451.454(c)(1) 451.454(d)	Compliance. METRO's system maintenance was the subject of the FY05-FY08 performance audit.
<p>15. Each performance audit must include an examination of the Authority's compliance with this Chapter and other applicable state law and of the following performance indicators: (1) operating cost per passenger; (2) sales and use tax receipts per passenger; (3) fare recovery rate; (4) average vehicle occupancy; (5) on-time performance; (6) the number of accidents per 100,000 miles; and (7) the number of total miles between mechanical road calls. (See statute for definitions.)</p>	451.454(c)(2)(3) 451.455	Compliance. METRO's performance indicators are detailed in a separate report "FY05-FY08 Performance Audit: Performance Indicators". Compliance with this chapter and other state laws are detailed in the report "FY05-FY08 Performance Audit: Compliance Review".
<p>16. An Authority for which a performance audit is conducted under this section shall prepare a written response to the report of the performance audit. The response must include any proposals for action, whether pending, adopted, or rejected, relating to recommendations contained in the performance audit report.</p>	451.456(a)	Compliance. METRO prepared a written response that addressed the recommendations of the FY05-FY08 performance audit.
<p>17. The Authority shall conduct a public hearing on each performance audit report conducted under this section and the Authority's response. The Authority shall publish notice of the hearing in a newspaper with general</p>	451.456(b)(c)	<p>Compliance. For the FY05 – FY08 performance audit, METRO conducted a Public Hearing on May 11, 2009 to report the findings of the audit.</p> <p>Compliance. METRO published the Notice for Public Hearing</p>

## Section 7: Finance and Administration Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>circulation in the area included within the Authority 14 days before the date of the hearing. The Authority also shall make copies of the report and response available for public inspection at Authority offices.</p>		<p>on April 26, 2009 in the <i>Houston Chronicle</i>.</p>
<p>18. A copy of each report of a performance audit conducted under this section and the response of the Authority shall be delivered to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, the presiding officer of the governing body of each county and municipality having territory included within the Authority, and each member of the state legislature whose district includes territory within the Authority.</p> <p>The copies shall be delivered before February 1, of every second odd-numbered year.</p>	<p>451.457</p>	<p>Non-compliance. METRO sent copies of the FY05 - FY08 performance audit to all appropriate parties on July 26, 2009. The required delivery date was before February 1, 2009. It is noted that METRO has petitioned the state auditor to adjust their audit schedule to meet the deadline going forward.</p>
<p>19. The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control. The investment policies must: (A) a list of the types of authorized investments in which the investing entity's funds may be invested; (B) the maximum allowable stated maturity of any individual investment owned by the entity; (C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio; (D) methods to monitor the market price of investments acquired with public funds; (E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and (F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.</p>	<p>Texas Govt Code 2256.005</p>	<p>Compliance. Investment policies for each year during the audit period were approved by board resolutions. Each year's policy identified investment officers, and included code requirements such as authorized investments, methods for monitoring market price of investments acquired with public funds, conflict of interest requirements, and controls.</p>
<p>20. The treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall: (1) attend at least one training session from an independent source approved by the governing body of the local government or a designated</p>	<p>2256.008 (a)</p>	<p>Compliance. Investment officers, including the chief financial officer completed the required training during the audit period.</p>

## Section 7: Finance and Administration Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and (2) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.</p>		
<p>21. On a quarterly basis, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.</p>	2256.023	Compliance. Investment reports are prepared monthly and presented to the board of directors on a quarterly basis.
<p>22. In accordance with a written policy approved by the governing body of the public entity, a public entity shall determine if an investment security is eligible to secure deposits of public funds. (b) The written policy may include: (1) the security of the institution that obtains or holds an investment security; (2) the substitution or release of an investment security; and (3) the method by which an investment security used to secure a deposit of public funds is valued.</p>	2257.021 2257.023	Compliance. Investment policies approved by the board of directors for each audit period included collateral requirements. The policy requires collateralization of 102% of market value of principal and accrued interest on deposits less amounts insured by FDIC.
<p>23. A public entity's depository shall maintain a separate, accurate, and complete record relating to a pledged investment security, a deposit of public funds, and a transaction related to a pledged investment security.</p> <p>A depository for a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds. The custodian and the state agency shall agree in writing on the terms and conditions for securing a deposit</p>	2257.025 (a) 2257.041 (c)	Compliance. Investment policy designates the depository and custodian. Depository and custodian agreements on file incorporate code requirements.

## Section 7: Finance and Administration Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
of public funds.		
<p>24. A payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of: (1) the date the governmental entity receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the governmental entity receives an invoice for the goods or service. (b) A payment under a contract executed on or after September 1, 1993, owed by a political subdivision whose governing body meets only once a month or less frequently is overdue on the 46th day after the later event described by Subsections (a)(1) through (3).</p>	2251.021 (a), (b)	Compliant. METRO accounts policy procedures require payments to be made within 30 days of receipt.
<p>25. A governmental entity shall notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the entity receives the invoice. If a dispute is resolved in favor of the vendor, the vendor is entitled to receive interest on the unpaid balance of the invoice submitted by the vendor beginning on the date under Section 2251.021 that the payment for the invoice is overdue.</p> <p>If a dispute is resolved in favor of the governmental entity, the vendor shall submit a corrected invoice that must be paid in accordance with Section 2251.021. The unpaid balance accrues interest as provided by this chapter if the corrected invoice is not paid by the appropriate date.</p>	2251.042	Compliance. METRO accounts payable procedures include steps to resolve discrepancies and interest calculations.



## Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. Minutes or tape recording of open meeting required. (a) A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.(b) The minutes must:(1) state the subject of each deliberation; and(2) indicate each vote, order, decision, or other action taken.</p>	<p>Texas Govt. Code 551.021</p>	<p>Compliance. Written board minutes and recorded meetings adhere to the described criteria.</p>
<p>2. Minutes and tape recordings of open meeting: public record. The minutes and tape recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.</p>	<p>551.022</p>	<p>Compliance. All minutes (written or recorded) are part of the open records and are available for review through the Open Records Coordinator at METRO's Administrative office. Minutes are available on METRO's website <a href="http://www.ridemetro.org">www.ridemetro.org</a></p>
<p>3. Additional posting requirements for certain municipalities, counties, school districts, junior college districts, and development corporations.</p> <p>(a) This section applies only to a governmental body or economic development corporation that maintains an Internet website or for which an Internet website is maintained.</p> <p>(b) In addition to the other place at which notice is required to be posted by this subchapter, the following governmental bodies and economic development corporations must also concurrently post notice of a meeting on the Internet website of the governmental body or economic development corporation:</p> <p>(6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code.</p>	<p>551.056</p>	<p>Compliance. Board meeting notices are posted on METRO's public website @ <a href="http://www.RideMetro.org">www.RideMetro.org</a>.</p>
<p>4. Personnel matters; closed meeting. (a) This chapter does not require a governmental body to conduct an open meeting: (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or (2) to hear a complaint or charge against an officer or employee. (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.</p>	<p>551.074</p>	<p>Compliance. A review of a selected sample of agendas for closed meeting, determined that personal matters were discussed in executive sessions.</p>
<p>5. Disclosure of certified agenda or tape recording of closed meeting; offense; penalty; civil liability. (a) An individual, corporation, or partnership that without lawful authority</p>	<p>551.146</p>	<p>Compliance. The authority's Code of Ethics policies declared that disclosure of confidential information is</p>

# Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under this chapter</p>		<p>prohibited. Section III (A) 6.</p>
<p>6. Open meetings training. (a) Each elected or appointed public official who is a member of a governmental body subject to this chapter shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body and its members under this chapter not later than the 90th day after the date the member (takes oath or starts working)</p>	<p>551.005 (a )</p>	<p>Partial Compliance. Three board members did not complete training within 90 days of their start dates. Section 551.005 training is more comprehensive than Section 552.012.</p>
<p>7. Open meetings training. The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its members' completion of the training.</p>	<p>551.005 (c )</p>	<p>Partial Compliance. Three board members did not complete training within 90 days of their start dates. Section 551.005 training is more comprehensive than Section 552.012.</p>
<p>8. Open records training. (a) This section applies to an elected or appointed public official who is: (1) a member of a multimember governmental body; (2) the governing officer of a governmental body that is headed by a single officer rather than by a multimember governing body; or (3) the officer for public information of a governmental body, without regard to whether the officer is elected or appointed to a specific term.</p>	<p>552.012 (a )</p>	<p>Compliance. Certificates of completion for Texas Public Information Act training sponsored by the Attorney General of Texas were on file for each year of the audit period for METRO's Public Information Coordinator. In accordance with Section 552.012 (c) of the Code, METRO designated the Public Information Coordinator to satisfy the training requirements of this section.</p>
<p>9. Open records training. Each public official shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body with which the official serves and its officers and employees under this chapter not later than the 90th day after the date the public official: (1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a public official; or (2) otherwise assumes the person's duties as a public official, if the person is not required to take an oath of office to assume</p>	<p>552.012(b)</p>	<p>Compliance. Certificates of completion for Texas Public Information Act training sponsored by the Attorney General of Texas were on file for each year of the audit period for METRO's Public Information Coordinator. In accordance with Section 552.012 (c) of the Code, METRO designated the Public Information Coordinator to satisfy the training requirements of this section</p>

## Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
the person's duties.		
<p>10. Open records training: A public official may designate a public information coordinator to satisfy the training requirements of this section for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under this chapter. Designation of a public information coordinator under this subsection does not relieve a public official from the duty to comply with any other requirement of this chapter that applies to the public official. The designated public information coordinator shall complete the training course regarding the responsibilities of the governmental body with which the coordinator serves and of its officers and employees under this chapter not later than the 90th day after the date the coordinator assumes the person's duties as coordinator.</p>	552.012 (c )	<p>Compliance. Certificates of completion for Texas Public Information Act training sponsored by the Attorney General of Texas were on file for each year of the audit period for METRO's Public Information Coordinator. In accordance with Section 552.012 (c) of the Code, METRO designated the Public Information Coordinator to satisfy the training requirements of this section.</p>
<p>11. Except as otherwise provided in this Act or specifically permitted in the Constitution, every regular, special, or called meeting or session of every governmental body shall be open to the public; and no closed or executive meeting or session of any governmental body for any of the purposes for which closed or executive meetings or sessions are hereinafter authorized shall be held unless a quorum of the governmental body has first been convened in open meeting or session for which notice has been given as hereinafter provided and during which open meeting or session the presiding officer has publicly announced that a closed or executive meeting or session will be held and identified the section or sections under this Act authorizing the holding of such closed or executive session.</p>	Texas Govt Code 551.002 551.101	<p>Compliance. All regular scheduled METRO Board meetings, committee meetings, Special Meetings and Emergency meetings were open to the public. Closed executive meetings may have been called by the Board Chairman to discuss real estate, personnel, security or to consult with attorneys on litigation or legal matters. No action was taken during the closed executive sessions.</p>
<p>12. A governmental body may exclude any witness or witnesses from a hearing during examination of another witness in the matter being investigated.</p>	551.084	<p>Not applicable. No such incidents were noted during the audit period.</p>

# Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>13. Private consultations between a governmental body and its attorney are not permitted except in those instances in which the body seeks the attorney's advice with respect to pending or contemplated litigations, settlement offers, and matters where the duty of a public body's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, clearly conflicts with this Act.</p>	<p>551.071</p>	<p>Compliance. A review of certified agendas from executive session indicated that the METRO Board met with its attorney in closed executive session to discuss litigation, real estate, and personnel issues only. Certified agendas from executive sessions clearly indicated that the Board consulted with its attorney and the applicable case in question.</p>
<p>14. The public may be excluded from that portion of a meeting during which a discussion is had with respect to the purchase, exchange, lease, or value of real property, negotiated contracts for prospective gifts or donations to the state or the governmental body, when such discussion would have a detrimental effect on the negotiating position of the governmental body as between such body and a third person, firm or corporation.</p>	<p>551.072 551.073</p>	<p>Compliance. A review of certified agendas from executive session indicated that the METRO Board met with its attorney in closed executive session to discuss litigation, real estate, and personnel issues only. Certified agendas from executive sessions clearly indicated that the Board consulted with its attorneys and the case in question.</p>
<p>15. The governmental body may adopt reasonable rules to maintain order at the meeting place.</p> <ul style="list-style-type: none"> <li>• These rules may include, but shall not be limited to, a determination of the location of recording equipments and the manner in which the recording is conducted; provided, however, that the rules do not have the effect of preventing or unreasonably impairing camera coverage or tape recording.</li> </ul>	<p>551.023(b)  551.023(c)</p>	<p>Compliance. By Resolution No. 90-159, the Board adopted reasonable rules to maintain order during meetings.</p>
<p>16. Whenever any deliberations or any portion of a meeting are closed to the public as permitted by this Act, no final action, decision, or vote with regard to any matter considered in the closed meeting shall be made except in a meeting which is open to the public and in compliance with the requirements of Section 3 of this Act.</p>	<p>551.102</p>	<p>Compliance. The METRO Board did not vote in closed meetings and a statement that no action was taken was included on the applicable certified agenda. All votes were taken during open meetings session.</p>
<p>17. For each of its meetings that are closed to the public, except for consultations in accordance with Section 551.071 of this Act,</p> <p>(a) A governmental body shall keep a certified agenda of the proceedings.</p> <p>(b) The presiding officer must certify that the agenda kept under Subsection (a) of the section is a true and correct record of the proceedings.</p>	<p>551.103(a)-( c)</p>	<p>Partial Compliance. A review of the sample meeting agendas and minutes indicated instances of executive session. The Authority was unable to locate Certified agendas for the period of October 2008 through December 2009.</p> <p>Partial Compliance. A review of the sample meeting agendas and minutes indicated instances of executive</p>

# Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>(c) The certified agenda shall include an announcement made by the presiding officer at the beginning and end of the meeting indicating the date and time.</p> <ul style="list-style-type: none"> <li>The certified agenda shall state the subject matter of each deliberation and shall include a record of any further action.</li> <li>The certified agenda of closed or executive sessions shall be made available for public inspection and copying only upon court order in an action brought under this Act</li> </ul> <p>(d) A tape recording made under Subsection (a) must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.</p>	<p>551.104(c)</p> <p>551.103(d)</p>	<p>session. A test sample of the 16 certified agendas reviewed determined that the agenda dated March 18, 2010 was not signed by the presiding board member certifying that the agenda was a true and correct representation of the items discussed.</p> <p>Not Applicable. METRO has elected to maintain certified agendas and does not tape record closed meetings.</p>
<p>18. The certified agenda or tape shall be available for in camera inspection by the judge of a district court if litigation has been initiated involving an alleged violation of this Act.</p> <p>The district court may admit all or part of the certified agenda or tape as evidence, on entry of a final judgment.</p> <p>The district court may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or tape of any part of a meeting that was required to be open under this chapter.</p>	<p>551.104(b)</p>	<p>Compliance. The METRO Board had elected to keep certified agendas for all closed meetings and they are part of the authority's permanent records under its current record retention plan.</p>
<p>19. The governmental body shall preserve the certified agenda or tape for at least two years after the date of the meeting.</p> <ul style="list-style-type: none"> <li>If an action involving the meeting is commenced during the required preservation period, the certified agenda or tape shall be preserved pending the outcome of the action.</li> </ul>	<p>551.104(a)</p>	<p>Compliance. Certified agendas are preserved for more than two years as required. METRO has adopted additional record retention policies which require certified agendas to be part of the authority's permanent records.</p>
<p>20. No member of a governmental body shall participate in a meeting of the governmental body closed to the public knowing that a certified agenda of the meeting is not being kept or tape recording is not being made. (A person who violates this subsection commits a Class C misdemeanor).</p> <p>An action taken by a governmental body in violation of chapter 551 is voidable.</p>	<p>551.145</p> <p>551.141</p>	<p>Not applicable. No such incident during the audit period.</p>
<p>21 Written notice of the date, hour, place, and subject of each meeting held by a governmental body shall be given before the</p>	<p>551.041 to 551-042</p>	<p>Compliance. Based on a sample selection of public notices reviewed, regular, special and committee meetings of the</p>

## Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>meeting has prescribed by this section. (The requirement for notice prescribed by this section does not apply to matters about which specific factual information or a recitation of existing policy is furnished in response to an inquiry made at such meeting, whether such inquiry is made by a member of the general public or by a member of the governmental body.) Any deliberation, discussion, or decision with respect to the subject about which inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting of such governmental body for which notice has been provided in compliance with this Act.</p>		<p>METRO Board were posted at METRO's administrative offices, and on the official bulletin board at the county courthouse. Meeting notices were also posted on the Secretary of State website. Each notice included the meeting date, time, location and subject.</p>
<p>22. The governing body of a water district, other district, or other political subdivision that extends into fewer than four counties shall have a notice posted at a place convenient to the public in its administrative office, and shall also furnish the notice to the county clerk of each county in which the district or political subdivision is located.</p>	<p>551.054(a)</p>	<p>Compliance. Based on a sample selection of public notices reviewed, regular, special and committee meetings of the METRO Board were posted at METRO's administrative offices, and on the official bulletin board at the county courthouse. Meeting notices were also posted on the Secretary of State website. Each notice included the meeting, date, time, location, and subject.</p>
<p>23. Notice of a meeting must be posted in a place readily accessible to the general public at all times for at least 72 hours proceeding the scheduled time of the meeting.</p> <p>In case of emergency or urgent public necessity, which shall be clearly identified in the notice, it shall be sufficient if the notice is posted two hours before the meeting is convened. Cases of emergency and urgent public necessity are limited to imminent threats to public health and safety or reasonably unforeseeable situations requiring immediate action by the governmental body (see statute).</p> <p>In addition to notice required by Chapter 551, Govt Code, the Board shall post a board meeting notice in the Authority's administrative offices and at the courthouse of the most populous county in which the principal municipality of the Authority is located, each on a bulletin board at a place convenient to the public.</p>	<p>551.043</p> <p>551.045</p> <p>451.518</p>	<p>Compliance. Based on a sample selection of posted notices reviewed, meeting notices and agendas were posted within the 72 hour requirement at the Harris County Clerk office. They were also posted with the Secretary of State, on METRO's website, and on the Bulletin Board outside of the Administrative Building.</p> <p>No emergency meetings were held during the audit period.</p> <p>Per review of Board Meeting Notices, and Board Minutes there were no meetings noted of this nature during the audit period. There were Special Board Meetings during the period which complied with the 72 hour window.</p>
<p>24. If a governmental body determines that information covered by a special right of access under section 552.023 is exempt from disclosure under any other exception under Subchapter C, the</p>	<p>552.307(a)</p>	<p>Compliance. METRO's General Counsel submits questionable requests for information to the State Attorney General for a determination and abides by their decision.</p>

# Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>governmental body shall, before disclosing the information, submit a written request for a decision to the attorney general under the procedures of this subchapter.</p> <ul style="list-style-type: none"> <li>If a decision is not so requested, the governmental body shall release the information to the person with a special right of access under this section within 10 days of receiving the request for information.</li> </ul>	552.307(b)	
<p>25. On application of public information to the officer for public records in a governmental body by any person, the officer for public records shall promptly produce such information for inspection or duplication, or both, in the offices of the governmental body or sending copies by first class U.S. mail if so requested and the requestor pays the postage and any other applicable charges accrued under Subchapter F.</p> <ul style="list-style-type: none"> <li>If the information is in active use or in storage and, therefore, not available at the time a person asks to examine it, the officer for public records shall certify this fact in writing to the applicant and set a date and hour within a reasonable time when the record will be available for the exercise of the right given by this Act.</li> <li>If an officer for public information cannot produce public information for inspection or duplication within 10 business days after the date the information is requested under Subsection (a), the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.</li> </ul>	<p>552.221(a)&amp;(b)</p> <p>552.221(c)</p> <p>552.221(d)</p>	<p>Compliance. METRO's Legal Office responds to information requests made in person, as well as those made by telephone, mail, email and the internet. If the information cannot be provided immediately, the person requesting the information is notified. There have been no complaints registered with METRO regarding response time in providing information or access to information.</p>
<p>26 The officer for the public records shall extend the initial 10 days examination period by an additional 10 days if, within the initial period, the person requesting the information files with the officer for public records a written request for additional time.</p> <ul style="list-style-type: none"> <li>The officer for public records shall extend an additional examination period by another 10 days if, within the additional period, the person requesting the information files with the officer for public records a written request for more additional time.</li> </ul>	552.225(b)	<p>Compliance. METRO does not impose a time limitation on the inspection of documents and information.</p>

## Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
27. The time during which a person may examine information may be interrupted by the officer for public records if the information is needed for use by the governmental body.	552.225(c)	Not applicable, no such incident during the scope period.
28. The chief administrative officer of the governmental body shall be the officer for public records. <ul style="list-style-type: none"> <li>• It shall be the duty of the officer for public records, subject to penalties provided in this Act, to see that the public records are made available for public inspection and copying; that the records are carefully protected from deterioration, alteration, mutilation, loss, or unlawful removal; and that public records are repaired, renovated, or rebind when necessary to maintain them properly.</li> <li>• When records are no longer currently in use, it shall be within the discretion of the governmental body to determine a period of time for which said records will be preserved subject to state laws governing the destruction and other disposition of state and local government records.</li> </ul>	552.201  552.203          552.004	Compliance. The Chief Executive Officer is the Chief Administrative Officer for METRO and has primary responsibility for public records. METRO's General Counsel has been delegated responsibility for ensuring the public has access to appropriate public records.
29 Neither the officer for public records nor his agent shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of (1) establishing proper identification and the public records being requested; (2) establishing whether the officer for public records is unauthorized under Subsection (e) of Section 4A of this Act to refuse to honor the request; or (3) discuss with the requestor how the scope of the request might be narrowed if voluminous. <ul style="list-style-type: none"> <li>• The officer for public records or his agent shall give, grant, and extend to the person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this Act.</li> </ul>	552.222(a)&(b)          552.224	Compliance. Persons requesting information must provide a name, address and telephone number, as well as a description of the information being requested. The General Counsel acts as the Public Information Officer for METRO (or public information coordinator) and may ask questions to determine the best format for supplying the information and clarify what specifically the person is looking for. METRO will provide copies at a nominal fee in agreement with the Public Information Act.
30. The officer for public records or the officer's agent shall treat each request for information uniformly without regard to the position or occupation of the person making the request or the person on whose behalf the request is made or because the individual is a member of the media.	552.223	Compliance. METRO treats each request for public information in the same equitable manner.



## Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>31. If a governmental body receives a written request, including e-mail and fax, for information which it considers within one of the exceptions stated in Subchapter C, but there has been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, no later than ten calendar days, after receiving a written request must request a decision from the attorney general to determine whether the information is within that exception. (If a decision is not so requested, the information shall be presumed to be public information.)</p>	<p>552.301(a)-(c) 552.302</p>	<p>Compliance. METRO's General Counsel submits questionable requests for information to the State Attorney General for a determination and abides by their decision. All other requests for information are promptly handled.</p>
<p>32. If the governmental body wishes to withhold information, it must submit to the attorney general within a reasonable time but not later than the 15<sup>th</sup> business day after the date of receiving the written request: (1) written comments stating the exceptions and the reasons why the exceptions allow the information to be withheld, (2) a copy of the request, (3) the date of the request, (4) a copy of the specific information requested or samples if voluminous and (5) label the copies of the information with the applicable exceptions.</p> <p>A governmental body that requests an attorney general decision under subsection (a) must provide to the requestor within a reasonable time but not later than the 10<sup>th</sup> business day after the date if receiving the request: (1) a written statement that the governmental body wishes to withhold the information and has requested an attorney general decision on the exception(s) and (2) a copy of the governmental body's request for an attorney general decision or a redacted copy if doing so would disclose the requested information.</p> <p>The specified information requested shall be supplied to the attorney general but shall not be disclosed to the public or the requesting party until a final determination has been made by the attorney general or, if suit is filed under the provisions of this Act, until a final decision has been made by the court with jurisdiction over the suit. If the governmental body wishes to withhold information, it must subject written comments setting</p>	<p>552.301(a)&amp;(e)</p> <p>552.303(b)</p> <p>552.303(d)</p>	<p>Compliance. METRO's General Counsel submits questionable requests for information to the State Attorney General for a determination and abides by their decision. Test sample of requests submitted to the Attorney General, indicated that the Attorney General's ruling was followed and the requestor was properly communication with the requestor was documented. All other requests for information are promptly handled.</p>

## Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
forth the reasons why the information should be withheld.		
<p>33. In cases in which a third party's privacy or property interest may be implicated, including but not limited to Sections 552.101, 552.104, 552.110, or 552.114, the governmental body may decline to release the information in order to request an attorney general opinion.</p> <p>The governmental body that requests an attorney general decision under Section 552.301 shall make a good faith attempt to notify that person of the request for the attorney general decision. (See statute for Notice requirements)</p> <p>The governmental body shall send a copy of that letter, memorandum, or brief to the person who requested the information from the governmental body. If the letter, memorandum, or brief submitted to the attorney general contains the substance of the information requested, the copy of the letter, memorandum, or brief may be a redacted copy.</p> <p>The governmental body may, but is not required to, submit its reasons why the information should be withheld or released.</p>	<p>552.305(a)</p> <p>552.305(d)</p> <p>552.305(e)</p> <p>552.305(c)</p>	<p>Compliance. METRO's Public Information Officer follows State law when obtaining a determination from the State Attorney General regarding access to public information.</p>
<p>34. It shall be the policy of all governmental bodies to provide suitable copies in paper or electronic form, when available, of all public records within a reasonable period of time after the date copies were requested.</p> <ul style="list-style-type: none"> <li>• Every governmental body is hereby instructed to make reasonably efficient use of each page of public records so as not to cause excessive costs for the reproduction of public records.</li> </ul>	<p>552.228</p> <p>552.268</p>	<p>Compliance. METRO provides copies within ten business days for a nominal fee.</p>
<p>35. Public records shall be furnished without charge or at a reduced charge if the governmental body determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.</p> <p>If the cost to the governmental body of processing collection of a charge exceeds the amount of the charge for providing a copy, the charge may be waived.</p>	<p>552.267(a)</p> <p>552.267(b)</p>	<p>Compliance. METRO provides copies within ten business days for a nominal fee,</p>
<p>36 Distribution or misuse of confidential information. Information deemed confidential under the terms of this action shall not be</p>	<p>552.352(a)</p>	<p>Compliance. METRO's General Counsel submits questionable requests for information to the State Attorney</p>

## Section 8: Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>distributed.</p> <p>(a) A person commits an offense if the person distributes information considered confidential under the terms of this chapter.</p> <p>(a-1) An officer or employee of a governmental body who obtains access to confidential information under Section 552.008 commits an offense if the officer or employee knowingly:</p>		<p>General for a determination and abides by their decision. METRO's Code of Ethics Procurement Manual Chapter 17, prohibits disclosure of confidential information by employees.</p>
<p>37. A bond for payment of costs for the preparation of such public records, or a prepayment in cash of the anticipated costs for the preparation of such records, may be required by the officer for public records or the officer's agent as a condition precedent to the preparation of such record if: (1) the requestor has been provided a written itemized estimate of charges and (2) the record is estimated by the governmental body to exceed \$100.</p>	<p>552.263(a)</p>	<p>Not applicable. METRO has not had cause to require the issuance of a bond to pay for the expense of preparing public information.</p>
<p>38. Each governmental body may promulgate reasonable rules of procedure by which public records may be inspected efficiently, safely, and without delay.</p>	<p>552.230</p>	<p>Not applicable. METRO has not elected to develop rules or procedures for inspection of public records. METRO follows the code requirements.</p>

# Section 9: Real Estate Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. Before an Authority acquires an interest in real property for more than \$20,000, the Board of the Authority shall cause the property to be appraised by two appraisers working independently of each other.</p>	<p>Texas Trans Code 451.054(d)</p>	<p>Compliance. A sample review of the acquisition files for the properties purchased by METRO during the audit period indicated that two separate appraisals were obtained for each of the parcel files reviewed.</p>
<p>2. The Authority shall not proceed with any action to change, alter or damage the property or facilities of the state, its municipal corporations, agencies or political subdivisions or of owners rendering public services, or which shall disrupt such services being provided by others, or to otherwise inconvenience the owners of such property or facilities, without having first obtained the written consent of such owners or unless the Authority shall have first obtained the right to take such action under its power of eminent domain as herein specified.</p> <ul style="list-style-type: none"> <li>In the event the owners of such property or facilities desire to handle any such relocation, raising, change in the grade of, or alteration in the construction of such property or facilities with their own forces, or to cause the same to be done by contractors of their own choosing, the Authority shall have the power to enter into agreements with such owners providing for the necessary relocations, changes or alterations of such property or facilities by the owners and/or such contractors and the reimbursement by the Authority to such owners of the costs incurred by such owners in making such relocations, changes or alterations and/or in causing the same to be accomplished by such contractors.</li> </ul>	<p>451.058(e)</p> <p>451.058(b)</p>	<p>Not Applicable. METRO has not proceeded with any activity to change, alter or damage the property or facilities during the audit period.</p>
<p>3. In the event the Authority, in exercising any of the powers conferred by this Act, makes necessary the relocation, adjustment, raising, lowering, rerouting or changing the grade of or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad track, bridge or other facilities or properties, any electric lines, conduits or other facilities or properties, any telephone or telegraph lines, conduits or other facilities or properties, any gas transmission or distribution pipes, pipelines, mains or other facilities or properties, any water, sanitary sewer or storm sewer pipes, pipelines, mains or other facilities or properties, any cable</p>	<p>451.058(d)</p>	<p>Compliance. A sample review of a construction projects indicated that costs and expenses for construction were solely funded by METRO.</p>

# Section 9: Real Estate Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>television lines, cables, conduits or other facilities or properties, or any other pipelines and any facilities or properties relating thereto, any and all such relocations, adjustments, raising, lowering, rerouting or changing of grade or altering of construction shall be accomplished at the sole cost and expense of the Authority, and all damages which may be suffered by the owners of such property or facilities shall be borne by the Authority.</p>		
<p>4. The Authority shall have the right of eminent domain to acquire lands in fee simple and any interests less than fee simple in, on, under and above lands, including, without limitation, easements, rights-of-way, rights of use of air space or subsurface space, or any combination thereof; provided that such right shall not be exercised in a manner which would unduly interfere with interstate commerce or which would authorize the Authority to run its vehicles on railroad tracks which are used to transport property.</p>	<p>451.058(c)</p>	<p>Compliance. METRO utilized eminent domain in the acquisition of property in accordance with Real Estate Management Guidelines Sections 3.2 and 3.3.</p>
<p>5. Eminent domain proceedings brought by the Authority shall be governed by the provisions of Chapter 21, Property Code.</p> <ul style="list-style-type: none"> <li>• Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the Board of a resolution declaring the public necessity for the acquisition by the Authority of the property or interest therein described in the resolution, and that such acquisition is necessary and property for the construction, extension, improvement or development of the system and is in the public interest.</li> <li>• At least 30 days before adopting a resolution under this subsection, however, a Board shall hold a public hearing on the question of acquisition of the property or interest for which eminent domain proceedings are being considered.</li> <li>• The Board shall hold the hearing at a place convenient to residents of the area in which the property is located.</li> <li>• The Board shall cause notice of the hearing to be published in a newspaper of general circulation in the county in which the property is located at least once each week for two weeks before the date of the hearing.</li> </ul>	<p>451.059(e) 451.059(a) 451.059(b) 451.059(c)</p>	<p>Compliance. METRO utilized eminent domain in the acquisition of property in accordance with Real Estate Management Guidelines Section 3.2 and 3.3.</p>

## Section 9: Real Estate Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>6. The Authority may sell, lease, convey or otherwise dispose of any of its rights, interests or properties which are not needed for, or, if a lease, is inconsistent with, the efficient operation and maintenance of the system.</p> <ul style="list-style-type: none"> <li>It may sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Chapter.</li> </ul>	<p>451.054(e)(1)</p> <p>451.054(e)(2)</p>	<p>Compliance. METRO leased property in accordance with METRO's Real Estate guidelines.</p> <p>METRO conveyed \$65 million in property to the City of Houston under a consent agreement dated June 26, 2008. The land was conveyed to the city to replace the city's land that METRO converted to rail operations.</p>
<p>7. Any lands or interest in land acquired for a station or terminal complex must be part of or contained within a station or terminal complex designated as part of the system within a comprehensive transit plan approved by resolution of the Board.</p> <ul style="list-style-type: none"> <li>Before a station or terminal complex may be included in the system, the Board must find and determine that the proposed station or terminal complex will encourage and provide for efficient and economical mass transit service, will facilitate access to mass transit service and provide other mass transit proposes, will reduce vehicular congestion and air pollution in the metropolitan area, and is reasonably essential to the successful operation of the system.</li> <li>The Board may amend its comprehensive transit plan to include other station or terminal complexes upon making these findings.</li> </ul>	<p>451.151(a)</p> <p>451.151(b)</p> <p>451.151(c)</p>	<p>Compliance. METRO acquired land during the audit period to expand each of METRO's Light Rail Corridors and for two park and rides (Brazoria County and El Dorado).</p>

## Section 9: Real Estate Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>8. Any station or terminal complex shall include adequate provisions for the transfer of passengers between the various modes of transportation available to the complex.</p> <ul style="list-style-type: none"> <li>A complex may include provisions for commercial, residential, recreational, institutional, and industrial facilities, except that no land or interest in land that is more than 1,500 feet in distance from the center point of the complex and that has not been included in a master plan of development adopted by the Board may be acquired for the facilities.</li> <li>Land or an interest in land more than 1,500 feet in distance from the center point of the complex may not be acquired by eminent domain proceedings, and the Board shall designate the center point prior to the commencement of eminent domain proceedings.</li> </ul>	<p>451.152(1)</p> <p>451.152(2)</p> <p>451.154(a)</p>	<p>Compliance. All of METRO's stations and/or terminal complexes include adequate provisions for the transfer of passengers between the various modes of transportation which are available.</p> <p>METRO has not purchased any property beyond 1,500 feet from the station locations.</p>
<p>9. The Authority may sell, lease, or otherwise transfer lands or interest in land acquired within a station or terminal complex, and may enter into contracts with respect to it, in accordance with the comprehensive transit plan approved by the Board, subject to such covenants, conditions, and restrictions, including covenants running with the land and obligations to commence construction within a specified time, as the Board may deem to be in the public interest or necessary to carry out the purposes of this section, all of which shall be incorporated into the instrument transferring or conveying title or right of use.</p> <ul style="list-style-type: none"> <li>Any lease, sale or transfer shall be at fair value, taking into account the use designated for the land in the comprehensive transit plan for the system and the restrictions on, and the covenants, conditions, and obligations assumed by, the purchaser, lessee, or transferee.</li> <li>However, if the Authority offers the property for sale, the original owner from whom the property was acquired by eminent domain proceedings or through threat of eminent domain proceedings has the first right to repurchase at the price at which it is offered to the public.</li> </ul>	<p>451.155(a)</p> <p>451.155(b)</p> <p>451.155(c)</p>	<p>Not applicable. METRO has not sold, leased or otherwise transferred lands or interests in land within a station or terminal complex.</p>
<p>10. Engineers, employees, and representatives of an Authority</p>	<p>451.062(a)</p>	<p>Compliance. METRO staff will not enter property for</p>

## Section 9: Real Estate Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>may go on any land within the Authority boundaries to make surveys and examine the land with reference to the location of works, improvements, plants, facilities, equipment or appliances and to attend to any business of the Authority; provided that two weeks' notice be given to the owners in possession and that if any of the Authority's activities cause damage to the land or property, the land or property shall be restored as nearly as possible to the original state at the sole expense of the Authority.</p>	<p>451.062(b) 451.062(c)</p>	<p>preparation of limited title reports, appraisals, or other matters without first sending a written letter, by certified mail, requesting permission. A review of project files indicated the presence of certified letters sent two weeks in advance of the desired access.</p>
<p>11. The special commissioners shall assess damages in a condemnation proceeding according to the evidence presented at the hearing.</p> <ul style="list-style-type: none"> <li>• If an entire tract or parcel of real property is condemned, the damage to the property owner is the local market value of the property at the time of the special commissioners' hearing.</li> <li>• If a portion of a tract or parcel of real property is condemned, the special commissioners shall determine the damage to the property owner after estimating the extent of the injury and benefit to the property owner, including the effect of the condemnation on the value of the property owners' remaining property.</li> <li>• In estimating injury or benefit under Subsection (c), the special commissioner shall consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, but they may not consider an injury or benefit that the property owner experiences in common with the general community.</li> <li>• If a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system, or for use, construction, development, operation, or maintenance of improvement or project by a metropolitan rapid transit Authority created before January 1, 1980, with a principal city having a population of less than 1,900,000 and established</li> </ul>	<p>Texas Property Code 21.042(a) 21.042(b) 21.042(c) 21.042(d) 21.042(e)</p>	<p>Compliance. METRO followed the Real Estate Management Guidelines in the processing of real estate obtained through eminent domain for the sample property selected for review.</p>



## Section 9: Real Estate Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>under Chapter 451, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a claim for damages to the remaining property. In awarding compensation or assessing the damages, the special commissioners shall consider any special and direct benefits that arise from the highway improvement or the transit Authority improvement or project that arise from the highway improvement or the transit Authority improvement or project that are peculiar to the property owner and that relate to the property owner's ownership, use, or enjoyment of the particular parcel of remaining real property.</p>		
<p>12. Except for the types of land and interests covered by Subsection (b), (g), (h), (l), or (j) and by Section 253.008 before land owned by a political subdivision of the state may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county.</p> <ul style="list-style-type: none"> <li>• The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted.</li> <li>• The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication.</li> <li>• The notice and bidding requirements of Subsection (a) do not apply to the types of land and real property interests described by this subsection and owned by a political subdivision.</li> <li>• That land and those interest may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless with one or more abutting property owners who own the underlying fee simple.</li> </ul>	<p>Local Govt. Code 272.001(a) 272.001(b)</p>	<p>Compliance. During the audit period METRO sold land that was purchased in 2007 under a purchase agreement approved by the Board of Directors. The purchase agreement included an option agreement for the seller to repurchase the property in April, 2008. The option agreement required the payment of option fees if the repurchase was exercised beyond the April, 2008 repurchase date. The seller exercised the option to repurchase the property at the agreed upon price in October 2008. In accordance with the agreement option fees of \$180K were paid over six months and the land was repurchased by the seller.</p> <p>The land was resold under the previous agreement approved by the board and there were no notices, bids, new determination of fair market value, or additional board approval.</p>

## Section 9: Real Estate Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<ul style="list-style-type: none"> <li>The fair market value is determined by an appraisal obtained by the political subdivision that owns the land or interest, and the appraisal is conclusive of the fair market value of the land or interest. This subsection applies to: (1) narrow strips of land, or land that because of its shape or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances; (2) streets or alleys, owned in fee or used by easement; (3) an easement for which one or more abutting property owners own the underlying fee simple; (4) land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, or easements, including transactions partly for cash; (5) land that the political subdivision wants to have developed by contract with an independent foundation; (6) a real property interest conveyed to a governmental entity that has the power of eminent domain; (7) a municipality's land that is located in a reinvestment zone designated as provided by law and that the municipality desires to have developed under a project plan adopted by the municipality for the zone; or (8) a property interest owned by a defense base development authority established under Chapter 378, Local Government Code, as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999.</li> </ul>		

## Section 10: Records Management Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. Designation of records management officer. On or before June 1, 1990, the governing body of each local government shall designate a records management officer by:</p> <p>(1) designating an individual; or</p> <p>(2) designating an office or position, the holder of which shall be the records management officer.</p>	<p>Texas Local Government Code 203.025(a)</p>	<p>Partial Compliance. The Authority did not have a designated Records Management Officer between October 1, 2008 and May 17, 2010. Resolution No. 2010-36 created the position on May 18, 2010.</p>
<p>2. Designation of records management officer: the name, office, or position of the records management officer shall be entered on the minutes of the governing body.</p>	<p>203.025(b)</p>	<p>Compliance. The Board has designated a Record Management Officer during the audit period. Resolution No. 2010-36 and Resolution No. 2011-99.</p>
<p>3. Designation of records management officer.</p> <p>(c) The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of the designation.</p> <p>(d) The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.</p> <p>(e) If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with the director and librarian within 30 days after the date of assuming the office or position.</p>	<p>203,025(c)</p> <p>203,025(d)</p> <p>203,025(e)</p>	<p>Partial Compliance. The current Records Management Officer was appointed October 27, 2011. The Form SLR 504 was not filed with the State Librarian until January 4, 2013.</p>
<p>4. Duties and responsibilities of governing body. The governing body of a local government, including a commissioners court with regard to non-elective county offices, shall:</p> <p>(1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;</p> <p>(2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;</p> <p>(3) facilitate the creation and maintenance of local government records containing adequate and proper</p>	<p>203.021</p>	<p>Partial Compliance. The Authority adopted Resolution No. 2010-36 (Resolution to Create Records Management Policies and Procedures) on May 17, 2010. The detailed policies and procedures were created effective December 2010.</p>

## Section 10: Records Management Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;</p> <p>(4) facilitate the identification and preservation of local government records that are of permanent value;</p> <p>(5) facilitate the identification and protection of essential local government records; and</p> <p>(6) cooperate with the commission in its conduct of statewide records management surveys.</p>		
<p>5. Preparation and filing of records control schedules. On or before January 4, 1999, the records management officer shall prepare and file with the director and librarian: (1) a records control schedule listing the following records and establishing a retention period for each as provided by Section 203.042: or (2) the records management officer, in lieu of filing a records control schedule, may file with the director and librarian a written certification of compliance that the local government or the elective county office has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the commission.</p>	203.041(a)	<p>Partial Compliance. Written certificates of compliance (Form SLR 508) were filed with the Texas Library &amp; Archive Commission on May 13, 2010 and July 6, 2010. Prior to the creation of the Records Management Officer and Policies by the Board on May 18, 2010 there was no official Records Management Officer.</p>
<p>6. Destruction of unscheduled records. Before the filing of a records control schedule or a written certification of compliance as provided by Section 203.041, a local government record may be destroyed only with the <u>prior approval of the director and librarian.</u></p> <p>- After the filing of a records control schedule, amended schedule, written certification of compliance as provided by Section 203.041(a)(2), or amended written certification of compliance as provided by Section 203.041(c), a record that does not appear on a records control schedule or amended schedule may be destroyed only with the <u>prior approval of the director and librarian.</u></p> <p>- Requests for authorization to destroy unscheduled records shall be submitted by the records management</p>	<p>203.045 (a)</p> <p>203.045 (b)</p> <p>203.045 (c)</p>	<p>Not Applicable. No record control lists were filed with the State. Prior to implementation of the new policies METRO maintained all records either onsite or at offsite storage. Resolution 2010-36 confirms METRO's old policy was to maintain all records. No records were destroyed.</p> <p>METRO's new Record Management Polices establish those areas listed on Form SLR508 will use the record retention schedule as provided by the Texas State Library and Archive.</p>

# Section 10: Records Management Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>officer or under the officer's direction. However, if the request is submitted before the filing of a records control schedule or a written certification of compliance as provided by Section 203.041 and a records management officer has not yet been designated as provided by Section 203.025, the request shall be submitted by the custodian.</p> <p>- <u>If the director and librarian or the designee of the director and librarian approves the request</u>, the records listed on it may be destroyed. If the director and librarian or the designee disapproves the request, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer or custodian the record or records on the list that must be retained by the government or transferred to the custody of the commission.</p> <p>- The director and librarian shall determine the form and manner of submission of requests to destroy unscheduled records.</p>	<p>203.045 (d)</p> <p>203.045 (e)</p>	
<p>7. Retention periods.</p> <p>A retention period for each record on the records control schedule shall be determined by the governing body or under its direction or by the elected county officer, as applicable.</p> <p>A retention period may not be less than:</p> <p>(1) a retention period prescribed by a state or federal law, regulation, or rule of court; or</p> <p>(2) a retention period for the record established on a records retention schedule issued by the commission.</p> <p>If at the time a records control schedule is filed by a local government or elected county officer with the director and librarian as provided by Section 203.041, a records retention schedule for the records of that type of local government or elective county office has not been issued by the commission, the records control schedule filed with the director and librarian must be amended to conform</p>	<p>203.042(a)</p> <p>203.042(b))</p> <p>203.042( c)</p>	<p>Partial Compliance. The retention plan became effective in December 2010 in conjunction with the appointment of the Records Management Officer.</p> <p>File Plans are prepared by each record coordinator in conjunction with the records management department and is in line with METRO policy. The retention period is the period established by the state for the specific record number and name. The file plan is effectively the retention schedule. Each record is assigned a state record number and a life cycle based upon the Texas State Library and Achieve Retention Schedule.</p>

# Section 10: Records Management Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
with the commission schedule when it is issued to the extent that any retention period on a records control schedule is less than a retention period for the same record on the commission schedule.		
8. Recordkeeping requirements. As the governing body may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.	203.046	Partial Compliance. A Record Disposition Log was established in December 2010 by the Records Management Officer to track all records destroyed. Records destroyed are based upon the predetermined life cycle established by the File Plan.

# Section 11: Findings and Recommendations

---

The compliance review assesses compliance with approximately 152 legislative requirements in nine areas. Compliance findings documented in this report indicate that METRO is in full or partial compliance with all but one of the requirements that were applicable to the Authority during the FY 2009 – FY 2012 audit period. METRO was not in compliance with the following:

- Finance & Administration #18: METRO did not provide a copy of the FY 2005-FY 2008 performance audit report and the authority's response to its findings and recommendations to the governor, lieutenant governor, the speaker of the house of representatives, each member of the legislature whose district includes territory in the authority, the state auditor, the county judge of each county having territory in the authority, and the presiding officer of the governing body of each municipality having territory in the authority before February 1, 2009.

METRO is in partial compliance with 9 requirements:

- Open Meetings #6 and #7: Three of the board members did not complete required training regarding the responsibilities of the governing body, including procedures and requirements for quorums, notices, open meetings and records, within 90 days of their start dates. Training was subsequently completed.
- Open Meetings #17: One of the 16 certified meeting agendas for closed Board Executive Sessions reviewed was not signed by the presiding Board member to indicate they were true and correct representations of the items discussed. METRO could not locate certified agendas for the period from October 2008 through December 2009.
- Records Management #1: The Authority did not have a designated Records Management Officer (RMO) between October 1, 2008 and May 17, 2010. Resolution No. 2010-36 created the position on May 18, 2010. The partial compliance finding is made because the authority was without an RMO for the all of FY09 and the majority of FY10. The authority is currently compliant with this requirement.
- Records Management #3: The current Records Management Officer (RMO) was appointed on October 27, 2011, but the Form SLR 504 was not filed until January 4, 2013. The partial compliance finding is made because of the recent delay in filing. The Authority is currently compliant with this requirement.
- Records Management #4: The Authority did not have required records management Policies for FY09 and FY10. The authority developed records management policies December 2010. The Authority is currently compliant with this requirement.
- Records Management # 5: The Authority did not file a written certificate of compliance (Form SLR 508) with the Texas Library & Archive Commission until July 6, 2010 (FY10). The Authority is currently compliant with this requirement.
- Records Management # 7 & 8: The authority did not have a records retention plan and "Records Disposition Log" during FY09 and FY10. The plan became effective in December 2010. The authority is currently compliant with this requirement.

While the findings from the compliance assessment indicate predominantly positive performance, there are opportunities to improve compliance with legislative requirements. Recommendations are not intended to be viewed negatively, but rather as opportunities for improvement, and should be balanced with consideration of METRO's positive performance results during the audit review period.

Three recommendations are offered for METRO's consideration, to improve compliance with State requirements:

- Recommendation #1: Continue efforts to work with the State Auditor to adjust the audit schedule so that METRO is able to meet the audit deadline in the future.

# Section 11: Findings and Recommendations

---

- Recommendation #2: Establish a centralized repository and procedures to ensure certified agendas and postings are consistently retained in a secured manner.
- Recommendation #3: Establish procedures and responsible parties to ensure records management filing requirements are performed in a timely manner.