

Metropolitan Transit Authority of Harris County

Fiscal Years 2012-2015
Performance Audit

Task 1: Legislative Compliance

January 2017



In association with:

Contract Service Innovations, LLC
"Taking a Closer Look"



Contents

SECTION 1. INTRODUCTION	1
1.1 TRANSIT PERFORMANCE AUDIT BACKGROUND	1
1.2 LEGISLATIVE COMPLIANCE REVIEW OVERVIEW	1
1.3 ORGANIZATION OF THE REPORT	3
SECTION 2. AUTHORITY COMPLIANCE.....	5
SECTION 3. BOARD MATTERS COMPLIANCE.....	13
SECTION 4. CONFLICT OF INTEREST COMPLIANCE	22
SECTION 5. CONTRACT COMPLIANCE	30
SECTION 6. ENERGY EFFICIENCY COMPLIANCE	38
SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE	40
SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE.....	50
SECTION 9. REAL ESTATE COMPLIANCE	66
SECTION 10. RECORDS MANAGEMENT COMPLIANCE.....	74
SECTION 11. FINDINGS AND RECOMMENDATIONS	79
11.1 FINDINGS	79
11.1.1 <i>NON-COMPLIANT</i>	79
11.1.2 <i>PARTIAL COMPLIANCE</i>	79
11.2 RECOMMENDATIONS.....	80

SECTION 1. INTRODUCTION

Section 1. Introduction

1.1 Transit Performance Audit Background

Section 451.454 of the Texas Transportation Code mandates quadrennial performance audits of Texas transit agencies for municipalities with a population of more than 1.9 million. The purpose of the performance audit is to provide evaluative information necessary for state and local officials to perform oversight functions and to provide useful information to the transit agency for improving efficiency and effectiveness of its operations.

The Metropolitan Transit Authority of Harris County (METRO) meets this requirement and therefore retained Milligan & Company, LLC to perform the audit. Milligan & Company, LLC, in association with Contract Service Innovations, LLC, worked closely with METRO's staff to conduct the Fiscal Years (FY) 2012 to 2015 performance audit. This audit included FY 2012 data, which was previously reviewed as part of the FY 2009 – FY 2012 quadrennial audit by another auditor.

The performance audit assessed METRO's:

- Compliance with applicable state law from Chapter 451 of the Texas Transportation Code (Task 1).
- Collection and compilation of base statistics and measurement of specified state-mandated performance indicators (Task 2).
- Performance in one of three areas (i.e. administration and management, transit operations, or system maintenance). Each functional area must be addressed once every three audit cycles (Task 3). The focus of the functional review for this audit is on transit operations.

This report presents the results of the assessment of METRO's compliance with applicable state law between October 1, 2011 and September 30, 2015 for FYs 2012, 2013, 2014, and 2015. The results of the performance indicators assessment and the functional review of METRO's transit operations are the subjects of separate audit reports.

- Performance Indicators (final report dated January 2017)
- Transit Operations (final report dated January 2017)

1.2 Legislative Compliance Review Overview

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 follow:

- Texas Transportation Code, Chapter 451

SECTION 1. INTRODUCTION

- 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, Chapter 617, Section 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, Chapter 272, Section 001
- Texas Local Government Chapter 302, Section 004
- Texas Health and Safety Code, Chapter 382, Section 133
- Texas Health and Safety Code, Chapter 388, Sections 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)

SECTION 1. INTRODUCTION

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 General Counsel.
- METRO's Multi-Modal Transportation Program, the 21st Century High Capacity Transit Vision, adopted by the board on August 26, 1999.
- The 2035 Houston-Galveston Regional Transportation Plan adopted by the board on August 24, 2007.
- 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 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.

1.3 Organization of the Report

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

- **Section 2: Authority:** Creation and operation of a transit system, authority to tax and contract

SECTION 1. INTRODUCTION

- **Section 3: Board Matters:** Board membership, responsibility, meetings, resolutions, and authority
- **Section 4: Conflicts of Interest:** Disclosure statements and requirements, determination of affinity and bribery
- **Section 5: Contract Compliance:** Procurement and competitive bidding requirements, determining prevailing wages, and performance bond requirements
- **Section 6: Energy Efficiency Standards:** Establishment of goals to reduce electric consumption, reporting requirements, and energy savings performance contracts
- **Section 7: Finance and Administration:** Investment policies, investment strategies, designated investment officer, budget, and audit requirements
- **Section 8: Open Meetings and Public Information:** Public meeting notices, training requirements, and executive session
- **Section 9: Real Estate:** Land acquisition, sale, and eminent domain requirements
- **Section 10: Records Management:** Establishment of Records Management Officer (RMO) and records management plan
- **Section 11: Findings and Recommendations:** Findings and recommendations related to the compliance findings are provided in the last section of this report.

METRO's compliance with each requirement in *Sections 2-10* is assessed as follows:

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

SECTION 2. AUTHORITY COMPLIANCE

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> <p>The order shall also 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.</p> <p>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.</p>	<p>Texas Trans Code 451.661(b)(1)-(2) 451.661(b)(3)-(6) 451.661(c)</p> <p>451.661(d)(1)-(3)</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. An election shall be conducted so that votes are separately tabulated and canvassed and that the result is declared in each unit of the election.</p>	<p>Texas Trans Code 451.660</p>	<p>Compliance. The board canvassed the results of the election. Refer to resolution 78-8 for results.</p> <p>There was a sales and use tax referendum held November 2012. Refer to Resolution 12-112 for canvass results.</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>Texas Trans Code 451.057</p>	<p>Compliance. METRO has acquired rolling stock under contracts and other property under Series A and B leases.</p>

SECTION 2. AUTHORITY COMPLIANCE

<p>4. The board by resolution may make all rules governing the use, operation, and maintenance of the system and the regulation of privileges on property owned, leased, or otherwise controlled by the authority.</p> <p>The authority shall determine all routings and change the same whenever it is deemed advisable by the authority.</p>	<p>Texas Trans Code 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 be 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> <p>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 reasonable and necessary for the effective use of the transportation facility being constructed or maintained.</p> <p>An authority confirmed before 1980 in which the principal municipality has a population of more than 1.9 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).</p>	<p>Texas Trans Code 451.065(d)(1)-(2)</p> <p>451.065(b)</p> <p>451.066(a)</p>	<p>Compliance. METRO is in a General Mobility Program partnership with the City of Houston, Harris County and multi-cities to construct and maintain streets and roadways, bridges and grade separations, and traffic-control signals.</p> <p>METRO allocates a portion of the sales tax revenue to the General Mobility Program, which includes construction and maintenance of sidewalks, hike and bike trails, streetlights and drainage improvements, which did not exceed allowable limits.</p>
<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</p>	<p>Texas Gov't Code 791.011(d)</p>	<p>Compliance. Inter-local agreements are executed according to State requirements and are renewed annually if the period covered is more than one year.</p>

SECTION 2. AUTHORITY COMPLIANCE

<p>from current revenues available to the paying party.</p>		
<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>	<p>Texas Gov't Code 791.011(e)</p>	<p>Compliance. Inter-local agreements specify funding arrangements and compensation levels.</p>
<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:</p> <ul style="list-style-type: none"> (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>Texas Gov't Code 791.027(a)</p>	<p>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 Federal Emergency Management Agency (FEMA) and the Houston police and fire departments. METRO has a standard agreement with the City of Galveston to provide buses for emergency evacuations through Resolution No. 2005-96.</p>
<p>9. An authority may issue bonds at any time for any amounts it considers necessary. The board, by resolution, may authorize the issuance of bonds payable solely from revenue. Bonds that are payable from taxes must be authorized by a majority of the votes received in an election.</p>	<p>Texas Trans Code 451.353(b)</p>	<p>Compliance. METRO issued Sales and Use Tax Bonds series 2015A during the scope period. The bond issuance carries a senior lien obligation and pledge from its sales tax revenue.</p>

SECTION 2. AUTHORITY COMPLIANCE

<p>10. The authority may lease the system or any part thereof to, or contract for the use or operation of the 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 municipality of the authority.</p>	<p>Texas Trans Code 451.056(a)(3) 451.056(b)</p>	<p>Not applicable. METRO has not leased the system or any part thereof during the scope period.</p>
<p>11. The authority may contract with a municipality, county, or other political subdivision for the authority to provide public transportation services outside the authority.</p>	<p>Texas Trans Code 451.056(a)(2)</p>	<p>Compliance. Inter-local agreements were executed according to State requirements. METRO executed an agreement with Fort Bend County Toll Road Authority during the audit period for a rail corridor.</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> <p>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.</p>	<p>Texas Trans Code 451.555(b)(1) 451.555(c) 451.555(b)(2) 451.555(d)</p>	<p>Compliance. METRO's boundaries changed during the audit period.</p> <p>Prior to the November 2012 sales and use tax referendum, METRO staff were required to re-verify the METRO Service Area boundaries. In so doing, adjustments were made to reflect changes in city boundaries (e.g. Houston, Katy, Missouri City, Tomball, and Waller).</p> <p>Some changes, such as increases in city boundaries in Houston, Katy, and Missouri City increased the METRO service area while other changes such as increases in city boundaries of Tomball [which is not a part of the METRO sales tax area] reduced the METRO service area.</p> <p>These changes led to revision from the service area size of 1,298 square miles to 1,303 square miles.</p>

SECTION 2. AUTHORITY COMPLIANCE

<p>16. 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.</p> <p>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.</p> <p>Each proposition must include a brief statement of the nature of the proposed tax.</p> <p>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.</p> <p>Any subsequent increase in a tax must also be approved at an election.</p>	<p>Texas Trans Code 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>17. Prior to an election to authorize a tax other than motor vehicle emission taxes or a sales and use tax, the board shall adopt 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</p>	<p>Texas Trans Code 451.403(a)- (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

are available to the state or any political entities under general law.		
18. The board, after an election approving the tax, may amend the tax code and rules. The board may not increase the amount of the tax by amendment unless the increase is approved at an election.	Texas Trans Code 451.403(c)	Not applicable. METRO has not requested authorization for an increase in taxes other than the 1978 one-percent sales tax.
19. The board may order an election or the registered voters of an authority, by petition, may require an election to increase the authority's sales and use tax rate.	Texas Trans Code 451.408(a)-(b)	Not applicable. METRO has not requested authorization and voters have not petitioned for an increase in taxes other than the 1978 one-percent sales tax.
20. After receiving a petition, the board shall submit the petition to the secretary of state for validation. If the secretary of state finds the petition valid or fails to act within the time allowed, the board shall call an election to increase the tax rate. The authority shall pay the costs of determining the validity of a petition, if any, and of the election.	Texas Trans Code 451.409(b) 451.409(d) 451.409(e)	Not applicable. Voters have not petitioned for an increase in taxes other than the 1978 one-percent sales tax.
21. 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)." A notice of the election and a certified copy of the order canvassing the election results shall be sent to the Texas Department of Transportation and the comptroller. The authority shall file a notice and a certified copy of the order in the deed records of each county in which the authority is located in the same manner as the results of a confirmation election are filed.	Texas Trans Code 451.410 451.41(b)	Not applicable. Voters have not petitioned for an increase in taxes other than the 1978 one-percent sales tax.

SECTION 2. AUTHORITY COMPLIANCE

<p>22. 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>Texas Trans Code 451.405(a)</p>	<p>Not applicable. METRO has not requested authorization for an increase in taxes other than the 1978 one-percent sales tax.</p>
<p>23. 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> <p>In an election ordered by a board:</p> <ol style="list-style-type: none"> 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 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. 	<p>Texas Trans Code 451.404(a)-(b)</p> <p>451.407</p> <p>451.070(a)(1)-(2)</p>	<p>Not applicable. METRO has not requested authorization for an increase in taxes other than the 1978 one-percent sales tax.</p>

SECTION 3. BOARD MATTERS COMPLIANCE

Section 3. Board Matters Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. A vacancy on a board is filled by the person or entity that appointed the member who was in the position that is vacant. If confirmation of the previous position was required, confirmation of the vacancy appointment is required in the same manner.</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 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> <p>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.</p>	<p>Texas Trans Code 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 member. This list was submitted to the Chief Financial Officer for review and approval prior to payment. A review of this list indicated compliance with the \$50 payment and five meeting maximum requirement. 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. A member of the board must be a qualified voter residing in the authority.</p> <p>The board shall elect from among its membership a presiding officer, an assistant presiding officer, and a secretary. This subsection does not apply to the selection of a presiding officer</p>	<p>Texas Trans Code 451.507 451.520(a)-(c)</p>	<p>Compliance. Appointed METRO board members meet the qualifications of residency and voting. The board has elected a presiding officer, an assistant presiding officer, and a secretary from among its members.</p>

SECTION 3. BOARD MATTERS COMPLIANCE

<p>who is appointed under Section 451.502(e)(3).</p> <p>The board may appoint one or more assistant secretaries, who are not required to be members.</p> <p>The secretary and assistant secretaries shall keep a permanent record of the proceedings and transactions of the board and perform other duties required by the board.</p>		
<p>4. The grounds for removal of a member of a board are:</p> <ul style="list-style-type: none"> (1) inefficiency in office; (2) nonfeasance or malfeasance in office; (3) does not have at the time of appointment or does not maintain during service on the board the qualifications required by Section 451.507 of this Act; (4) violates a prohibition established by Chapter 171, Local Government Code or Section 451.112 of this Act; (5) 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 (6) 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>Texas Trans Code 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> <p>Upon written notice, the presiding officer of the board or the general manager may call special meetings as may be necessary.</p> <p>The board, when organized, shall by resolution recorded in the</p>	<p>Texas Trans Code 451.514(a) 451.514(b) 451.517</p>	<p>Compliance. Article II Section 6 of the METRO Bylaws requires the board to hold at least one regular meeting each month and designate the day, place, and time by resolution. A sample review of archived videos indicated that METRO had at least one regular</p>

SECTION 3. BOARD MATTERS COMPLIANCE

<p>minutes, set the time, place and day of the regular meetings, and shall likewise adopt rules and bylaws as it may deem necessary for the conduct of its official meetings.</p> <p>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.</p>	<p>451.515(a)</p>	<p>meeting each month during the audit period.</p> <p>Compliance. Article II Section 8 of the METRO Bylaws defines a quorum.</p>
<p>In addition to notice required by Chapter 551, Government Code, a 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>Texas Trans Code 451.518</p>	<p>Compliance. A sample selection of public notices reviewed indicated that regular, special, and committee meetings of the METRO board were posted on the bulletin board at METRO's administrative offices and its website. Notice to the Harris County Clerk was confirmed for each notice in the test sample.</p>
<p>6. Each member shall serve a term of two years.</p> <p>A person may not serve more than eight years on the same board and may not be appointed to a term for which service to the completion of the term would exceed this limitation.</p> <p>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>Texas Trans Code 451.505(a) 451.506(b) 451.506(d)</p>	<p>Compliance. Article II Section 2 of the METRO Bylaws established the board term of office as two years and no individual is to serve more than 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>7. A board may establish one or more advisory committees to make recommendations to the board or the general manager on 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</p>	<p>Texas Trans Code 451.109(a) 451.109(c)</p>	<p>Not applicable. The board had not established special advisory committees. However, Resolution 99-1 established four Standing Committees for the board: (1) Future Programs, (2) Internal Operations, (3) Transit Services, and (4) Budget and Finance. The</p>

SECTION 3. BOARD MATTERS COMPLIANCE

<p>reimbursement for actual and necessary expenses incurred in the performance of committee service.</p>		<p>number of Standing Committees was increased to five with Resolution 2004-32: (1) Finance Committee/Audit, (2) Future Programs/ Planning Committee, (3) Government and Public Relations Committee, (4) Human Resources Committee, and (5) the Operations Committee.</p>
<p>8. The board shall appoint members to an advisory committee who are selected from a list provided by the general manager; and have knowledge about and interest in, and represent a broad range of viewpoints about, the work of the committee.</p>	<p>Texas Trans Code 451.109(b)</p>	<p>Not applicable. The board had not established special advisory committees.</p>
<p>9. 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>Texas Trans Code 451.109(a)</p>	<p>Not applicable. The board had not established special advisory committees.</p>
<p>10. 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>Texas Trans Code 451.053</p>	<p>Compliance. <i>See</i> Article II Section I of the METRO Bylaws.</p>
<p>11. The board may: (1) employ a general manager and other persons necessary for the conduct of the affairs of the authority, including operating or management companies; (2) prescribe the duties, compensation, and tenure of persons employed; (3) remove an employee; (4) adopt a seal of the authority; (5) set the fiscal year for the authority; (6) establish a complete system of accounts for the authority; (7) 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; (8) purchase, with funds of the authority, certificates of deposit of state or national banks or savings and loan associations in this state if the certificates are secured in the</p>	<p>Texas Trans Code 451.101</p>	<p>Compliance. The board had employed the services of the President & 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

<p>same manner that the funds of a county of this state are required to be secured; (9) the board, by resolution, may provide that an authorized representative of the authority may invest the funds of the authority and provide for money to be withdrawn from the authority accounts for investments; (10) designate by resolution an authorized representative of the authority to supervise the substitution of securities pledged to secure authority funds.</p> <p>A board shall designate one or more banks as depositories for authority funds.</p>	<p>451.105(a)</p>	<p>Compliance. The board has designated a bank as depository for authority funds.</p>
<p>12. The board of an authority in which the principal municipality 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.</p> <p>Subject to those policies, only the general manager may remove any employee.</p> <p>With the approval of the board, the general manager may contract with others for the performance of work or provision of materials for the authority.</p>	<p>Texas Trans Code 451.106(a)-(c)</p>	<p>Compliance. The board had employed the services of the President & 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>13. 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>Texas Trans Code 451.106(d)</p>	<p>Compliance. <i>See</i> Article II Section 11 of the METRO Bylaws.</p>
<p>14. The board of an authority to which this section applies shall</p>		<p>Compliance. Resolution Number 87-90</p>

SECTION 3. BOARD MATTERS COMPLIANCE

<p>18. A peace officer who holds a commission under this section from an authority in which the principal municipality has a population of more than 1.9 million and who has filed with the authority the oath of a peace officer has all the powers, privileges, and immunities of peace officers in the counties in which the transit authority system is located, provides services, or is supported by a general sales and use tax.</p>	<p>Texas Trans Code 451.108(d)</p>	<p>Compliance. A sample review of peace officer personnel information files indicated peace officers are commissioned by the authority. A sample review of peace officer training records indicated peace officers were certified.</p>
<p>19. The person or entity proposing to remove a board member shall give the member a written statement of the grounds for removal. The member is entitled to a hearing before the board or entity if, before the 11th day after the date the statement is received, the member requests a hearing. The member may be represented by counsel at the hearing.</p> <p>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.</p>	<p>Texas Trans Code 451.511(a)</p> <p>451.511(b)-(c)</p>	<p>Not applicable. There were no board members removed from office during the audit period.</p>
<p>20. 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>Texas Trans Code 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

<p>21. 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.</p> <p>A petition is valid if:</p> <ol style="list-style-type: none"> (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 registered voters of the authority in a number equal to or greater than 10 percent of the number of votes cast in the authority in the preceding gubernatorial 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 entity, and (4) it is submitted to the entity before the first day of the final six months of the term of the member whose removal is sought. 	<p>Texas Trans Code 451.513(a)</p> <p>Texas Trans Code 451.513(c)</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>22. After receiving a petition, the appointing political subdivision shall submit it to the secretary of state, who, not later than the 10th day after the day he or she receives the petition, shall determine.</p> <p>If the secretary of state fails to act within the time allowed, the petition is treated as if it had been found valid.</p>	<p>Texas Trans Code 451.513(d)</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>

SECTION 3. BOARD MATTERS COMPLIANCE

<p>23. 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>	<p>Texas Trans Code 451.513(b)</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>24. 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>	<p>Texas Trans Code 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>25. 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>Texas Trans Code 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>26. 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> <p>The chairman shall then notify the appointing agency that a potential ground for removal exists.</p>	<p>Texas Trans Code 451.509(d)</p>	<p>Not applicable. The general manager expressed no grounds for removal existed and, thus, no board members were removed from the board during the audit period.</p>

SECTION 4. CONFLICT OF INTEREST COMPLIANCE

Section 4. Conflict of Interest Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. 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.</p>	<p>Texas Local Government Code 171.003</p>	<p>Compliance. Section III, A, 1 and 5 of the METRO Code of Ethics defines these acts as prohibited standards of conduct. There were no violations during the audit period</p>
<p>2. 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> <p>The affidavit must be filed with the official record keeper of the governmental entity.</p> <p>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.</p>	<p>Texas Local Government Code 171.004</p>	<p>Compliance. As established in Section III, B of the METRO Code of Ethics, board members must disclose all business entities, contracts, and real property in which they have a substantial interest. Section II, O of the METRO Code of Ethics defines substantial interest. Based on a test sample of disclosure statements, board members signed affidavits stating the nature and extent of their interest in a particular entity or property and their abstention from voting on related matters. Such disclosures are maintained with METRO's Legal Department.</p>

SECTION 4. CONFLICT OF INTEREST COMPLIANCE

<p>3. 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 is concerned has been resolved.</p>	<p>Texas Local Government Code 171.005</p>	<p>Compliance. As established in Section III, B, 1 of the METRO Code of Ethics, if a board member has a substantial interest in a business, contract, or real property on which a special economic effect would be conferred by a vote or decision by such board member, the board member may not participate in the consideration of the matter subject to the vote or decision.</p>
<p>4. A local government officer shall file a conflicts disclosure statement with respect to a vendor if:</p> <p>(1) the vendor enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the vendor; and</p> <p>(2) the vendor:</p> <p style="padding-left: 40px;">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 style="padding-left: 80px;">i. a contract between the local governmental entity and vendor has been executed; or</p> <p style="padding-left: 80px;">ii. the local governmental entity is considering entering into a contract with the vendor;</p> <p style="padding-left: 40px;">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 \$100 in the</p>	<p>Texas Local Government Code 176.003(a)</p>	<p>Compliance. Section 1.10 of the METRO Procurement Manual is consistent with the code requirements regarding the disclosure of conflicts of interest.</p>

SECTION 4. CONFLICT OF INTEREST COMPLIANCE

<p>12-month period preceding the date the officer becomes aware that:</p> <ul style="list-style-type: none"> i. a contract between the local governmental entity and vendor has been executed; or ii. the local governmental entity is considering entering into a contract with the vendor; or <p>C. has a family relationship with the local government officer.</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 a political contribution as defined by Title 15 or food accepted as a guest.</p>	<p>176.003(a-1)</p>	
<p>5. 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>Texas Local Government Code 176.003(b)</p>	<p>Compliance. As established in Section III, B of the METRO Code of Ethics, members must disclose all business entities, contracts, and real property in which they have a substantial interest. Section II, O of the METRO Code of Ethics defines substantial interest. Such disclosures are maintained in METRO's Legal Department.</p>
<p>6. A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate.</p>	<p>Texas Local Government Code 176.006(d)</p>	<p>Compliance. As established in Section 1.10 of the METRO Procurement Manual, vendors are required to complete Conflict of Interest Questionnaires. Such questionnaires are maintained in METRO's Procurement Department.</p>
<p>7. A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:</p>	<p>Texas Local Government Code 176.006(a)-(b)</p>	<p>Compliance. As established in Section 1.10 of the METRO Procurement Manual, vendors are required to complete Conflict of Interest Questionnaires. METRO provides access to its</p>

SECTION 4. CONFLICT OF INTEREST COMPLIANCE

<p>(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);</p> <p>(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or</p> <p>(3) has a family relationship with a local government officer of that local governmental entity.</p> <p>The commission shall adopt a conflict of interest questionnaire for use under this section that requires disclosure of a vendor's business and family relationships with a local governmental entity.</p>		<p>Conflict of Interest Questionnaire on its website: http://www.ridemetro.org/pages/ConflictsDisclosure.aspx.</p>
<p>8. 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>Texas Local Government Code 176.009</p>	<p>Compliance. METRO provides access to Conflict of Interest disclosure statements and questionnaires on its website: http://www.ridemetro.org/Pages/BoardOfDirectors.aspx</p>

SECTION 4. CONFLICT OF INTEREST COMPLIANCE

<p>9. A records administrator shall:</p> <p>(1) maintain a list of local government officers of the local governmental entity and shall make that list available to the public and any vendor who may be required to file a conflict of interest questionnaire under Section 176.006; and</p> <p>(2) 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>Texas Local Government Code 176.0065</p>	<p>Compliance. METRO provides a list of its current board members on its website: http://www.ridemetro.org/Pages/BoardOfDirectors.aspx</p> <p>Completed Conflict of Interest Questionnaires & CIS Forms are kept on METRO's site for two (2) years. Original forms are maintained with METRO's Legal Department in accordance with its record retention plan.</p>
<p>10. A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:</p> <p>(1) 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;</p> <p>(2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;</p> <p>(3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or</p> <p>(4) any benefit that is a political contribution as defined by Title 15, Election Code</p>	<p>Texas Penal Code 36.02(a)</p>	<p>Compliance. Section III, A of the METRO Code of Ethics defines these acts as prohibited standards of conduct.</p>
<p>11. 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:</p> <p>(1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or</p>	<p>Texas Penal Code 36.02(c)</p>	<p>Compliance. Section III, A of the METRO Code of Ethics defines these acts as prohibited standards of conduct.</p>

SECTION 4. CONFLICT OF INTEREST COMPLIANCE

(2) the public servant ceases to be a public servant		
12. 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.	Texas Penal Code 36.07(a)	Compliance. There were no honorariums received during the audit period.
13. 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.	Texas Penal Code 36.07(b)	Compliance. Section III, G, 4 of the METRO Code of Ethics defines the exceptions for receiving transportation, lodging, and meals in connection with professional services which are consistent with the code.
14. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government 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 contract, purchase, payment, claim, or transaction involving the exercise of his discretion.	Texas Penal Code 36.08(d)	Compliance. Section III, A of the METRO Code of Ethics defines these acts as prohibited standards of conduct.
15. 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: (1) the individual is related to the public official within a degree described by Section 573.002; or (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	Texas Gov't Code 573.041(a)	Compliance. Section III, C of the METRO Code of Ethics is consistent with the code requirements regarding nepotism.

SECTION 4. CONFLICT OF INTEREST COMPLIANCE

<p>member of that board, legislature, or court within a degree described by Section 573.002.</p>		
<p>16. An individual's relatives within the third degree by consanguinity are the individual's:</p> <ul style="list-style-type: none"> (1) parent or child (relatives in the first degree); (2) brother, sister, grandparent, or grandchild (relatives in the second degree); and (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>Texas Gov't Code 573.023(c)</p>	<p>Compliance. METRO Code of Ethics is consistent with the code requirements regarding consanguinity and determination of affinity. <i>See</i> Section II, Definitions.</p>
<p>17. Two individuals are related to each other by affinity if:</p> <ul style="list-style-type: none"> (1) they are married to each other; or (2) the spouse of one of the individuals is related by consanguinity to the other individual. <p>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>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>Texas Gov't Code 573.024(a)</p> <p>573.024(b)</p> <p>573.024(c)</p>	<p>Compliance. METRO Code of Ethics is consistent with the code requirements regarding consanguinity and determination of affinity. <i>See</i> Section II, Definitions.</p>
<p>18. 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</p>	<p>Texas Gov't Code 573.062(a)</p>	<p>Compliance. Section III, C of the METRO Code of Ethics is consistent with the code requirements regarding nepotism.</p>

SECTION 5. CONTRACT COMPLIANCE

<p>An announcement that a contract to which this section applies is being considered must be posted in a prominent place in the principal office of the authority for at least two weeks before the date the contract is awarded.</p> <p>This section does not apply to a contract that must be awarded through competitive bidding or for the purchase of an existing transit system.</p>	<p>Texas Trans Code 451.111(b)</p> <p>451.111(c)</p>	
<p>4. A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:</p> <p>(1) on the basis of demonstrated competence and qualifications to perform the services; and</p> <p>(2) a fair and reasonable price.</p> <p>The professional fees under the contract may not exceed any maximum provided by law.</p>	<p>Texas Gov't Code 2254.003(a)</p> <p>2254.003(b)</p>	<p>Compliance. Chapter 5 of METRO's Procurement Manual specifies methods of selecting sources. Section 5.10 identifies appropriate evaluation factors.</p>
<p>5. In procuring architectural, engineering, or land surveying services, a governmental entity shall:</p> <p>(1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and</p> <p>(2) then attempt to negotiate with that provider a contract at a fair and reasonable price.</p>	<p>Texas Gov't Code 2254.004(a)</p>	<p>Compliance. Chapter 5, Section 5.11 of METRO's Procurement Manual includes nine criteria for the evaluation from letters of interest and qualifications statements.</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</p>	<p>Texas Gov't Code 2254.004(b)</p>	<p>Compliance. Chapter 5, Section 5.22 of METRO's Procurement Manual establishes the sequence for negotiating contracts.</p>

SECTION 5. CONTRACT COMPLIANCE

<p>second most highly qualified person.</p> <p>Negotiations shall be undertaken in this sequence until a contract is made.</p>	<p>Texas Gov't Code 2254.004(c)</p>	
<p>7. An official of the state or of a political subdivision of the state may not enter into a collective bargaining contract with a labor organization regarding wages, hours, or conditions of employment of public employees.</p> <p>A contract entered into in violation of Subsection 617.002(a) is void.</p> <p>An official of the state or of a political subdivision of the state may not recognize a labor organization as the bargaining agent for a group of public employees.</p>	<p>Texas Gov't Code 617.002</p>	<p>Compliance. METRO's collective bargaining agreements predate State law and were a requirement as a condition of operation of transit services under Federal Transit Act Section 13(c) requirements. METRO's agreement is unilateral.</p>
<p>8. A governmental entity that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity:</p> <p>(1) a performance bond if the contract is in excess of \$100,000; and</p> <p>(2) a payment bond if:</p> <p>A. the contract is in excess of \$25,000, and the governmental entity is not a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code; or</p> <p>B. the contract is in excess of \$50,000, and the governmental entity is a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code.</p>	<p>Texas Gov't Code 2253.021(a)</p>	<p>Compliance. A sample review of construction contracts for the audit period indicated that METRO complied with 2253.021 requirements. Chapter 9 of METRO's Procurement Manual specifies criteria for determining bonding requirements.</p>

SECTION 5. CONTRACT COMPLIANCE

<p>which any notice of claim should be sent; or</p> <p>(2) the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free telephone number.</p> <p>If a governmental entity fails to obtain from a prime contractor a payment bond as required by Section 2253.021:</p> <p>(1) the entity is subject to the same liability that a surety would have if the surety had issued a payment bond and if the entity had obtained the bond; and</p> <p>(2) a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the public work contract were subject to Subchapter J, Chapter 53, Property Code.</p>	<p>2253.027(a)</p>	
<p>9. 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:</p> <p>(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 which the public work is to be performed; or</p> <p>(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</p>	<p>Texas Gov't Code 2258.022(a)</p>	<p>Compliance. METRO policies and procedures indicate that the adopted method of compliance with the prevailing wage rate is the Davis-Bacon Act. Procurement documentation reviewed and selected contracts required compliance with the Davis Bacon Act. Certified contractor payrolls are monitored for compliance.</p>

SECTION 5. CONTRACT COMPLIANCE

<p>subsequent amendments.</p> <p>The public body must determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents.</p> <p>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.</p>	<p>Texas Gov't Code</p> <p>2258.022(c)</p> <p>2258.022(d)</p>	
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SECTION 6. ENERGY EFFICIENCY COMPLIANCE

Section 6. Energy Efficiency Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. 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 has implemented measures each year to address energy consumption at Buildings, Park & Rides, Transit Centers, Rail Lines, Traffic Systems, Closed Circuit Television, and Shelters. Plans are to install metering equipment at all major consuming facilities. Utility Management Software was implemented to provide analytical tools for weather, normalization, energy star compatibility benchmarking, and auditing reports.</p>
<p>2. 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>Texas Health and Safety Code 388.005(c)</p>	<p>Compliance. METRO has established an energy efficiency goal of a five percent reduction each year. METRO submits annual reports to the State Energy Conservation Office regarding their goal to reduce electrical consumption by five percent each fiscal year.</p>
<p>3. 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</p>	<p>Texas Health and Safety Code 388.005(d)-(e)</p>	<p>Compliance. METRO filed a Senate Bill 898 Reporting Form to the State Energy Conservation Office each year during the audit period.</p>

SECTION 6. ENERGY EFFICIENCY COMPLIANCE

<p>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.</p> <p>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 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 not executed an energy savings performance contract.</p>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

Section 7. Finance and Administration Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. An authority may issue bonds at any time and for any amounts, it considers necessary or appropriate for the acquisition, construction, repair, equipping, improvement, or extension of its transit authority system.</p>	<p>Texas Trans Code 451.352(a)</p>	<p>Compliance. All bonds issued during the audit period were approved by resolution by the METRO board.</p>
<p>2. An authority shall impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other compensation for the use of the transit authority system sufficient to produce revenue, together with tax revenue received by the authority, in an amount adequate to:</p> <p>(1) pay all the expenses necessary to operate and maintain the transit authority system;</p> <p>(2) pay when due the principal of and interest on, and sinking fund and reserve fund payments agreed to be made with respect to, all bonds that are issued by the authority and payable in whole or part from the revenue; and</p> <p>(3) fulfill the terms of any other agreement with the holders of bonds described by Subdivision (2) or with a person acting on behalf of the bondholders.</p>	<p>Texas Trans Code 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>Texas Trans Code 451.061(b)</p>	<p>Compliance. Review of the authority's FYs 2012, 2013, 2014 and 2015 financial statements and METRO's Vision for 21st Century High Capacity Transit Plan (adopted August 26, 1999) indicates it is reasonable to conclude that all compensation for the use of facilities of the system were not in excess of</p>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

		what is necessary to fulfill the obligations imposed upon the authority.
<p>4. An authority's bonds are fully negotiable. An authority may make the bonds redeemable before maturity at the price and subject to the terms and conditions that are provided in the authority's resolution authorizing the bonds.</p> <p>An authority's bonds may be sold at a public or private sale as determined by the board to be the more advantageous.</p>	<p>Texas Trans Code 451.353(a)</p> <p>451.354</p>	<p>Compliance. METRO issued bonds, which were approved by board resolutions during the audit period.</p>
<p>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.</p>	<p>Texas Trans Code 451.355(a)</p> <p>451.362(b)-(c)</p>	<p>Compliance. Approval was received from the Attorney General prior to delivery of bonds issued during the audit period with a maturity date in excess of five years.</p>
<p>6. Refunding bonds or notes may be issued for the purposes and in the manner provided by general law, including, chapter 1207, government code.</p>	<p>Texas Trans Code 451.359</p>	<p>Not Applicable. METRO did not issue refunding bonds during the audit period.</p>
<p>7. The board, by resolution, may authorize the issuance of bonds payable solely from revenue.</p> <p>Bonds, any portion of which is payable from taxes, may not be issued until authorized by a majority of the votes received in an election ordered and held for that purpose.</p>	<p>Texas Trans Code 451.352(b)-(c)</p>	<p>Compliance. METRO Bonds are payable solely from revenue. Bonds issued by METRO during the audit period were approved by the board and by previous election of the voters.</p>
<p>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</p>	<p>Texas Trans Code 451.362(a)</p>	<p>Compliance. METRO did not issue short-term bonds with a term of not more than 12 months. METRO did issue bonds during the audit period of not more than five years that are payable from tax revenue.</p>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

<p>bonds are issued.</p> <p>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.</p>	<p>Texas Trans Code 451.362(c)</p>	
<p>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.</p> <p>The board may order an election to increase the authority's sales and use tax rate.</p> <p>If the board has reduced the rate of the authority's sales and use tax without election, the board, by order, may increase the rate to a rate not in excess of the rate before the ordered decrease.</p>	<p>Texas Trans Code 451.407 451.408(a) 451.408(c)</p>	<p>Not applicable. METRO did not increase or decrease the local sales and use tax rate during the audit period.</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> <p>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.</p> <p>The board by resolution may authorize a designated representative to supervise the substitution of securities pledge to secure the authorities funds.</p>	<p>Texas Trans Code 451.105(b) 451.105(c) 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>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

<p>11. A board shall adopt an annual operating budget of all major expenditures by type and amount. The board shall adopt the budget before the beginning of the fiscal year to which the budget applies and before the authority may conduct any business in the fiscal year.</p> <p>The board shall hold a public hearing on a proposed annual operating budget before adopting the budget and shall, at least 14 days before the date of the hearing, make the proposed budget available to the public.</p> <p>The board after public notice and a hearing may by order amend an annual operating budget.</p> <p>An authority may not spend for operations money in excess of the total amount specified for operating expenses in the annual operating budget.</p>	<p>Texas Trans Code</p> <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>FY 2012 – Resolution No. 2011-84 on September 29, 2011</p> <p>FY 2013 – Resolution No. 2012-91 on September 27, 2012</p> <p>FY 2014 – Resolution No. 2013-126 on September 26, 2013</p> <p>FY 2015 – Resolution No. 2014-115 on September 25, 2014</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> <p>The board of the authority shall deliver a copy of the report of an audit performed under this section to: (1) the governor; (2) the lieutenant governor; (3) the speaker of the house of representatives; (4) the state auditor; (5) the county judge of each county having territory in the authority; and (6) the presiding officer of the governing body of each municipality having territory in the authority.</p>	<p>Texas Trans Code</p> <p>451.451(a)</p> <p>451.452(a)</p>	<p>Compliance. Annual financial audits were completed and distributed as follows:</p> <p>FY 2012 – Resolution No. 2013-30 on March 28, 2013</p> <p>FY 2013 – Resolution No. 2014-24 on March 27, 2014</p> <p>FY 2014 – Resolution No. 2015-25 on March 26, 2015</p> <p>FY 2015 – Resolution No. 2016-25 on March 23, 2016</p>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

<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>	<p>Texas Trans Code 451.454(a)</p>	<p>Compliance. During the audit period, METRO contracted with CH2M Hill for the FY 2009-2012 performance audit. <i>See</i> board Resolution 2012-113.</p>
<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>	<p>Texas Trans Code 451.454(c)(1) 451.454(d)</p>	<p>Compliance. METRO's management of the authority was the subject of the FY 2009-2012 performance audit.</p>
<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, per revenue mile, and per revenue hour; (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.</p>	<p>Texas Trans Code 451.454(c)(2) 451.454(c)(3)</p>	<p>Compliance. METRO's performance indicators are detailed in a separate report "FY 2009-2012 Performance Audit: Performance Indicators".</p>
<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 each proposal for action relating to recommendations included in the report, whether the proposal for action is pending, adopted, or rejected.</p>	<p>Texas Trans Code 451.456(a)</p>	<p>Compliance. METRO prepared a written response that addressed the recommendations of the FY 2009-2012 performance audit.</p>
<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 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</p>	<p>Texas Trans Code 451.456(b)(c)</p>	<p>Compliance. For the FY 2009-2012 performance audit, METRO conducted a Public Hearing on June 27, 2013 to report the findings of the audit.</p> <p>Compliance. METRO published the Notice for</p>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

<p>response available for public inspection at authority offices.</p>		<p>Public Hearing on June 13, 2013 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>Texas Trans Code 451.457</p>	<p>Non-Compliant. METRO sent copies of the FY 2009–2012 performance audit to all appropriate parties on July 29, 2013. The required delivery date was before February 1, 2013.</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.</p> <p>The investment policies must:</p> <ol style="list-style-type: none"> (1) be written; (2) primarily emphasize safety of principal and liquidity; (3) address investment diversification, yield, and maturity and the quality and capability of investment management; and (4) include: <ol style="list-style-type: none"> 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; 	<p>Texas Gov't Code 2256.005(a)-(b)</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>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

<ul style="list-style-type: none"> 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>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:</p> <ul style="list-style-type: none"> (1) attend at least one training session 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 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 	<p>Texas Gov't Code 2256.008(a)</p>	<p>Compliance. Investment officers, including the former chief financial officer completed the required training during the audit period. The current chief financial officer was in the position less than 12 months at the time of the audit review.</p>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

<p>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. Not less than quarterly, 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>	<p>Texas Gov't Code 2256.023(a)</p>	<p>Compliance. Investment reports are prepared monthly and transitioned from quarterly to monthly presentations to the Board of Directors during the audit period.</p>
<p>22. A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.</p> <p>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.</p> <p>The written policy may include:</p> <p>(1) the security of the institution that obtains or holds an investment security;</p> <p>(2) the substitution or release of an investment security; and</p> <p>(3) the method by which an investment security used to secure a deposit of public funds is valued.</p>	<p>Texas Gov't Code 2257.021</p> <p>2257.023</p>	<p>Compliance. Investment policies approved by the Board of Directors for each audit period included collateral requirements. The policy requires collateralization of 102 percent of market value of principal and accrued interest on deposits less amounts insured by FDIC.</p>
<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</p>	<p>Texas Gov't Code 2257.025(a)</p> <p>2257.041(c)</p>	<p>Compliance. Investment policy designates the depository and custodian. Depository and custodian agreements on file incorporate code requirements.</p>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

<p>writing on the terms and conditions for securing a deposit of public funds.</p>		
<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:</p> <ul style="list-style-type: none"> (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. <p>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 2251.021 Subsections (a)(1) through (3).</p>	<p>Texas Gov't Code 2251.021(a)-(b)</p>	<p>Compliance. METRO accounts policy procedures require payments to be made within 30 days of receipt.</p>
<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</p>	<p>Texas Gov't Code 2251.042</p>	<p>Compliance. METRO accounts payable procedures include steps to resolve discrepancies and interest calculations.</p>

SECTION 7. FINANCE AND ADMINISTRATION COMPLIANCE

accrues interest as provided by this chapter if the corrected invoice is not paid by the appropriate date.		
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SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

Section 8. Open Meetings and Public Information Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.</p> <p>The minutes must:</p> <ul style="list-style-type: none"> (1) state the subject of each deliberation; and (2) indicate each vote, order, decision, or other action taken. 	<p>Texas Gov't 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>Texas Gov't Code 551.022</p>	<p>Compliance. All minutes (written or recorded) are part of the open records and are available for review through the Public Information Coordinator at METRO's Administrative office. Minutes and recordings of an open meeting are also available on METRO's website.</p>
<p>3. 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>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: (6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code.</p>	<p>Texas Gov't Code 551.056(a) 551.056(b)(6)</p>	<p>Compliance. Board meeting notices are posted on METRO's website: The agenda for such meetings are concurrently posted on METRO's website 72 hours before the meeting.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>The following governmental bodies and economic development corporations must also concurrently post the agenda for the meeting on the Internet website of the governmental body or economic development corporation: (6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code.</p>	<p>Texas Gov't Code 551.056(c)(6)</p>	
<p>4. This chapter does not require a governmental body to conduct an open meeting:</p> <ul style="list-style-type: none"> (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. 	<p>Texas Gov't Code 551.074(a)</p>	<p>Compliance. A review of a selected sample of certified agendas revealed that personnel matters were discussed in executive sessions.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>5. An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public agenda or tape recording of a meeting that was lawfully closed to the public under this chapter:</p> <p>(1) commits an offense; and</p> <p>(2) is liable to a person injured or damaged by the disclosure for:</p> <p>A. actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;</p> <p>B. reasonable attorney fees and court costs; and</p> <p>C. at the discretion of the trier of fact, exemplary damages.</p>	<p>Texas Gov't Code 551.146(a)</p>	<p>Compliance. The authority's Code of Ethics policies declared that the unauthorized disclosure of confidential information is prohibited. See Section III (A) 6.</p>
<p>6. 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>Texas Gov't Code 551.005(a)</p>	<p>Partial Compliance. One board member did not complete training within 90 days of their start date.</p>
<p>7. 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>Texas Gov't Code 551.005(c)</p>	<p>Compliance. Certificates of completion are on file with METRO's Office of General Counsel.</p>
<p>8. This section applies to an elected or appointed public official who is:</p> <p>(1) a member of a multimember governmental body;</p>	<p>Texas Gov't Code 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 METRO's Public Information</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>(2) the governing officer of a governmental body that is headed by a single officer rather than by a multimember governing body; or</p> <p>(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>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. 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:</p> <p>(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</p> <p>(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 the person's duties.</p>	<p>Texas Gov't Code 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 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>10. 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</p>	<p>Texas Gov't Code 552.012(c)</p>	<p>Compliance. Certificates of completion for Texas Public Information Act training sponsored by the Attorney General of Texas were on file 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

<p>assumes the person's duties as coordinator.</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.</p> <p>If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:</p> <p>(1) announces that a closed meeting will be held; and</p> <p>(2) identifies the section or sections of this chapter under which the closed meeting is held.</p>	<p>Texas Gov't Code 551.002</p> <p>551.101</p>	<p>Compliance. All regular scheduled METRO board meetings, committee meetings, special meetings and emergency meetings were open to the public.</p> <p>Prior to an executive meeting, notice was provided. At open meetings in which a quorum of the board was in attendance, executive meetings were then called by the board Chairman to discuss real estate, personnel, and to consult with attorneys on legal matters.</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>	<p>Texas Gov't Code 551.084</p>	<p>Not applicable. No such incidents were noted during the audit period.</p>
<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>Texas Gov't Code 551.071</p>	<p>Compliance. A review of a selected sample of certified agendas from executive sessions indicated that the METRO board met with its attorney in closed executive session to discuss litigation, real estate, and personnel issues only. The attorney is required to attend all executive sessions regarding legal matters.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>14. A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.</p> <p>A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.</p>	<p>Texas Gov't Code 551.072</p> <p>551.073</p>	<p>Compliance. A review of a selected sample of certified agendas from executive sessions indicated that the board met in closed executive sessions to discuss real estate matters.</p>
<p>15. A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or other means of aural or visual reproduction.</p> <p>A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to</p> <ul style="list-style-type: none"> (1) the location of recording equipment; and (2) the manner in which the recording is conducted. <p>A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).</p>	<p>Texas Gov't Code 551.023</p>	<p>Not applicable. The board did not adopt rules to maintain order at meetings that a person in attendance is recording.</p>
<p>16. A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.</p>	<p>Texas Gov't Code 551.102</p>	<p>Compliance. The METRO board did not take action or vote in closed meetings. A review of a selected sample of certified agendas from executive sessions included a statement that no action or vote was taken. All votes were taken during open meetings.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>19. The governmental body shall preserve the certified agenda or tape for at least two years after the date of the meeting.</p> <p>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.</p>	<p>Texas Gov't Code 551.104(a)</p>	<p>Compliance. The METRO board elected to keep certified agendas as permanent records under its current record retention plan.</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>Texas Gov't Code 551.145 551.141</p>	<p>Compliance. A review of a selected sample of board minutes indicated the announcement of closed executive sessions. Certified agendas for each of these executive sessions were confirmed. Verification of the sample certified agendas confirmed that no member of the board participated in closed executive sessions knowing a certified agenda was not being kept.</p>
<p>21. A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.</p> <p>If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:</p> <p>(1) a statement of specific factual information given in response to the inquiry; or</p> <p>(2) a recitation of existing policy in response to the inquiry.</p> <p>Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.</p>	<p>Texas Gov't Code 551.041 551.042</p>	<p>Compliance. Based on a sample selection of public notices, each included the meeting, date, time, location, and subject of the meeting.</p> <p>Compliance. It was verified in the sample selection that this was not an issue. However, METRO confirmed that if inquiries are made during a public meeting for a subject in which notice has not been given, deliberation about the subject is placed on the agenda for the following meeting.</p>
<p>22. The governing body of a water district or other district or political subdivision that extends into fewer than four counties</p>	<p>Texas Gov't Code</p>	<p>Compliance. A sample selection of public notices reviewed indicated that regular, special,</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>shall:</p> <ul style="list-style-type: none"> (1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and (2) either provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website. 	<p>551.054(a)</p>	<p>and committee meetings of the METRO board were posted on the bulletin board at METRO's administrative offices and its website. Notice to the county clerk was confirmed for each notice in the test sample.</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 before the scheduled time of the meeting.</p> <p>If this chapter specifically requires or allows a governmental body to post notice of a meeting on the Internet:</p> <ul style="list-style-type: none"> (1) the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period; (2) the governmental body must still comply with any duty imposed by this chapter to physically post the notice at a particular location; and (3) if the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted at the location prescribed by this chapter must be readily accessible to the general public during normal business hours. <p>In addition to notice required by Chapter 551, Gov't Code, the</p>	<p>Texas Gov't Code</p> <p>551.043(a)</p> <p>551.043(b)</p>	<p>Compliance. A sample selection of public notices reviewed indicated that regular, special, and committee meetings of the METRO board were posted on the bulletin board at METRO's administrative offices and its website continuously during the 72-hour required period. 72-hour notice to the county clerk was also confirmed for each notice in the test sample.</p> <p>Not Applicable. Per review of board meeting notices, and board minutes there were no meetings noted of this nature during the audit period.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>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>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.</p>	<p>Texas Trans Code 451.518</p> <p>Texas Gov't Code 551.045</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 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> <p>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.</p>	<p>Texas Gov't Code 552.307(a)</p> <p>552.307(b)</p>	<p>Compliance. A sample selection of requests for information reviewed indicated that METRO's Public Information Coordinator submits questionable requests to the State Attorney General for a determination and abides by their decision.</p>
<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> <p>If the information is in active use or in storage and, therefore,</p>	<p>Texas Gov't Code 552.221</p>	<p>Compliance. A sample selection of requests for information reviewed indicated that 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. It was verified in</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>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.</p> <p>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.</p>		<p>the sample that there were no complaints registered with METRO regarding response time in providing information or access to information.</p>
<p>26. The officer for public information shall extend the initial examination period by an additional 10 business days if, within the initial period, the requestor files with the officer for public information a written request for additional time. The officer for public information shall extend an additional examination period by another 10 business days if, within the additional period, the requestor files with the officer for public information a written request for more additional time.</p>	<p>Texas Gov't Code 552.225(b)</p>	<p>Not applicable. METRO does not impose a time limitation on the inspection of documents and information.</p>
<p>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.</p>	<p>Texas Gov't Code 552.225(c)</p>	<p>Not applicable. No such incident occurred during the audit period.</p>
<p>28. The chief administrative officer of the governmental body shall be the officer for public records.</p> <p>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.</p>	<p>Texas Gov't Code 552.201(a) 552.203</p>	<p>Compliance. The Chief Executive Officer is the Chief Administrative Officer for METRO and has primary responsibility for public records. METRO's Senior Paralegal has been delegated responsibility for ensuring the public has access to appropriate public records.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>31. If a governmental body receives a written request, including email 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.</p> <p>If a governmental body does not request an attorney general decision as provided by Section 552.301 and provide the requestor with the information required by Sections 552.301(d) and (e-1), the information requested in writing is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information.</p>	<p>Texas Gov't Code 552.301(a)-(c)</p> <p>552.302</p>	<p>Compliance. A sample selection of requests for information reviewed indicated that METRO's Public Information Coordinator 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 15th business day after the date of receiving the written request:</p> <ol style="list-style-type: none"> (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. <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 10th business day after the date of receiving the request:</p>	<p>Texas Gov't Code 552.301(a) 552.301(e)</p> <p>552.301(d)</p>	<p>Partial Compliance. METRO's Public Information Coordinator submits questionable requests for information to the State Attorney General. A review of a test sample of requests submitted to the Attorney General indicated that notices to the Attorney General seeking a ruling and briefs were emailed to the requestor. The Attorney General ruling was followed and communicated to the requestor.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>(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</p> <p>(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>A governmental body that requests an attorney general decision under this subchapter shall supply to the attorney general, in accordance with Section 552.301, the specific information requested. Unless the information requested is confidential by law, the governmental body may disclose the requested information to the public or to the requestor before the attorney general makes a final determination that the requested information is public or, if suit is filed under this chapter, before a final determination that the requested information is public has been made by the court with jurisdiction over the suit, except as otherwise provided by Section 552.322.</p>	<p>Texas Gov't Code</p> <p>552.303(a)</p>	<p>A ruling from the Attorney General dated April 9, 2015, indicated that the request for a decision and written comments were not received by the Attorney General in the respective 10 and 15 business day deadline.</p>
<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.</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</p>	<p>Texas Gov't Code</p> <p>552.305(a)</p> <p>552.305(d)</p> <p>552.305(e)</p>	<p>Compliance. METRO's Public Information Coordinator submits questionable requests for information to the State Attorney General. A review of a test sample of requests submitted to the Attorney General indicated that notices to the Attorney General seeking a ruling and briefs were emailed to the requestor. The Attorney General ruling was followed and communicated to the requestor.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>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(c)</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> <p>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.</p>	<p>Texas Gov't Code 552.228</p> <p>552.268</p>	<p>Compliance. A sample selection of requests for information reviewed indicated that 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>Texas Gov't Code 552.267(a)</p> <p>552.267(b)</p>	<p>Compliance. A sample selection of requests for information reviewed indicated that METRO provides copies within ten business days for a nominal fee.</p>
<p>36. 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>(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or</p>	<p>Texas Gov't Code 552.352(a)</p>	<p>Compliance. A sample selection of requests for information reviewed indicated that METRO's Public Information Coordinator submits questionable requests for information to the State Attorney General for a determination and abides by their decision.</p> <p>METRO's Code of Ethics Procurement Manual Chapter 17, prohibits disclosure of confidential information by employees.</p>

SECTION 8. OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE

<p>employee to obtain access to the information, including solicitation of political contributions or solicitation of clients;</p> <p>(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or</p> <p>(3) discloses the confidential information to a person who is not authorized to receive the information.</p>		
<p>37. An officer for public information or the officer's agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:</p> <p>(1) the officer for public information or the officer's agent has provided the requestor with the written itemized statement required under Section 552.2615 detailing the estimated charge for providing the copy; and</p> <p>(2) the charge for providing the copy of the public information specifically requested by the requestor is estimated by the governmental body to exceed:</p> <p style="padding-left: 20px;">A. \$100, if the governmental body has more than 15 full-time employees.</p>	<p>Texas Gov't Code 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>Texas Gov't Code 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

Section 9. Real Estate Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. An authority may hold, use, sell, lease, dispose of, and acquire, by any means, property and licenses, patents, rights, and other interests necessary, convenient, or useful to the exercise of any power under this chapter. 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. For an act authorized by Subsection (a)(2), an authority may contract with the owner of the property to allow the owner to make the relocation, rerouting, or alteration by the owner's own means or through a contractor of the owner. The contract may provide for reimbursement of the owner for costs or payment to the contractor.</p> <p>Unless the power of eminent domain is exercised, an authority may not begin an activity authorized under Subsection (a) to alter or damage the property of this state, a political subdivision of this state, or a person providing a public service, inconvenience the owners of property of this state, a political subdivision of this state, or a person providing a public service, or disrupt the provision of a public service without having first received written permission from the owner of the property.</p>	<p>Texas Trans Code 451.058(b)</p> <p>451.058(e)</p>	<p>Compliance. METRO executed contracts with property owners during the audit period for reimbursement of alterations due to the East End Corridor project.</p>
<p>3. If an authority, through the exercise of a power under this chapter, makes necessary the relocation or rerouting of, or alteration of the construction of, a road, alley, overpass, underpass, railroad track, bridge or associated property, an</p>	<p>Texas Trans Code 451.058(d)</p>	<p>Compliance. METRO executed contracts with property owners during the audit period for reimbursement of alterations due to the East End Corridor project. The project was fully</p>

SECTION 9. REAL ESTATE COMPLIANCE

<p>electric, telegraph, telephone, or television cable line, conduit, or associated property, or a water, sewer, gas, or other pipeline or associated property, the relocation or rerouting or alteration of the construction must be accomplished at the sole cost and expense of the authority, and damages that are incurred by an owner of the property must be paid by the authority.</p>		<p>funded by METRO and owner costs were paid by METRO.</p>
<p>4. An authority may acquire by eminent domain any interest in real property, including a fee simple interest and the use of air or subsurface space. The exercise of the right of eminent domain may not unduly interfere with interstate commerce or authorize the authority to run an authority vehicle on a railroad track that is used to transport property.</p>	<p>Texas Trans Code 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. An eminent domain proceeding by an authority is initiated by the adoption by the board of a resolution that: (1) describes the property interest to be acquired by the authority; (2) declares the public necessity for and interest in the acquisition; and (3) states that the acquisition is necessary and proper for the construction, extension, improvement, or development of the transit authority system.</p> <p>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.</p> <p>The board shall hold the hearing at a place convenient to residents of the area in which the property is located.</p> <p>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.</p>	<p>Texas Trans Code 451.059(a)-(c) 451.059(e)</p>	<p>Compliance. METRO utilized eminent domain in the acquisition of property in accordance with the Texas Transportation Code and METRO Real Estate Management Guidelines Section 3.2 and 3.3.</p>

SECTION 9. REAL ESTATE COMPLIANCE

<p>Except as otherwise provided by this chapter, Chapter 21, Property Code, applies to an eminent domain proceeding by an authority.</p>		
<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> <p>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.</p>	<p>Texas Trans Code 451.054(e)(1)</p> <p>451.054(e)(2)</p>	<p>Compliance. METRO leased and sold property in accordance with the Texas Transportation Code and METRO's Real Estate guidelines.</p>
<p>7. An authority may not acquire an interest in real property for a station or terminal complex unless the station or terminal complex is included in the transit authority system in a comprehensive transit plan approved by a resolution of the board. A mass transit facility of an authority is not a station or terminal complex under this subchapter unless the facility is included in the authority's comprehensive transit plan under this section.</p> <p>A station or terminal complex may not be included in a transit authority system unless the board first finds that the station or complex:</p> <ul style="list-style-type: none"> (1) will encourage and provide for efficient and economical mass transit; (2) will facilitate access to mass transit and provide for other mass transit purposes; (3) will reduce vehicular congestion and air pollution in the metropolitan area; and 	<p>Texas Trans Code 451.151(a)</p> <p>451.151(b)</p>	<p>Compliance. METRO acquired the following land during the audit period as included in the transportation plan:</p> <p>Resolution 2012-36 to expand METRO's Light Rail Corridors for park and ride at IH-45/El Dorado Boulevard</p> <p>Resolution 2014-124 acquisition in connection with the construction and operation of the Southeast corridor light rail line</p>

SECTION 9. REAL ESTATE COMPLIANCE

<p>(4) is reasonably essential to the successful operation of the transit authority system.</p> <p>The board may amend its comprehensive transit plan to include other station or terminal complexes upon making these findings.</p>	<p>Texas Trans Code 451.151(c)</p>	
<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> <p>A complex may include provisions for commercial, residential, recreational, institutional, and industrial facilities.</p> <p>An interest in real property may not be acquired for station or terminal complex facilities described by Section 451.152(2) unless the property:</p> <p>(1) is 1,500 feet or less from the center point of the station or terminal complex; or</p> <p>(2) if farther than 1,500 feet from the center point of the station or terminal complex, is included in a master development plan adopted by the board and not acquired by eminent domain.</p>	<p>Texas Trans Code 451.152(1) 451.152(2) 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>9. An authority may transfer to any person by any means, including a sale or lease, an interest in real property in a station or terminal complex and may contract with respect to it, in accordance with the comprehensive transit plan approved by the board and subject to terms:</p> <p>(1) the board finds to be in the public interest or necessary to carry out this section; and</p> <p>(2) the instrument transferring the title or right of use specifies.</p>	<p>Texas Trans Code 451.155(a) 451.155(b) 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>

SECTION 9. REAL ESTATE COMPLIANCE

<p>A transfer must be at the fair value of the interest transferred considering the use designated for the real property in the authority's comprehensive transit plan.</p> <p>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.</p>		
<p>10. Engineers, employees, and representatives of an authority 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>Texas Trans Code 451.062</p>	<p>Compliance. METRO real estate guidelines require that staff not enter property for preparation of limited title reports, appraisals, or other matters without first sending a written letter, by certified mail, requesting permission.</p> <p>A sample review of project files indicated the presence of certified letters sent two weeks in advance of the desired access. One project file did not include a two-week notice since METRO had ownership interest in property through a partnership agreement with multiple parties.</p>
<p>11. If an entity with eminent domain authority wants to acquire real property for public use but is unable to agree with the owner of the property on the amount of damages, the entity may begin a condemnation proceeding by filing a petition in the proper court.</p> <p>(b) The petition must:</p> <ul style="list-style-type: none"> (1) describe the property to be condemned; (2) state with specificity the public use for which the 	<p>Texas Property Code 21.012(a)-(c)</p>	<p>Compliance. METRO followed the Real Estate Management Guidelines and the Texas Property Code in the processing of real estate obtained through eminent domain for the sample property selected for review. No property was acquired by condemnation.</p>

SECTION 9. REAL ESTATE COMPLIANCE

<p>entity intends to acquire the property;</p> <p>(3) state the name of the owner of the property if the owner is known;</p> <p>(4) state that the entity and the property owner are unable to agree on the damages;</p> <p>(5) if applicable, state that the entity provided the property owner with the landowner's bill of rights statement in accordance with Section 21.0112; and</p> <p>(6) state that the entity made a bona fide offer to acquire the property from the property owner voluntarily as provided by Section 21.0113.</p>		
<p>12. Except for the types of land and interests covered by Subsection(b), (g), (h), (i), 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> <p>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.</p> <p>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.</p> <p>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.</p>	<p>Texas Local Government Code 272.001(a)-(b)</p>	<p>Compliance. METRO sold land during the audit period. All properties except one were conveyed to governmental agencies during the audit period.</p> <p>Notice was given to the general public for the non-governmental conveyance.</p>

SECTION 9. REAL ESTATE COMPLIANCE

<p>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.</p> <p>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:</p> <ol style="list-style-type: none"> (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) 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, easements, or other public purposes, including transactions partly for cash; (4) land that the political subdivision wants to have developed by contract with an independent foundation; (5) a real property interest conveyed to a governmental entity that has the power of eminent domain; (6) 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 (7) a property interest owned by a defense base development authority established under Chapter 378, Local Government 		
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SECTION 9. REAL ESTATE COMPLIANCE

Code, as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999.		
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SECTION 10. RECORDS MANAGEMENT COMPLIANCE

Section 10. Records Management Compliance

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. 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</p> <p>203.025(a)</p>	<p>Compliance. Resolution No. 2010-36 authorizes the President & CEO to appoint the Records Management Officer (RMO). There were two separate RMOs designated during the auditing period.</p>
<p>2. The name, office, or position of the records management officer shall be entered on the minutes of the governing body.</p> <p>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>Texas Local Government Code</p> <p>203.025(b)</p> <p>203.025(d)</p>	<p>Non-Compliant. The board was unable to provide any minutes indicating the name, office or position of the RMOs for this auditing period.</p>
<p>3. 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>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>Texas Local Government Code</p> <p>203.025(c)</p> <p>203.025(e)</p>	<p>Compliance. There were two separate RMOs designated during the auditing period. The first RMO was appointed February 5, 2015 and the corresponding Form SLR 504 was filed with the State Librarian on February 5, 2015. The second RMO was appointed on December 15, 2015 and the corresponding Form SLR 504 was filed with the State Librarian on January 14, 2016.</p>

SECTION 10. RECORDS MANAGEMENT COMPLIANCE

<p>4. The governing body of a local government, including a commissioner's court with regard to non-elective county offices, shall:</p> <ul style="list-style-type: none"> (1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records; (2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer; (3) facilitate the creation and maintenance of local government records containing adequate and proper 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; (4) facilitate the identification and preservation of local government records that are of permanent value; (5) facilitate the identification and protection of essential local government records; and (6) cooperate with the commission in its conduct of statewide records management surveys. 	<p>Texas Local Government Code 203.021</p>	<p>Compliance. The authority approved and adopted Resolution No. 2010-36 (Resolution to Create Records Management Policies and Procedures) on May 18, 2010. A Declaration of Compliance (Form SLR 508) was filed with the Texas Library & Archive Commission on May 13, 2010 establishing METRO's compliance with the minimum requirements established on records retention schedules issued by the commission.</p>
<p>5. On or before January 4, 1999, the records management officer shall prepare and file with the director and librarian:</p> <ul style="list-style-type: none"> (1) a records control schedule listing the following records and establishing a retention period for each as provided by Section 203.042: 	<p>Texas Local Government Code 203.041(a)</p>	<p>Compliance. A Declaration of Compliance (Form SLR 508) was filed with the Texas Library & Archive Commission on May 13, 2010 establishing METRO's compliance with the minimum requirements established on records retention schedules issued by the</p>

SECTION 10. RECORDS MANAGEMENT COMPLIANCE

<p>A. all records created or received by the local government or elective county office;</p> <p>B. any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired; and</p> <p>C. any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has expired but which will not be destroyed as provided by Section 203.044; or</p> <p>(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>		<p>commission.</p>
<p>6. 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 prior approval of the director and librarian.</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 prior approval of the</p>	<p>Texas Local Government Code</p> <p>203.045(a)</p> <p>203.045(b)</p>	<p>Not Applicable. Resolution 2010-36 confirms METRO's old policy was to maintain all records. No records were destroyed. A review of a test sample of file plans indicated that METRO currently follows the retention schedule provided by the Texas State Library and Archive Commission.</p>

SECTION 10. RECORDS MANAGEMENT COMPLIANCE

<p>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 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.</p>		<p>a test sample of file plans indicated that METRO currently follows the retention schedule provided by the Texas State Library and Archive Commission.</p>
<p>8. 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.</p>	<p>Texas Local Government Code 203.046</p>	<p>Compliance. A Record Disposition Log was maintained by RMO to track all records destroyed during the audit period.</p>

SECTION 11. FINDINGS AND RECOMMENDATIONS

Section 11. Findings and Recommendations

11.1 Findings

The compliance review assesses compliance with approximately 152 legislative requirements in nine areas. Compliance findings documented in this report are summarized below.

11.1.1 Non-Compliant

METRO is in full or partial compliance with all but two of the requirements that were applicable to the authority during the FY 2012– FY 2015 audit period. METRO was not in compliance with the following:

- Finance and Administration #18: METRO did not provide a copy of the FY 2009–2012 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.
- Records Management #2: METRO was unable to provide minutes indicating the name, office, or position of the Records Management Officer (RMO) designated during the audit period. METRO is, however, submitting a request for board action at the November 2016 board meeting regarding the naming of the current RMO so as to be in compliance with Section 203.025(b) and (d) of the Texas Local Government Code.

11.1.2 Partial Compliance

METRO is in partial compliance with three requirements:

- Open Meetings #6: One 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 date.
- Open Meetings #17: The certified agendas reviewed in a test sample did not include an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time as required by Texas Government Code 551.103(c).
- Open Meetings #32: The request for an Attorney General decision reviewed in a test sample indicated that one request for a decision and the required written comments was not received by the Attorney General in the respective 10 and 15 business day deadline.

SECTION 11. FINDINGS AND RECOMMENDATIONS

11.2 Recommendations

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.

Below are six recommendations for METRO's consideration to improve compliance with State requirements:

- Recommendation #1: Implement an adjusted audit schedule so that METRO is able to meet the audit deadline in the future.
- Recommendation #2: Establish procedures to ensure that METRO remains up to date with amendments to applicable state statutes.
- Recommendation #3: Establish procedures and responsible parties to ensure board member training is performed in a timely manner.
- Recommendation #4: Establish procedures to ensure certified agendas include all required information.
- Recommendation #5: Establish procedures to ensure designations of Records Management Officers are properly recorded in the future.
- Recommendation #6: Update Section III, G, 3 of the METRO Code of Ethics so that it is consistent with the language in Section 36.07(a) of the Texas Penal Code.