

Booz Allen Hamilton Inc.
Suite 1850
444 South Flower Street
Los Angeles, CA 900171

Tel 1-213-620-1900
Fax 1-213-622-2464

www.boozallen.com

January 31, 2005

Mr. Howard Plotkin
Office of Management and Budget
Metropolitan Transit Authority
1201 Louisiana Street
Houston, Texas 77002

Dear Mr. Plotkin:

Booz Allen Hamilton Inc. is pleased to provide the final report on the assessment of METRO's compliance with legislative requirements, which was prepared for the FY01 - FY04 Performance Audit of the Metropolitan Transit Authority of Harris County. One bound copy and one unbound, photocopy-ready original of the report are enclosed.

Thank you very much for your assistance in conducting this assessment and for providing comments on the draft report. If you have any questions or comments on the report, please do not hesitate to contact me at 206.275.3847.

Sincerely,



BOOZ ALLEN HAMILTON INC.

Cynthia J. Pollan
Associate

cc: David Ahola, Mir Fox & Rodriguez, P.C.

FY01 – FY04 Performance Audit
Draft Report

to



METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY

on

LEGISLATIVE COMPLIANCE REVIEW

Prepared by

BOOZ ALLEN HAMILTON

in association with

MIR-FOX & RODRIGUEZ, P.C.

January 31, 2005

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	I-1
II. LEGISLATIVE COMPLIANCE REVIEW	II-1
Authority	II-5
Board Matters	II-12
Open Meetings and Public Information	II-21
Finance and Administration	II-31
Real Estate	II-40
Contracts	II-47
Alternative Fuels	II-51
Performance Audits	II-54
III. CONCLUSIONS AND RECOMMENDATIONS	III-1

I. INTRODUCTION

BOOZ ALLEN HAMILTON, WORKING CLOSELY WITH HOUSTON METRO STAFF, CONDUCTED THE FY01-FY04 PERFORMANCE AUDIT OF HOUSTON METRO

- Quadrennial performance audits are mandated by Section 451.454 of the Texas Transportation Code
- The purpose of the performance audit is to provide:
 - Evaluative information necessary for state and local officers to perform oversight functions
 - Information useful to METRO for improving the efficiency and effectiveness of their operations
- The performance audit is required to assess METRO's:
 - Collection and compilation of the base statistics and measurement of specified performance indicators
 - Compliance with applicable state law
 - Performance in one of three areas (i.e., administration and management, transit operations, or system maintenance)
- This report summarizes the results of the assessment of METRO's compliance with applicable state law for Fiscal Years 2001, 2002, 2003 and 2004, the period from October 1, 2000 through September 30, 2004. The results of the performance indicator assessment and the functional review of transit operations are the subjects of separate audit reports

II. LEGISLATIVE COMPLIANCE REVIEW

SECTION 451.451 OF THE TEXAS TRANSPORTATION CODE REQUIRES THE PERFORMANCE AUDIT TO ASSESS METRO'S COMPLIANCE WITH APPLICABLE STATE LAW

- Each performance audit must include an examination of METRO's compliance with the Act and other applicable State law. Texas laws applicable to METRO were identified, including statutes enacted or changed since the last audit

- Applicable State laws include:
 - Texas Transportation Code, Chapter 451
 - Texas Rev. Civil Statute Article 717
 - Texas Government Code, Chapter 551, Sections 002, 021(a) and (b), 022, 023, 041-043, 045, 054(a), 071-073, 084, 101-104, 141 and 145,
 - Texas Government Code, Chapter 552, 004, 201, 203, 221(a) - (d) -224, 228, 230, 255(b) - (c), 263(a), 267(a) - (b) - 268, 301(a) - (e) - 303, 305, 307(b), and 352(a)
 - Texas Government Code, Section 617.002
 - Texas Government Code, Chapter 791, Sections 011(d) and (e), 027(a)
 - Texas Government Code, Chapter 2253, Sections 021, 027
 - Texas Government Code, Chapter 2254, Sections 003, 004
 - Texas Property Code, Section 21.042
 - Local Government Code, Chapter 171, Sections 003, 004
 - Local Government Code, Section 272.001
 - Health & Safety Code Section 382.133

BOARD RESOLUTIONS, EMBODIED IN BYLAWS AND PROCEDURES, GUIDE METRO'S DAY-TO-DAY ACTIVITIES. DOCUMENTS EXAMINED FOR THE COMPLIANCE REVIEW INCLUDE:

- Board Bylaws established by Resolution No. 80-59, which guide matters relating to Board composition, duties, and meeting procedures
- Code of Ethics of Metropolitan Transit Authority of Harris County, adopted by the Board of Directors on November 21, 1988
- Board Agendas, Minutes, Meeting Notices, Resolutions, and meeting materials (including postings) are kept in binders in the office of the Chief Executive Officer
- METRO's Multi-Modal Transportation Program, the 21st Century High Capacity Transit Vision, adopted by the Board on August 26, 1999
- Real Estate Management Guidelines, including procedures necessary for appraising and acquiring real property or real property interests and paying relocation allowances are contained in METRO's Real Estate Management Guidelines. These guidelines were established to implement Board Resolutions No. 82-74, 87-32, and 93-115
- Procurement Manual, revised August 1, 2004, establishes guidelines relating to the procurement of supplies, equipment, materials, services, and construction projects. Chapter 451 of the Texas Transportation Code and METRO Board of Directors' Resolutions and Policies form the basis of this manual
- Other documents and files reviewed include METRO's public information requests log, claim files, contract files, real estate files, license agreements, DOE reports, TNRCC reports, vehicle purchase reports, annual financial audits, and annual budgets

DISCUSSIONS WERE ALSO HELD WITH METRO STAFF TO VERIFY COMPLIANCE FINDINGS

- Interviews were conducted with staff who are knowledgeable legal requirements and activities:
 - Vice President/Chief Financial Officer
 - General Counsel
 - Director of Risk Management and Risk Management staff
 - Executive Assistant to Senior Vice President of Operations
 - Executive Assistant to Executive Vice President of Procurement & Materials
 - Executive Assistant to Executive Vice President of Planning, Engineering & Construction
 - Senior Real Estate Specialist
 - METRO Police Training Officer
- These interviews included discussions concerning METRO policies, procedures and activities to ensure compliance with each of the legislative requirements
- Compliance is assessed in four categories:
 - **Compliance** is the finding when METRO fully satisfies a requirement
 - **Partial compliance** is found when METRO partially satisfies the requirement (e.g., meets part of the requirement, or in some years but not in all four years of the audit period)
 - **Non-compliance** applies to any requirements that METRO does not satisfy (as noted below, there is one finding of non-compliance for the current audit)
 - **Not applicable** is the finding for requirements that do not apply to MTA

THIS REPORT OUTLINES LEGISLATIVE REQUIREMENTS IN A SERIES OF MATRICES THAT ALSO IDENTIFY STEPS METRO HAS TAKEN TO ACHIEVE COMPLIANCE

- The remainder of this section contains compliance matrices which identify requirements and assess compliance in the following areas:
 - Authority – creation of METRO, authority to tax, and inter-local agreements
 - Board Matters – Board composition, reimbursements, meetings, and authority
 - Open Meetings and Public Information – public notice for meetings and executive sessions
 - Finance and Administration – bonds and other obligations, and annual budget approval
 - Real Estate – land acquisition, sale, and eminent domain requirements
 - Contracts – small business participation, competitive processes and requirements
 - Alternative Fuels – requirements for clean fuel vehicles
 - Performance Audits – requirements for State mandated performance audits

- Each matrix includes the required actions, the legal citations for the requirements, and an assessment of METRO's compliance with each requirement

- The required actions cited in the compliance matrices are quoted from State Code. Therefore, the actions describe the State mandate, not the manner in which they have been implemented at METRO. For example, METRO has a President & CEO, not the general manager referenced in the regulations. The "compliance results" column in the matrix describe the steps METRO has taken to comply with the regulations

AUTHORITY COMPLIANCE

AUTHORITY COMPLIANCE MATRIX
(Page 1 of 7)

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. If the votes cast are such that the Authority will continue to exist, the Board shall enter the results on its minutes and adopt an order declaring that the creation of the Authority is confirmed and describing the territory which comprises the Authority.</p> <ul style="list-style-type: none"> • 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. • The order shall include the date of the election, the proposition voted on, the number of votes cast for and against the proposition in each election unit, and the number of votes by which the proposition was approved in each election unit in which it was approved and shall be accompanied by a map of the Authority clearly showing the boundaries of the Authority. 	<p>Texas Trans Code §451.661(b) (1) & (2)</p> <p>451.661(d)(1)-(3)</p> <p>451.661(b)(3)-(6) & (c)</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001).</p>
<p>2. As soon as practicable after an election, the Board shall canvass the returns of the election and declare the results.</p>	<p>451.660 and 451.661</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001).</p>
<p>3. The Authority may acquire rolling stock or other property under conditional sales contracts, leases, and equipment trust certificates.</p>	<p>451.057</p>	<p>Not applicable. METRO's rolling stock procurements do not use conditional sales contracts, leases, or equipment trust certificates.</p>
<p>4. The Authority shall by resolution make all rules and regulations governing the use, operation and maintenance of the system and shall determine all routings and change the same whenever it is deemed advisable by the Authority.</p>	<p>451.107(a) and 451.056(d)</p>	<p>Compliance. Article II, Section I of the Board Bylaws specifies that responsibility for management, control and operation of the Authority and its properties is vested with the Board.</p>

AUTHORITY COMPLIANCE MATRIX
(Page 3 of 7)

<p>8. A local government may provide emergency assistance to another local government, whether or not the local governments have previously agreed or contracted to provide that kind of assistance, if: (1) in the opinion of the presiding officer of the governing body of the local government desiring emergency assistance, a state of civil emergency exists in the local government that requires assistance from another local government and the presiding officer requests the assistance; and (2) before the emergency assistance is provided, the governing body of the local government that is to provide the assistance authorizes that local government to provide the assistance by resolution or other official action.</p>	<p style="text-align: center;">791.027(a)</p>	<p>Not applicable. METRO, during the audit period, did not receive from nor provide emergency services to local governments other than those services normally provided by METRO in a non-emergency situation.</p>
<p>9. Any revenue bond indenture may provide limitations upon the exercise of the powers stated in this section and such limitations shall apply so long as any of the revenue bonds issued pursuant to such indenture are outstanding and unpaid.</p>	<p style="text-align: center;">Texas Trans Code §451.353(b)</p>	<p>Not applicable, METRO did not issue any bonds during the audit period.</p>
<p>10. The Authority shall have power to lease the system or any part thereof to, or contract for the use or operation of the system or any part thereof by, any operator; provided, however, that a lease of the entire system shall be subject to the written consent and approval of the governing body of the principal city.</p>	<p style="text-align: center;">451.056(a)(3) & (b)</p>	<p>Compliance. METRO property lease agreements are executed according to METRO's Real Estate Management Guidelines. METRO does not lease its entire system, but rather, selected properties.</p> <p>Metro also contracts for the services that are operated out of the Northwest BOF.</p>
<p>11. The Authority may contract with any city, county, or other political subdivision for the Authority to provide public transportation services to any area outside the boundaries of the Authority on such terms and conditions as may be agreed to by the parties.</p>	<p style="text-align: center;">451.056(a)(2)</p>	<p>Compliance. METRO continues to have an agreement with the City of Galena Park for the City to reimburse METRO for public transportation services provided.</p>

AUTHORITY COMPLIANCE MATRIX (Page 4 of 7)

<p>12. If an Authority in which a local sales and use tax has been imposed changes or alters its boundaries, the presiding officer of the Board shall forward to the comptroller of public accounts by United States registered mail or certified mail a certified copy of the order adding territory to the Authority or of the order canvassing the returns and declaring the result of the election.</p> <ul style="list-style-type: none"> 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>451.555(b)(1) & (c)</p> <p>451.555(b)(2) & (d)</p>	<p>Not applicable. METRO boundaries have remained unchanged during the audit review period. However, when a city changes its boundaries, METRO's boundaries may change.</p>
<p>13. Subject to approval at an election, the Board of an Authority shall be authorized to levy and cause to be collected motor vehicle emission taxes as herein provided.</p> <ul style="list-style-type: none"> No increase in taxes as originally authorized may be levied unless the increase is approved at an election. Not later than November 1 of each year, the Board shall certify to the county tax assessor-collector of each county situated in whole or in part within the Authority's boundaries the rate of tax prescribed for each class of motor vehicles for the ensuing tax year. 	<p>451.401</p> <p>451.402</p> <p>451.418(d)</p>	<p>Not applicable. METRO has not levied a motor vehicle emission tax.</p>
<p>14. The Authority shall furnish to the tax assessor-collector of each county situated in whole or in part within the boundaries of the Authority, motor vehicle emission tax receipts in triplicate each of which shall, when issued bear a number or other identifying symbol of the motor vehicle for which issued.</p>	<p>451.418(b) & (d)</p>	<p>Not applicable. METRO has not levied a motor vehicle emission tax.</p>

AUTHORITY COMPLIANCE MATRIX
(Page 6 of 7)

<p>18. Prior to an election to authorize a tax other than motor vehicle emission taxes or a sales and use tax, the Board shall adopt a complete tax code and rules and regulations providing for the nature and amount of any tax with provisions for complete administration and enforcement, including the time and manner of payment, exemptions, liens, interest, penalties, discounts for advance payment, refunds for erroneous payment, fees for collection, collection procedures, manner of enforcement, required returns, registration and reports of taxpayers, the duties and responsibilities of tax officers and taxpayers, the delegation to tax officers to make additional rules and regulations and determination as and to obtain records as may be appropriate, and every other provision which may be determined to be desirable, including incorporation of any tax laws and remedies for the administration and enforcement that are available to the state or any political entities under general law.</p>	<p style="text-align: center;">451.403</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the one percent sales tax authorized in 1978.</p>
<p>19. A tax code and rules and regulations may be amended by the Board from time to time after an election approving a tax, but no amendment may increase the amount of a tax unless the increase is approved at an election.</p>	<p style="text-align: center;">451.403(c)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the one percent sales tax authorized in 1978.</p>
<p>20. In addition, the qualified voters of an Authority by petition may require that an election be held on the question of increasing the tax rate.</p>	<p style="text-align: center;">451.408(b)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the one percent sales tax authorized in 1978.</p>
<p>21. After receiving a petition, the Board shall submit the petition to the secretary of state for validation.</p> <ul style="list-style-type: none"> • If the secretary of state finds the petition valid or fails to act within the time allowed, the Board shall call an election. • The Authority shall pay the costs of determining the validity of a petition, if any, and of the election. 	<p style="text-align: center;">451.409(b)</p> <p style="text-align: center;">451.409(d)</p> <p style="text-align: center;">451.409(e)</p>	<p>Not applicable. No petitions have been received by METRO.</p>

AUTHORITY COMPLIANCE MATRIX (Page 7 of 7)

<p>22. At the election, the ballots shall be prepared to permit voting for or against the following proposition: "The increase (decrease) of the local sales and use tax rate to (percentage)."</p> <ul style="list-style-type: none"> • A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation or its successor and the comptroller of public accounts and shall be filed in the deed records of each county in which the Authority is located in the same manner as provided for a confirmation and tax election by Section 5 of this Act. 	<p style="text-align: center;">451.410</p> <p style="text-align: center;">451.411(b)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the one percent sales tax authorized in 1978.</p>
<p>23. An Authority may not adopt a sales and use tax or increase the rate of its sales and use tax under this section if as a result of the adoption of the tax or the tax increase the combined rate of all sales and use taxes imposed by the Authority and other political subdivisions of this state having territory in the Authority would exceed two percent at any location in the Authority.</p>	<p style="text-align: center;">451.405</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001). METRO has not requested authorization for taxes other than the one percent sales tax authorized in 1978.</p>
<p>24. Subject to approval at a tax election in accordance with this Act, the Board of an Authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the Authority.</p> <ul style="list-style-type: none"> • The provisions of Chapter 322, Tax Code shall be applicable to levy, imposition and collection of such tax. • This section governs all elections ordered by the Board except elections held under the provisions of Subchapter N to create an authority. • Notice of an election ordered by the Board shall be given by publications once a week for three consecutive weeks with the first publication in a newspaper with general circulation in the Authority at least 21 days before the election. • The Board may define and declare voting precincts, determine the manner of absentee voting, and prescribe the election officers. • As soon as practicable after an election, the Board shall canvass the returns of the election and declare the results. 	<p style="text-align: center;">451.404(a)</p> <p style="text-align: center;">451.404(b)</p> <p style="text-align: center;">451.070</p> <p style="text-align: center;">451.070(a)(1)</p> <p style="text-align: center;">451.070(a)(2)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the 1978 one-percent sales tax.</p>

* Denotes that this section was either amended or adopted since the prior performance audit.

BOARD MATTERS COMPLIANCE

BOARD MATTERS COMPLIANCE MATRIX
(Page 2 of 9)

<p>4. It is a ground for removal from the Board if a member: (i) does not have at the time of appointment the qualifications required by Section 451.507 of this Act; (ii) does not maintain during service on the Board the qualifications required by Section 451.507 of this Act; (iii) violates a prohibition established by Chapter 171, Local Government Code or Section 451.112 of this Act; (iv) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or (v) is absent from more than half of the regularly scheduled Board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the Board.</p>	<p style="text-align: center;">451.510</p>	<p>Not Applicable. METRO did not request the removal of any individual serving on the Board.</p>
<p>5. The Board shall hold at least one regular meeting during each month for the purpose of transacting the business of the Authority.</p> <ul style="list-style-type: none"> • Upon written notice, the chairman or the general manager may call special meetings as may be necessary. • The Board, when organized, shall by resolution recorded in the minutes, set the time, place and day of the regular meetings, and shall likewise adopt rules and regulations and such bylaws as it may deem necessary for the conduct of its official meetings. • 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 style="text-align: center;">451.514(a)</p> <p style="text-align: center;">451.514(b)</p> <p style="text-align: center;">451.514(a), 451.517</p> <p style="text-align: center;">451.515</p>	<p>Partial Compliance. METRO did not conduct a regular board meeting during the calendar month of January 2001. The January meeting was postponed to February 5, 2001.</p> <p>Compliance (as established in the previous audit report dated February 14, 2001).</p>
<p>6. The Board shall notice and hold its meetings pursuant to Chapter 551, Government Code, except that the Board shall have notices of its meetings posted on a bulletin Board located at a place convenient to the public at its administrative offices and a bulletin Board located at a place convenient to the public at the county courthouse of the most populous county in which the principal city is located.</p>	<p style="text-align: center;">451.518</p>	<p>Compliance. A review of Board Meeting postings indicated receipt by courthouse personnel, posting of the notices on the METRO Administrative Office bulletin board and posting of the notices on the METRO web site, without exception.</p>

BOARD MATTERS COMPLIANCE MATRIX
(Page 3 of 9)

<p>7. Each member shall serve a term of two years. A person may not serve more than eight years.</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>451.505(a) & 451.506(b) 451.506(d)</p>	<p>Compliance. A review of Board member service dates indicated that Board member service had not exceeded eight years, without exception.</p>
<p>8. The Board of an Authority in which the principal city has a population of more than 1,200,000, according to the most recent federal census, may establish advisory committees to make recommendations to the Board or general manager about the operation of the Authority.</p> <p>A member of an advisory committee may not be compensated by the authority for committee service but is entitled to reimbursement for actual and necessary expenses incurred in the performance of committee service.</p>	<p>451.109(a) & (d)</p> <p>451.109(c)</p>	<p>Not applicable. The Board has not established special advisory committees. Resolution 99-1 established four Standing Committees for the Board: Future Programs, Internal Operations, Transit Services, and Budget and Finance. The committees were restructured during the current audit period and a fifth committee was added. By Resolution 2004-32, the Board established five committees: Finance/Audit, Future Programs/Planning, Government and Public Relations, Human Resources, and Operations.</p>
<p>9. The Board shall appoint members to an advisory committee from a list of persons recommended by the general manager to serve at the pleasure of the Board.</p> <ul style="list-style-type: none"> • In making appointments to an advisory committee established under this section, the Board shall appoint persons who have knowledge about and interest in and represent a broad range of viewpoints concerning the work of the committee. 	<p>451.109(b)</p>	<p>Not applicable. The Board has not established special advisory committees.</p>
<p>10. The Board shall specify the purpose, powers, duties, and manner of reporting the results of the work of an advisory committee established under this section.</p>	<p>451.109(a)</p>	<p>Not applicable. The Board has not established special advisory committees.</p>
<p>11. Except as provided by Section 451.106, the responsibility for the management, operation and control of the properties belonging to an Authority shall be vested in its Board.</p>	<p>451.053</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001).</p>

BOARD MATTERS COMPLIANCE MATRIX
(Page 4 of 9)

<p>12. The Board may: (1) employ all persons, firms, partnerships or corporations deemed necessary by the Board for the conduct of the affairs of the Authority, including, but not limited to, a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers and operating or management companies, and prescribe the duties, tenure, compensation of each, and remove an employee; (2) become a subscriber under the Texas workers' compensation laws with any old-line legal-reserve insurance company authorized to write policies in the State of Texas; (3) adopt a seal of the Authority; (4) invest funds of the Authority in direct or indirect obligations of the United States, the state, or any county, city, school district or other political subdivision of the state; funds of the Authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas; the Board, by resolution, may provide that an authorized representative of the Authority may invest and reinvest the funds of the Authority and provide for money to be withdrawn from the appropriate accounts of the Authority for the investments on such terms as the Board considers advisable; (5) fix the fiscal year for the Authority; (6) establish a complete system of accounts for the Authority and each year shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection; and (7) designate one or more banks to serve as the depository for the funds of the Authority.</p>	<p>451.101 and 451.105 (a)</p>	<p>Compliance. The Board has employed the services of a President & Chief Executive Officer 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 750,000 or more than 1,200,000, shall employ a general manager to administer the daily operations of the Authority. The general manager may employ persons to conduct the affairs of the Authority and may prescribe their duties and compensation, subject to Board approval of the budget of the Authority and in accordance with personnel policies adopted by the Board. Subject to those policies, only the general manager may remove any employee. The general manager may, subject to approval of the Board, contract with individuals, partnerships, corporations, or other entities to perform work or provide materials for the Authority.</p>	<p>451.106(a)-(c)</p>	<p>Compliance. The Board has employed the services of a President & Chief Executive Officer 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>

BOARD MATTERS COMPLIANCE MATRIX
(Page 5 of 9)

<p>14. The Board of an Authority in which the principal city has a population of less than 750,000 or more than 1,200,000, shall develop and implement policies that clearly define the respective responsibilities of the Board and the staff of the Authority.</p>	<p>451.106(d)</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001).</p>
<p>15. The Board of an Authority to which this section applies shall establish a program to promote the availability and use of the transportation services of the Authority by physically handicapped individuals.</p> <ul style="list-style-type: none"> • Before establishing the program, the Board shall hold public hearings relating to the establishment and operation of the program. • The program must address the specific transportation problems of physically handicapped individuals and establish mechanisms by which transportation services are to be provided to those individuals. 	<p>451.254(a)</p> <p>451.254(b)</p> <p>451.254(a)</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001).</p>
<p>16. The Board may adopt and enforce reasonable rules and regulations: (1) to secure and maintain safety and efficiency in the operation and maintenance of its system; (2) governing the use of the Authority's system and services by the public and the payment of fares, tolls and charges; (3) regulating privileges on any land, easement, right-of-way, rolling stock or other property owned, leased, rented or otherwise controlled by the Authority; and (4) regulating the collection and payment of emission taxes levied by the Board.</p>	<p>451.107 and 451.420</p>	<p>Compliance. The Board does not adopt rules and regulations, but rather has developed policies, enacted by Resolutions, to guide day-to-day management of areas such as procurement, real estate, operations, and fare policy.</p>
<p>17. A condensed substantive statement of the rules and regulations shall be published after adoption once a week for two consecutive weeks in a newspaper with general circulation in the area in which the Authority is located, which notice shall advise that the full text of the rules and regulations is on file in the principal office of the Authority where it may be read by any interested person.</p>	<p>451.107(b)</p>	<p>Not Applicable. The Board does not adopt rules and regulations.</p>

BOARD MATTERS COMPLIANCE MATRIX
(Page 6 of 9)

<p>18. An Authority may employ and commission its own peace officers with power to make arrests in all counties where the system is located when necessary to prevent or abate the commission of an offense against the laws of the state or a political subdivision of the state when the offense or threatened offense occurs on or involves the system of the Authority, to make arrests in cases of an offense involving injury or detriment to the system, to enforce all traffic laws and investigate traffic accidents which involve or occur in the system, and to provide emergency and public safety services to the system or person who use the system.</p>	<p>451.108 *</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001).</p>
<p>19. Any person, commissioned under this section must be a certified peace officer who meets the requirements of the Texas Commission on Law Enforcement Officer Standards and Education, who shall file with the Authority the sworn oath required of peace officers, and who is vested with all the powers, privileges and immunities of peace officers in all counties where the system is located, provides services, or is supported by a general sales and use tax.</p>	<p>451.108(d) *</p>	<p>Compliance. A review of the Texas Commission on Law Enforcement Officer Standards and Education database (TCLEDDS) indicated that 100% of the officers selected were certified peace officers.</p>
<p>20. Regulation of conflicts of interest of officers of transit authorities.</p>	<p>Local Govt Code 171.001 et. seq.</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001).</p>
<p>21. (a) A local public official commits an offense if the official knowingly: (1) violates Section 171.004; (2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or (3) acts as surety on any official bond required of an officer of the governmental entity.</p> <p>(b) An offense under this section is a Class A misdemeanor.</p>	<p>171.003</p>	<p>Not Applicable. There was no such incident during the audit period.</p>

BOARD MATTERS COMPLIANCE MATRIX
(Page 7 of 9)

<p>22. (a) 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>(b) The affidavit must be filed with the official record keeper of the governmental entity.</p> <p>(c) 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>171.004</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001). METRO has a Code of Ethics that was adopted on November 21, 1988 with Resolution No. 88-171 and amended July 23, 1992. Board members disclose all real property in which they have a substantial interest. Such disclosures are on file with METRO's Office of General Counsel.</p>
--	----------------	--

BOARD MATTERS COMPLIANCE MATRIX
(Page 9 of 9)

<p>25. The qualified voters of the Authority by petition may require that the appointing political subdivision reconsider their appointment of a Board member to determine whether a member of the Board is to be removed from office.</p> <ul style="list-style-type: none"> A petition is valid if (1) it states that it is intended to require a reconsideration on the question of removing an identified Board member; (2) it is signed by qualified voters equal in number to at least 10% of the number of voters of the Authority voting in the previous governor's election; (3) if the signatures are collected within a period of 90 days prior to the date on which the petition is presented to the appointing political subdivision, and (4) it is submitted to the appointing political subdivision before the first day of the final six months of the term of the member whose removal is sought. 	<p>451.513(a) & (c)</p>	<p>Not Applicable. Members of the Board have not been removed during the audit period.</p>
<p>26. 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> <ul style="list-style-type: none"> If the secretary of state fails to act within the time allowed, the petition is treated as if it had been found valid. 	<p>451.513(d)</p>	<p>Not Applicable. Members of the Board have not been removed during the audit period.</p>
<p>27. 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>451.513(b)</p>	<p>Not Applicable. Members of the Board have not been removed during the audit period.</p>
<p>28. 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>451.513(e)</p>	<p>Not Applicable. Members of the Board have not been removed during the audit period.</p>
<p>29. A member removed by recall is not eligible for reappointment to fill the vacancy and is not eligible for appointment to any other position on the Board for a length of time after the day of removal equal to the length of a normal term of a member of the Board.</p>	<p>451.513(e)</p>	<p>Not Applicable. Members of the Board have not been removed during the audit period.</p>
<p>30. 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>451.509(d) *</p>	<p>Not Applicable. Members of the Board have not been removed during the audit period.</p>

* Denotes that this section was either amended or added since the prior performance audit.

**OPEN MEETINGS AND PUBLIC INFORMATION
COMPLIANCE**

OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE MATRIX
(Page 1 of 10)

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. Except as otherwise provided in this Act or specifically permitted in the Constitution, every regular, special, or called meeting or session of every governmental body shall be open to the public; and no closed or executive meeting or session of any governmental body for any of the purposes for which closed or executive meetings or sessions are hereinafter authorized shall be held unless a quorum of the governmental body has first been convened in open meeting or session for which notice has been given as hereinafter provided and during which open meeting or session the presiding officer has publicly announced that a closed or executive meeting or session will be held and identified the section or sections under this Act authorizing the holding of such closed or executive session.</p>	<p>Texas Govt Code §551.002 551.101</p>	<p>Compliance. All regularly scheduled METRO Board meetings, committee meetings, and Special Board sessions are open to the public. Closed executive meetings may be called by the Board Chairman to discuss real estate, personnel, or litigation items once the regularly scheduled meeting has been convened. In general, the need for a closed executive session is noted on posted agendas.</p>
<p>2. A governmental body may exclude any witness or witnesses from a hearing during examination of another witness in the matter being investigated.</p>	<p>551.084</p>	<p>Not applicable during the audit period.</p>
<p>3. Private consultations between a governmental body and its attorney are not permitted except in those instances in which the body seeks the attorney's advice with respect to pending or contemplated litigations, settlement offers, and matters where the duty of a public body's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, clearly conflicts with this Act.</p>	<p>551.071</p>	<p>Compliance. A review of certified agendas from executive session indicates that the METRO Board met with its attorney in closed executive session to discuss litigation, real estate, and personnel issues only. Certified agendas from executive sessions clearly indicate that the Board consulted with its attorneys on the case in question.</p>
<p>4. The public may be excluded from that portion of a meeting during which a discussion is had with respect to the purchase, exchange, lease, or value of real property, negotiated contracts for prospective gifts or donations to the state or the governmental body, when such discussion would have a detrimental effect on the negotiating position of the governmental body as between such body and a third person, firm or corporation.</p>	<p>551.072 551.073</p>	<p>Compliance. A review of certified agendas from executive session indicates that the METRO Board met in closed executive session to discuss litigation, real estate, and personnel issues only. Certified agendas from executive sessions clearly indicate that the Board considered allowable concerns.</p>

OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE MATRIX
(Page 2 of 10)

<p>5. The governmental body may adopt reasonable rules to maintain order at the meeting place.</p> <ul style="list-style-type: none"> • These rules may include, but shall not be limited to, a determination of the location of recording equipments and the manner in which the recording is conducted; provided, however, that the rules do not have the effect of preventing or unreasonably impairing camera coverage or tape recording. 	<p>551.023(b) 551.023(c)</p>	<p>Compliance (as established in the previous audit report dated February 14, 2001).</p>
<p>6. Whenever any deliberations or any portion of a meeting are closed to the public as permitted by this Act, no final action, decision, or vote with regard to any matter considered in the closed meeting shall be made except in a meeting which is open to the public and in compliance with the requirements of Section 3 of this Act.</p>	<p>551.102</p>	<p>Compliance. A sample review of certified agendas for executive sessions and the minutes for the respective public meetings indicate that any decisions made in executive session are voted on by Board members in an open public meeting upon reconvening after executive session.</p>
<p>7. (a) For each of its meetings that are closed to the public, except for consultations in accordance with Section 551.071 of this Act, a governmental body shall keep a certified agenda of the proceedings.</p> <p>(b) The presiding officer must certify that the agenda kept under Subsection (a) of the section is a true and correct record of the proceedings.</p>	<p>551.103(a) 551.103(b)</p>	<p>Compliance. A sample review of meeting agendas and minutes indicates that the Board did meet in executive session during the audit period. Certified agendas for each of these meetings were found to be on file and signed by the presiding Board member, certifying that the agenda is a correct and true representation of the items discussed.</p>
<p>8. The certified agenda shall include an announcement made by the presiding officer at the beginning and end of the meeting indicating the date and time.</p> <ul style="list-style-type: none"> • The certified agenda shall state the subject matter of each deliberation and shall include a record of any further action. • The certified agenda of closed or executive sessions shall be made available for public inspection and copying only upon court order in an action brought under this Act. 	<p>551.103(c) 551.104(c)</p>	<p>Compliance. A sample review of meeting agendas and minutes indicates that the Board did meet in executive session during the audit period. Certified agendas for each of these meetings were found to be on file and signed by the presiding Board member, certifying that the agenda is a correct and true representation of the items discussed.</p>

OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE MATRIX
(Page 4 of 10)

<p>12. Written notice of the date, hour, place, and subject of each meeting held by a governmental body shall be given before the meeting has prescribed by this section. (The requirement for notice prescribed by this section does not apply to matters about which specific factual information or a recitation of existing policy is furnished in response to an inquiry made at such meeting, whether such inquiry is made by a member of the general public or by a member of the governmental body.) Any deliberation, discussion, or decision with respect to the subject about which inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting of such governmental body for which notice has been provided in compliance with this Act.</p>	<p>551.041 551.042</p>	<p>Compliance. All regular, special and committee meetings of the METRO Board are posted at METRO's administrative offices, and on the official bulletin board at the County Courthouse. Meeting notices are also posted on the METRO web page. Each notice includes the meeting date, time, location and subject.</p>
<p>13. The governing body of a water district, other district, or other political subdivision that extends into fewer than four counties shall have a notice posted at a place convenient to the public in its administrative office, and shall also furnish the notice to the county clerk of each county in which the district or political subdivision is located.</p>	<p>551.054(a)</p>	<p>Compliance. All regular, special and committee meetings of the METRO Board are posted at METRO's administrative offices and on the official bulletin board at the County Courthouse. Meeting notices are also posted on the METRO web page. Each notice includes the meeting date, time, location and subject.</p>
<p>14. Notice of a meeting must be posted in place readily accessible to the general public at all times for at least 72 hours preceding the scheduled time of the meeting. In case of emergency or urgent public necessity, which shall be clearly identified in the notice, it shall be sufficient if the notice is posted two hours before the meeting is convened. Cases of emergency and urgent public necessity are limited to imminent threats to public health and safety or reasonably unforeseeable situations requiring immediate action by the governmental body (see statute).</p> <p>In addition to notice required by Chapter 551, Govt Code, the Board shall post a board meeting notice in the authority's administrative offices and at the courthouse of the most populous county in which the principal municipality of the authority is located, each on a bulletin board at a place convenient to the public.</p>	<p>551.043 551.045</p> <p>Texas Trans. Code 451.518</p>	<p>Partial compliance. A sample review of postings indicates that the 72-hour advance posting is exceeded in most cases; however, three instances were identified where the 72-hour posting requirement was not met (i.e. two were approximately one hour late and the third notice was posted the day prior to the meeting.)</p>

OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE MATRIX
(Page 5 of 10)

<p>15. A governmental body shall prepare and retain minutes or make a tape recording of each of its open meetings.</p> <ul style="list-style-type: none"> • The minutes shall state the subject matter of each deliberation and shall indicate each vote, order, decision, or other action taken by the governmental body. • The minutes or tapes prepared under this section are public records and shall be made available for public inspection and copying on request to the chief administrative officer of the governmental body or to any other official designated by the chief administrative officer. 	<p style="text-align: center;">551.021(a)</p> <p style="text-align: center;">551.021(b)</p> <p style="text-align: center;">551.022</p>	<p>Compliance. Meeting notices, written Board minutes, and videotapes of all regular, special, and Board committee meetings are kept on file at METRO's administrative offices. Meeting minutes are reviewed and approved by the Board at subsequent meetings.</p> <p>Minutes are available for public inspection at METRO's administrative offices during normal business hours.</p>
<p>16. 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> <ul style="list-style-type: none"> • 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 style="text-align: center;">552.307(a)</p> <p style="text-align: center;">552.307(b)</p>	<p>Compliance. METRO's General Counsel will submit questionable requests for information to the State Attorney General for a determination and abide by this decision.</p>

OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE MATRIX
(Page 7 of 10)

<p>20. The chief administrative officer of the governmental body shall be the officer for public records.</p> <ul style="list-style-type: none"> • 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 rebound when necessary to maintain them properly. • When records are no longer currently in use, it shall be within the discretion of the governmental body to determine a period of time for which said records will be preserved subject to state laws governing the destruction and other disposition of state and local government records. 	<p style="text-align: center;">552.201</p> <p style="text-align: center;">552.203</p> <p style="text-align: center;">552.004</p>	<p>Compliance. The Chief Executive Officer is the Chief Administrative Officer for METRO and has primary responsibility for public records. METRO's Legal Counsel is responsible for ensuring the public has access to appropriate public records.</p>
<p>21. Neither the officer for public records nor his agent shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of (1) establishing proper identification and the public records being requested; or (2) discuss with the requestor how the scope of the request might be narrowed if voluminous.</p> <ul style="list-style-type: none"> • The officer for public records or his agent shall give, grant, and extend to the person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this Act. 	<p style="text-align: center;">552.222(a)&(b)</p> <p style="text-align: center;">552.224</p>	<p>Compliance. Persons requesting information must provide a name, address and telephone number, as well as a description of the information being requested. The General Counsel acts as the Public Information Officer for METRO and may ask questions to clarify what specifically the person is looking for and to determine the best format for supplying the information. METRO will provide copies at a nominal fee.</p>
<p>22. The officer for public records or the officer's agent shall treat each request for information uniformly without regard to the position or occupation of the person making the request or the person on whose behalf the request is made or because the individual is a member of the media.</p>	<p style="text-align: center;">552.223</p>	<p>Compliance. METRO treats each request for public information in the same manner.</p>

OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE MATRIX
(Page 8 of 10)

<p>23. If a governmental body receives a written request, including e-mail and fax, for information which it considers within one of the exceptions stated in Subchapter C, but there has been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, no later than ten calendar days, after receiving a written request must request a decision from the attorney general to determine whether the information is within that exception. (If a decision is not so requested, the information shall be presumed to be public information.)</p>	<p>552.301(a)-(c) 552.302</p>	<p>Compliance. METRO's General Counsel will submit questionable requests for information to the State Attorney General for a determination and abide by this decision. All other requests for information are promptly handled.</p>
<p>24. 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: (1) written comments stating the exceptions and the reasons why the exceptions allow the information to be withheld, (2) a copy of the request, (3) the date of the request, (4) a copy of the specific information requested or samples if voluminous and (5) label the copies of the information with the applicable exceptions.</p> <p>A governmental body that requests an attorney general decision under subsection (a) must provide to the requestor within a reasonable time but not later than the 10th business day after the date of receiving the request: (1) a written statement that the governmental body wishes to withhold the information and has requested an attorney general decision on the exception(s) and (2) a copy of the governmental body's request for an attorney general decision or a redacted copy if doing so would disclose the requested information.</p> <p>The specified information requested shall be supplied to the attorney general but shall not be disclosed to the public or the requesting party until a final determination has been made by the attorney general or, if suit is filed under the provisions of this Act, until a final decision has been made by the court with jurisdiction over the suit. If the governmental body wishes to withhold information, it must submit written comments setting forth the reasons why the information should be withheld.</p>	<p>552.301(e)</p> <p>552.301(d)</p> <p>552.303(a)</p>	<p>Compliance. METRO's General Counsel will submit questionable requests for information to the State Attorney General for a determination and abide by this decision. All other requests for information are promptly handled.</p>

OPEN MEETINGS AND PUBLIC INFORMATION COMPLIANCE MATRIX
(Page 10 of 10)

28. Information deemed confidential under the terms of this action shall not be distributed.	552.352(a)	Compliance. METRO's General Counsel will submit questionable requests for information to the State Attorney General for a determination and abide by this decision.
29. A bond for payment of costs for the preparation of such public records, or a prepayment in cash of the anticipated costs for the preparation of such records, may be required by the officer for public records or the officer's agent as a condition precedent to the preparation of such record if: (1) the requestor has been provided a written itemized estimate of charges and (2) the record is estimated by the governmental body to exceed \$100.	552.263(a)	Not Applicable. METRO has not had cause to require the issuance of a bond to pay for the expense of preparing public information.
30. Each governmental body may promulgate reasonable rules of procedure by which public records may be inspected efficiently, safely, and without delay.	552.230	Not Applicable. The Authority has not elected to develop rules or procedures for inspection of public records.

FINANCE AND ADMINISTRATION COMPLIANCE

FINANCE AND ADMINISTRATION COMPLIANCE MATRIX
(Page 1 of 9)

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
1. The issuance of obligations (to finance project costs of an eligible project) shall be authorized by resolution, order or ordinance of the governing body of Houston METRO (see statute for contents).	Texas Trans Code §451.352	Not Applicable. METRO has adopted a pay-as-you-go policy and therefore has not issued bonds for capital project financing.
2. The Authority shall establish and maintain rates, fares, tolls, charges, rents or other compensation for the use of the facilities of the system acquired, constructed, operated or maintained by the Authority which shall be reasonable and nondiscriminatory and which, together with receipts from taxes collected by the Authority, shall be sufficient to produce revenues adequate: (1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the Authority; (2) to pay the interest on and principal of all bonds issued by the Authority under this Act which are payable in whole or in part from such revenues, when and as the same shall become due and payable; (3) to pay all sinking fund and reserve fund payments agreed to be made in respect of any such bonds, and payable out of such taxes and revenues, when and as the same shall become due and payable; and (4) to fulfill the terms of any agreements made with the holders of such bonds or with any person in their behalf.	451.061(a)	Compliance. The Authority pays all operating and capital expenses from fare box revenues, the one-percent sales tax, miscellaneous operating revenues, and other State and Federal grant funds.
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.	451.061(b)	Compliance. The Authority's 21st Century High Capacity Transit Vision (adopted August 26, 1999) identifies sources and uses of funds through 2025 with a balanced budget forecast for that period. Annual ending balances are used to offset current year subsidy requirements.

FINANCE AND ADMINISTRATION COMPLIANCE MATRIX
(Page 2 of 9)

<p>4. The Authority, however, shall have the full power to issue bonds and notes, from time to time and in such amounts as it shall consider necessary or appropriate, for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement or extension of such rapid transit system or systems and all properties thereof whether real, personal or mixed.</p> <ul style="list-style-type: none"> All such bonds and notes shall be fully negotiable and may be made redeemable before maturity, at the option of the issuing Authority, at such price or prices and under such terms and conditions as may be fixed by the issuing Authority in the resolution authorizing such bonds or notes, and may be sold at public or private sale whichever the Board may deem more advantageous. 	<p>451.352(a) 451.353(a) 451.354</p>	<p>Not Applicable. METRO has adopted a pay-as-you-go policy and therefore has not issued bonds for capital project financing.</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>451.355(a)</p>	<p>Not Applicable. METRO has adopted a pay-as-you-go policy and therefore has not issued bonds for capital project financing.</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>451.359 *</p>	<p>Not Applicable. METRO has adopted a pay-as-you-go policy and therefore has not issued bonds for capital project financing.</p>
<p>7. Bonds payable solely from revenues may be issued by resolution of the Board, but no bonds, except refunding bonds, payable wholly or partially from taxes, may be issued until authorized by a majority vote of the qualified voters of the Authority voting in an election called and held for that purpose.</p>	<p>451.352(b) 451.352(c)</p>	<p>Not Applicable. METRO has adopted a pay-as-you-go policy and therefore has not issued bonds for capital project financing.</p>
<p>8. Notwithstanding other provisions of this chapter, the Authority, acting by Board order or resolution, has the power to issue short-term bonds or notes secured by revenues or taxes for any purpose; provided that the repayment of the bonds or notes must be satisfied out of revenues or taxes received during the period from the date of issuance to the last day of the fiscal year following the fiscal year in which the bonds or notes are issued, and the bonds or notes may not be issued for a term exceeding 12 months.</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>451.362(a) * 451.362(c) *</p>	<p>Not Applicable. METRO has adopted a pay-as-you-go policy and therefore has not issued bonds for capital project financing.</p>

FINANCE AND ADMINISTRATION COMPLIANCE MATRIX
(Page 3 of 9)

<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> <ul style="list-style-type: none"> If the Board of an Authority decreases the tax rate by its own order, it may increase the tax rate by a subsequent order to a rate that does not exceed the rate in effect before the order to decrease the tax rate was approved. 	<p>451.407 451.408(a) 451.408(c)</p>	<p>Not applicable. METRO has not requested authorization for taxes other than the one percent sales tax authorized in 1978.</p>
<p>10. All funds of the Authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the Authority's bonds or notes.</p> <ul style="list-style-type: none"> 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. The Board by resolution may authorize a designated representative to supervise the substitution of securities pledged to secure the authorities authority's funds. 	<p>451.105(b) 451.105(c) 451.101(10)</p>	<p>Compliance. Article IV of the Authority's Bylaws specifies that except for petty cash, all funds shall be deposited in banks designated by the Board. Designated banks and authorized signatures are addressed in Board Resolutions such as 02-95, 03-112 and 04-48.</p>
<p>11. Prior to the commencement of a fiscal year, the Board shall adopt an annual operating budget which specifies major expenditures by type and amount.</p> <ul style="list-style-type: none"> Before the Board adopts its annual operating budget, it shall conduct a public hearing and shall make the proposed annual operating budget available to the public at least 14 days prior to the hearing. An annual operating budget must be adopted before the Authority conducts business in a fiscal year. The Authority may not incur operating expenditures in excess of the total budgeted operating expenditures for a fiscal year unless the Board amends the operating budget by order after public notice and hearing. 	<p>451.102(a) 451.102(b) 451.102(c) 451.103</p>	<p>Compliance. During the audit period, the Board has approved the annual operating and capital budget each September, prior to the beginning of the following fiscal year. Prior to approval, a public hearing was conducted.</p> <p>Public hearings were conducted and the budgets were made available to the public at least 14 days prior to the hearings.</p>

FINANCE AND ADMINISTRATION COMPLIANCE MATRIX
(Page 5 of 9)

<p>14. An issuer shall have the right to deposit, or cause to be deposited to the State Treasurer of the State of Texas a sum of money equal to the principal amount of the bonds, notes, and other evidences of indebtedness which it proposes to refund plus the amount of interest which will accrue thereon calculated to the date on which it is to become due or on which it may be redeemed, together with the amount of contract premium if any, required for redemption; and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-twentieth (1/20) of one per cent (1%) of the principal amount of said bonds and one-eighth (1/8) of one per cent (1%) of the interest to accrue on all of said underlying obligations, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said underlying obligations are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing said underlying obligations, or a certified excerpt there from, showing the amounts and the date(s) on which interest is due on such underlying obligations, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safely to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his services and to reimburse his expenses in performing such services shall be used by or for the State of Texas or for any creditor of the State, nor shall such money be commingled with any other money.</p>	<p>Texas R. Civ. Stat. Art. 717k §2(b)</p>	<p>Not applicable. METRO did not issue any bonds during the audit period.</p>
---	--	---

FINANCE AND ADMINISTRATION COMPLIANCE MATRIX
(Page 6 of 9)

<p>15. When the issuer shall have deposited and paid into the Office of the State Treasurer the money, and shall have done the things required by Section 2 of this Act, it shall have authority to issue, sell and deliver refunding bonds in lieu of the underlying securities, despite the fact that the holders of other such underlying securities may not have surrendered or presented the same for payment; provided that the Attorney General of Texas shall certify to the Comptroller of Public Accounts as to any underlying securities which have not reached their normal maturity date that the issuer has validly called the bonds for redemption in accordance with the contract rights of the issuer. Where the issuer has complied with the requirements of this Act, the Comptroller shall register the refunding bonds despite the fact that some or all of the underlying securities shall not have been surrendered by the holder for payment and cancellation.</p>	<p>Texas R. Civ. Stat. Art. 717k §4</p>	<p>Not applicable. METRO did not issue any bonds during the audit period.</p>
<p>16. Said refunding bonds shall mature serially or otherwise in not more than forty years from their date of issue, and shall bear interest at any rate or rates as shall be determined within the discretion of the governing body of the issuer.</p> <ul style="list-style-type: none"> • Said bonds, and any interest coupons appurtenant thereto, shall be negotiable instruments... • All bonds permitted to be issued under this Act, ... shall be submitted to the Attorney General of the State of Texas for examination. 	<p>Texas R. Civ. Stat. Art. 717k-3 §3</p> <p style="text-align: center;">§4</p> <p style="text-align: center;">§5</p>	<p>Not applicable. METRO did not issue any bonds during the audit period.</p>

FINANCE AND ADMINISTRATION COMPLIANCE MATRIX
(Page 7 of 9)

<p>17. The governing body of an issuer is hereby authorized and empowered to issue, sell, and deliver obligations and execute credit agreements in relation thereto to finance project costs of an eligible project, or to refund obligations issued in connection with an eligible project, subject to the limitations contained herein. Obligations shall be secured solely by (A) the proceeds of sale of other obligations; (B) the proceeds of sale of revenue bonds payable from the revenue to be received from a public utility or a specified user of a public utility; (C) any revenues which the issuer is authorized by any statute, city home-rule charter, or constitutional provision to pledge to the payment of any obligations; or (D) any one or more of such sources, including credit agreements, all as the governing body of the issuer shall provide in the resolution, order, or ordinance authorizing the issuance of the obligations. Obligations shall be repaid from the source or sources securing the payment thereof, funds received from a credit agreement, or from any other revenues otherwise legally available for the payment thereof, except funds derived from ad valorem taxation.</p>	<p>Texas R. Civ. Stat. Art. 717q §2(a)</p>	<p>Not applicable. METRO did not issue any bonds during the audit period.</p>
<p>18. A transportation Authority created, organized, and operating under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), may not issue obligations, except refunding obligations, payable in whole or in part from its sales tax revenues and having a maturity longer than five years unless an election required by Subsection (h) of Section 15 of Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), has been held and favorably carried. However, obligations that are exempt from such election requirements by the terms of that Act are also exempt from the election requirements of this subsection.</p>	<p>Texas R. Civ. Stat. Art. 717q §2(b)</p>	<p>Not applicable. METRO did not issue any bonds during the audit period.</p>

FINANCE AND ADMINISTRATION COMPLIANCE MATRIX
(Page 8 of 9)

<p>19. The issuance of obligations shall be authorized by resolution, order, or ordinance of the governing body of an issuer, which resolution, order, or ordinance shall fix the maximum amount of obligations to be issued or, if applicable, the maximum principal amount which may be outstanding at any time, the maximum term obligations issued and delivered pursuant to such authorization shall be outstanding, the maximum interest rate to be borne by the obligations, the manner of sale (which may be by either public or private sale), price, form, terms, conditions, and the covenants thereof. The resolution, order, or ordinance authorizing the issuance of obligations may provide for the designation of a paying agent and registrar for the obligations and may authorize one or more designated officers or employees of the issuer to act on behalf of the issuer from time to time in the selling and delivering of obligations authorized and fixing the dates, price, interest rates, interest payment periods, and other procedures as may be specified in the resolution, order, or ordinance. Obligations may be issued in such form or such denomination, payable at such time or times, in such amount or amounts or installments, at such place or places, in such form, under such terms, conditions, and details, in such manner, redeemable prior to maturity at any time or times, bearing no interest, or bearing interest at any rate or rates (either fixed, variable, floating, adjustable, or otherwise, all as determined in accordance with the resolution, order, or ordinance providing for the issuance of the obligations, which resolution, order, or ordinance may provide a formula, index, contract, or any other arrangement for the periodic determination of interest rates), not to exceed the maximum net effective interest rate allowed by law and may be signed or otherwise executed in such manner, with manual or facsimile signatures, and with or without a seal, all as shall be specified by the governing body of the issuer in the resolution, order, or ordinance authorizing the issuance of the obligations. The proceeds received from the sale of obligations may be deposited or invested in any manner and in such obligations as may be specified in the resolution, order, ordinance, or other proceedings authorizing the obligations. In the event any officer or officers whose signatures are on any obligations cease to be such officer or officers before the delivery thereof to the purchaser, such signature or signatures shall nevertheless be valid and sufficient for all purposes and the successor or successors in office of any such officer or officers shall be fully authorized to complete the execution, authentication, or delivery of said obligations to the purchaser or purchasers thereof.</p>	<p>Texas R. Civ. Stat. Art. 717q §3</p>	<p>Not applicable. METRO did not issue any bonds during the audit period.</p>
--	---	---

FINANCE AND ADMINISTRATION COMPLIANCE MATRIX (Page 9 of 9)

<p>20. Preliminary to the issuance and delivery of obligations, the resolution, order, or ordinance authorizing the issuance thereof, together with any credit agreements, and any contracts providing revenues or security to pay the obligations, shall be submitted to the attorney general for his review. If the attorney general shall find that such credit agreement or agreements, if any, contracts, if any, and other authorizing proceedings conform to the requirements of the Texas Constitution and this Act, the attorney general shall approve them. Thereafter, the obligations authorized therein may be executed and delivered, exchanged, or refinanced from time to time in accordance with the authorizing proceedings. Upon such approval by the attorney general and initial delivery of any obligations so authorized, any such credit agreements, any such contracts providing revenues or security, such initial obligations and all other obligations thereafter issued pursuant to the authorizing proceedings, shall be incontestable for any cause in any court or other forum and shall be valid and binding obligations enforceable in accordance with their respective terms and provisions.</p>	<p style="text-align: center;">Texas R. Civ. Stat. Art. 717q §6</p>	<p>Not applicable. METRO did not issue any bonds during the audit period.</p>
---	---	---

* Denotes that this section was either amended or added since the prior performance audit.

REAL ESTATE COMPLIANCE

REAL ESTATE COMPLIANCE MATRIX
(Page 1 of 7)

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>1. Before an Authority acquires an interest in real property for more than \$20,000, the Board of the Authority shall cause the property to be appraised by two appraisers working independently of each other.</p>	<p>Texas Trans Code §451.054(d)</p>	<p>Compliance. A sample review of the property purchased by METRO during the audit period indicates that two separate appraisals are obtained, consistent with Real Estate Guidelines Section 2.</p>
<p>2. The Authority shall not proceed with any action to change, alter or damage the property or facilities of the state, its municipal corporations, agencies or political subdivisions or of owners rendering public services, or which shall disrupt such services being provided by others, or to otherwise inconvenience the owners of such property or facilities, without having first obtained the written consent of such owners or unless the Authority shall have first obtained the right to take such action under its power of eminent domain as herein specified.</p> <ul style="list-style-type: none"> • In the event the owners of such property or facilities desire to handle any such relocation, raising, change in the grade of, or alteration in the construction of such property or facilities with their own forces, or to cause the same to be done by contractors of their own choosing, the Authority shall have the power to enter into agreements with such owners providing for the necessary relocations, changes or alterations of such property or facilities by the owners and/or such contractors and the reimbursement by the Authority to such owners of the costs incurred by such owners in making such relocations, changes or alterations and/or in causing the same to be accomplished by such contractors. 	<p>451.058(e)</p> <p>451.058(b)</p>	<p>Compliance. A sample review of real estate files indicates that METRO personnel will not alter or damage property or facilities without first having obtained written permission in the form of an Inter-Local Agreement for a specific project.</p> <p>METRO staff will 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>METRO Real Estate Guidelines Section 4 provides for management of relocations, as authorized by Board Resolution 82-74.</p>

REAL ESTATE COMPLIANCE MATRIX
(Page 2 of 7)

<p>3. In the event the Authority, in exercising any of the powers conferred by this Act, makes necessary the relocation, adjustment, raising, lowering, rerouting or changing the grade of or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad track, bridge or other facilities or properties, any electric lines, conduits or other facilities or properties, any telephone or telegraph lines, conduits or other facilities or properties, any gas transmission or distribution pipes, pipelines, mains or other facilities or properties, any water, sanitary sewer or storm sewer pipes, pipelines, mains or other facilities or properties, any cable television lines, cables, conduits or other facilities or properties, or any other pipelines and any facilities or properties relating thereto, any and all such relocations, adjustments, raising, lowering, rerouting or changing of grade or altering of construction shall be accomplished at the sole cost and expense of the Authority, and all damages which may be suffered by the owners of such property or facilities shall be borne by the Authority.</p>	<p>451.058(d)</p>	<p>Compliance. METRO Real Estate Guidelines Section 4 provides for management of relocations, as authorized by Board Resolution 82-74. Relocation and other project related costs are borne by METRO and detailed in specific Inter-local Agreements and Joint Project Agreements.</p> <p>Utility relocations are handled by a METRO department separate from Real Estate.</p>
<p>4. The Authority shall have the right of eminent domain to acquire lands in fee simple and any interests less than fee simple in, on, under and above lands, including, without limitation, easements, rights-of-way, rights of use of air space or subsurface space, or any combination thereof; provided that such right shall not be exercised in a manner which would unduly interfere with interstate commerce or which would authorize the Authority to run its vehicles on railroad tracks which are used to transport property.</p>	<p>451.058(c)</p>	<p>Compliance. METRO utilized eminent domain in the acquisition of property in accordance with Real Estate Management Guidelines (Section 3.2) in authorizations such as 01-45, 02-83, 02-84 and 02-88.</p>

REAL ESTATE COMPLIANCE MATRIX

(Page 3 of 7)

<p>5. Eminent domain proceedings brought by the Authority shall be governed by the provisions of Chapter 21, Property Code.</p> <ul style="list-style-type: none"> • Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the Board of a resolution declaring the public necessity for the acquisition by the Authority of the property or interest therein described in the resolution, and that such acquisition is necessary and proper for the construction, extension, improvement or development of the system and is in the public interest. • 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. • The Board shall hold the hearing at a place convenient to residents of the area in which the property is located. • 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>451.059(e)</p> <p>451.059(a)</p> <p>451.059(b)</p> <p>451.059(c)</p>	<p>Compliance. METRO utilized eminent domain proceedings in the acquisition of property in accordance with Real Estate Management Guidelines (Section 3.2) in resolutions such as 01-45, 02-83, 02-84, 02-88 and 04-12.</p> <p>Public hearings were conducted consistent with requirements.</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> <ul style="list-style-type: none"> • 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>451.054(e)(1)</p> <p>451.054(e)(2)</p>	<p>Compliance. METRO has sold property to five different government entities during the audit period, all in accordance with the Real Estate Management Guidelines.</p> <p>Note: A sample of 38 license agreements was reviewed; ten did not have current insurance certificates on file. This is inconsistent with METRO's internal requirements.</p>

REAL ESTATE COMPLIANCE MATRIX
(Page 4 of 7)

<p>7. Any lands or interest in land acquired for a station or terminal complex must be part of or contained within a station or terminal complex designated as part of the system within a comprehensive transit plan approved by resolution of the Board.</p> <ul style="list-style-type: none"> • Before a station or terminal complex may be included in the system, the Board must find and determine that the proposed station or terminal complex will encourage and provide for efficient and economical mass transit service, will facilitate access to mass transit service and provide other mass transit proposes, will reduce vehicular congestion and air pollution in the metropolitan area, and is reasonably essential to the successful operation of the system. • The Board may amend its comprehensive transit plan to include other station or terminal complexes upon making these findings. 	<p>451.151(a)</p> <p>451.151(b)</p> <p>451.151(c)</p>	<p>Compliance. During the audit scope period, property was authorized for purchase (Board Resolution 03-52) for the Wheeler Station, as identified in METRO's Light Rail Plan.</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> <ul style="list-style-type: none"> • A complex may include provisions for commercial, residential, recreational, institutional, and industrial facilities, except that no land or interest in land that is more than 1,500 feet in distance from the center point of the complex and that has not been included in a master plan of development adopted by the Board may be acquired for the facilities. • Land or an interest in land more than 1,500 feet in distance from the center point of the complex may not be acquired by eminent domain proceedings, and the Board shall designate the center point prior to the commencement of eminent domain proceedings. 	<p>451.152(1)</p> <p>451.152(2)</p> <p>451.154(a)</p>	<p>Compliance. All of METRO's stations and/or terminal complexes were designed to include adequate provisions for the transfer of passengers between the various modes of transportation available.</p>

REAL ESTATE COMPLIANCE MATRIX (Page 6 of 7)

<p>11. The special commissioners shall assess damages in a condemnation proceeding according to the evidence presented at the hearing.</p> <ul style="list-style-type: none"> • If an entire tract or parcel of real property is condemned, the damage to the property owner is the local market value of the property at the time of the special commissioners' hearing. • If a portion of a tract or parcel of real property is condemned, the special commissioners shall determine the damage to the property owner after estimating the extent of the injury and benefit to the property owner, including the effect of the condemnation on the value of the property owners' remaining property. • In estimating injury or benefit under Subsection (c), the special commissioner shall consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, but they may not consider an injury or benefit that the property owner experiences in common with the general community. • If a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system, or for use, construction, development, operation, or maintenance of improvement or project by a metropolitan rapid transit Authority created before January 1, 1980, with a principal city having a population of less than 1,900,000 and established under Chapter 451, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a claim for damages to the remaining property. In awarding compensation or assessing the damages, the special commissioners shall consider any special and direct benefits that arise from the highway improvement or the transit Authority improvement or project that are peculiar to the property owner and that relate to the property owner's ownership, use, or enjoyment of the particular parcel of remaining real property. 	<p style="text-align: center;">Texas Property Code</p> <p>§21.042(a) * 21.042(b) *</p> <p>21.042(c) *</p> <p>21.042(d) *</p> <p>21.042(e) *</p>	<p>Compliance. In the four sample proceedings that were reviewed for this audit, the Authority followed METRO's Real Estate Management Guidelines in processing eminent domain properties. Three of four commissioner decisions regarding compensation were appealed by the landowners. On appeal, two of the landowners received higher compensation for their property and the third received less than the value assigned by the commissioners. Two appraisals and an appraisal review were obtained on each eminent domain property.</p>
---	--	--

REAL ESTATE COMPLIANCE MATRIX

(Page 7 of 7)

<p>12. Except for the types of land and interests covered by Subsection (b), (g), (h), (l), or (j) and by Section 253.008 before land owned by a political subdivision of the state may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county.</p> <ul style="list-style-type: none"> • 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. • 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. • 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. • That land and those interests 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. • The fair market value is determined by an appraisal obtained by the political subdivision that owns the land or interest, and the appraisal is conclusive of the fair market value of the land or interest. This subsection applies to: (1) narrow strips of land, or land that because of its shape or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances; (2) streets or alleys, owned in fee or used by easement; (3) an easement for which one or more abutting property owners own the underlying fee simple; (4) land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, or easements, including transactions partly for cash; (5) land that the political subdivision wants to have developed by contract with an independent foundation; (6) a real property interest conveyed to a governmental entity that has the power of eminent domain; (7) a municipality's land that is located in a reinvestment zone designated as provided by law and that the municipality desires to have developed under a project plan adopted by the municipality for the zone; or (8) a property interest owned by a defense base development authority established under Chapter 378, Local Government Code, as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999. 	<p>Local Govt. Code §272.001(a) 272.001(b)</p>	<p>Compliance. The Authority followed METRO's Real Estate Management Guidelines when property was sold. The Guidelines include the actions identified here.</p>
---	--	---

* Denotes that this section was either amended or adopted since the prior performance audit.

CONTRACTS COMPLIANCE

CONTRACTS COMPLIANCE MATRIX (Page 3 of 4)

<p>4. No state agency, political subdivision, county, municipality, district, Authority or publicly-owned utility of the State of Texas shall make any contract for, or engage the professional services or group or association thereof, selected on the basis of competitive bids submitted for such contract or for such services to be performed, but shall select and award such contracts and engage such services on the basis of demonstrated competence and qualifications for the type of professional services to be performed and at fair and reasonable prices, as long as professional fees are consistent with and not higher than the published recommended practices and fees of the various applicable professional associations and do not exceed the maximum provided by any state law.</p>	<p>Texas Govt Code §2254.003(a) 2254.003(b)</p>	<p>Compliance. Chapter 8.5 of METRO's Procurement Manual specifies methods of selecting sources. Chapter 8.9 identifies appropriate evaluation factors. Chapter 3 of METRO's Procurement Manual includes policies relating to the selection of service contracts and includes six criteria for the evaluation of proposal responses.</p> <p>Internal Audit is responsible for verification of rates prior to contract award.</p>
<p>5. In the procurement of architectural, engineering, or land surveying services, a governmental entity described by Section 2 of this Act, the entity shall negotiate a contract for the services on the basis of a two-step process: (1) initial selection shall be based on the demonstrated competence and qualifications of the person, including any firm, who is to provide the services; and (2) after the entity makes its selection according to Subsection (a) of this section, it shall proceed to negotiate a contract at a fair and reasonable price.</p>	<p>2254.004(a)</p>	<p>Compliance. Chapter 3 of METRO's Procurement Manual includes six criteria for the evaluation of proposal responses, including: (1) qualifications and experience of personnel; (2) experience in related work/past performance; (3) management plan and ideas for coordinating work; (4) responsiveness to SB goal; (5) financial viability to accomplish the project; and (6) cost data.</p>
<p>6. If the entity is unable to negotiate a satisfactory contract with the most highly qualified person, the entity shall formally end negotiations with that person and begin negotiations with the second most highly qualified person.</p> <ul style="list-style-type: none"> • Negotiations shall be undertaken in this sequence until a contract is made. 	<p>2254.004(b) 2254.004(c)</p>	<p>Compliance. Procurement staff indicate that METRO has not had to go to the next most highly qualified bidder during the audit scope period.</p> <p>Procurement Guidelines Chapter 8.20 establish the sequence for negotiating contracts.</p>
<p>7. It is declared to be against the public policy of the State of Texas for any official or group of officials of the State, or of a County, City, Municipality or other political subdivision of the State, to enter into a collective bargaining contract with a labor organization respecting the wages, hours, or conditions of employment of public employees, and any such contracts entered into after the effective date of this Act shall be null and void.</p>	<p>617.002(a) 617.002(b)</p>	<p>Compliance. METRO agreements predate State law and were a requirement as a condition of operation of transit services under Federal 13(c) requirements. METRO's agreement is unilateral.</p>

CONTRACTS COMPLIANCE MATRIX
(Page 4 of 4)

<p>8. A governmental entity that makes a public works contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity: (1) a performance bond if the contract is in excess of \$100,000, and (2) a payment bond if the contract is in excess of \$25,000.</p> <p>A bond required by this section must be executed by a corporate surety or corporation sureties in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code). In the case of contracts of the State or a department, Board, or agency thereof, the aforesaid bonds shall be payable to the State and shall be approved by the Attorney General as to form. In case of all other contracts subject to this Act, the bonds shall be payable to the governmental awarding Authority concerned, and shall be approved by it as to form.</p> <p>Any bond furnished by any prime contractor in an attempted compliance with this Act shall be treated and construed as in conformity with the requirements of this Act as to rights created, limitations thereon, and remedies provided. Any provision in any bond furnished by a prime contractor in attempted compliance with this Act that expands or restricts the rights or liabilities provided under this Act shall be disregarded and the provisions of this Act shall be read into that bond.</p> <ul style="list-style-type: none"> • A Performance Bond in the amount of the contract conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. Said bond shall be solely for the protection of the State or the governmental Authority awarding the contract, as the case may be. • A Payment Bond, in the amount of the contract, solely for the protection of all claimants supplying labor and material as hereinafter defined, in the prosecution of the work provided for in said contract, for the use of each such claimant. (Notwithstanding any provision in this Act or in Chapter 252 or 262, Local Government Code, if the governmental Authority fails to obtain from the prime contractor a payment bond in compliance with the Act covering a contract in excess of \$25,000, the Authority is subject to the same liability as that of a surety who had issued a valid bond if the Authority had complied with this section, and a claimant is entitled to a lien on funds due the prime contractor in the same manner and to the same extent as if the contract were subject to Subchapter J, Chapter 53, Property Code.) 	<p>2253.021(a) *</p> <p>2253.021(d) *</p> <p>2253.021(e) *</p> <p>2253.021(b) * 2253.021(c) * 2253.021(a)(2) *</p> <p>2253.027 *</p>	<p>Compliance. Item No. 30 of METRO's Procurement Checklist is for Bonds (Payment, Performance, etc.). A review of a sample of construction contracts from the audit review period indicates that METRO complies with these requirements. Chapter 17 of METRO's Procurement Manual specifies criteria for determining bonding requirements.</p>
---	--	---

* Denotes that this section was either amended or adopted since the prior performance audit.

ALTERNATIVE FUELS COMPLIANCE

ALTERNATIVE FUELS COMPLIANCE MATRIX (Page 1 of 3)

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS																				
<p>1. The Board may not purchase or lease a motor vehicle, excluding any law enforcement and any emergency vehicle, unless that vehicle is capable of using compressed natural gas or other alternative fuel, having the meaning assigned by Section 382.131, Health and Safety Code, which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particles or any combination thereof.</p>	<p>Texas Trans Code §451.301 451.3015(a)</p>	<p>Compliance. During the audit period, METRO purchased support vehicles under the State of Texas Cooperative Purchasing Program and/or the Houston-Galveston Area Council Cooperative Purchasing Program. Over 23 percent (51 of 216) of the vehicles purchased are fueled by compressed natural gas (CNG) or low sulfur diesel.</p>																				
<p>2. At least 50 percent of authority fleet vehicles, having the meaning assigned by Section 382.131(7), Health and Safety Code, must be capable of using alternative fuel, except as provided in Subsection (d).</p> <p>The Texas Natural Resource Conservation Commission, before 1997, shall review the alternative fuels use program under this section. If the commission determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, at least 90 percent of the number of fleet vehicles operated after August 31, 1998 shall be capable of using alternative fuel.</p> <p>Vehicles converted, purchased, leased, or otherwise acquired prior to September 1, 1999, may be counted toward compliance with the fleet percentage requirement of Subsection (b) if the vehicles are capable of operating on a fuel or power source recognized by any State of Texas fleet or mass transit fuel program prior to September 1, 1995 and meet these emission standards: for vehicles (1) under 8,500 GVWR, the federal Tier I emissions standards pursuant to Section 202 of the federal Clean Air Act, as amended; or (2) over 8,500 GVWR, the federal emission standards at the time of manufacture.</p> <p>The percentage requirements of Subsection (b) may be met, in whole or in part, through the purchase, lease, or other acquisition of (1) program compliance credits pursuant to Section 382.142, Health and Safety Code, or (2) credits through the Texas Mobile Emissions Reduction Credit (MERC) program established pursuant to Section 382.143, Health and Safety Code.</p>	<p>451.3015(b)</p> <p>451.3015(c)</p> <p>451.3015(d)</p> <p>451.3015(e)</p>	<p>Compliance. METRO has exceeded the 90% requirement as evidenced by the following table:</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Year</th> <th style="text-align: center;">Qualified Vehicles</th> <th style="text-align: center;">Credits</th> <th style="text-align: center;">Percentage</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">2001</td> <td style="text-align: center;">383</td> <td style="text-align: center;">400</td> <td style="text-align: center;">90+</td> </tr> <tr> <td style="text-align: center;">2002</td> <td style="text-align: center;">407</td> <td style="text-align: center;">515</td> <td style="text-align: center;">90+</td> </tr> <tr> <td style="text-align: center;">2003</td> <td style="text-align: center;">383</td> <td style="text-align: center;">404</td> <td style="text-align: center;">90+</td> </tr> <tr> <td style="text-align: center;">2004</td> <td colspan="3" style="text-align: center;">Not yet compiled</td> </tr> </tbody> </table>	Year	Qualified Vehicles	Credits	Percentage	2001	383	400	90+	2002	407	515	90+	2003	383	404	90+	2004	Not yet compiled		
Year	Qualified Vehicles	Credits	Percentage																			
2001	383	400	90+																			
2002	407	515	90+																			
2003	383	404	90+																			
2004	Not yet compiled																					

PERFORMANCE AUDITS COMPLIANCE

PERFORMANCE AUDITS COMPLIANCE MATRIX
(Page 1 of 2)

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
1. The Board of an Authority in which the principal city has a population of more than 1,200,000 shall contract with a firm to conduct a performance audit of the Authority every four years.	Texas Trans Code §451.454(a)	Compliance. METRO has contracted with Booz Allen Hamilton Inc. for the conduct of this fourth performance audit (Board Resolution 04-68).
2. The Board shall determine one or more subjects for a particular audit from among the subject of administration and management of the Authority, transit operations, and system maintenance. <ul style="list-style-type: none"> • Each of those subjects must be examined at least once in every third performance audit. 	451.454(c)(1) 451.454(d)	Compliance. METRO's Transit Operations are the object of this performance audit.
3. Each performance audit must include an examination of the Authority's compliance with this Act and other applicable state law and an examination of the following performance indicators: (1) operating cost per passenger; (2) sales and use tax receipts per passenger; (3) operating cost per revenue hour; (4) operating cost per revenue mile; (5) fare recovery rate; (6) average vehicle occupancy; (7) on-time performance; (8) the number of accidents per 100,000 miles; and (9) the number of total miles between mechanical road calls (see statute for definitions).	451.454(c) 451.455	Compliance. METRO's performance indicators are detailed in a separate audit report, <i>Performance Indicator Results</i> .
4. An Authority for which a performance audit is conducted under this section shall prepare a written response to the report of the performance audit. <ul style="list-style-type: none"> • The response must include any proposals for action, whether pending, adopted, or rejected, relating to recommendations contained in the performance audit report. 	451.456(a)	Compliance. METRO prepared a written response to the third performance audit.

PERFORMANCE AUDITS COMPLIANCE MATRIX
(Page 2 of 2)

ACTION	LEGAL REFERENCE	COMPLIANCE RESULTS
<p>5. The Authority shall conduct a public hearing on each performance audit report conducted under this section and the Authority's written response to that report.</p> <ul style="list-style-type: none"> • The Authority shall cause notice of the hearing to be published 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 response available for public inspection at offices of the Authority during normal business hours. 	<p>451.456(b) and (c)</p>	<p>Compliance. METRO published the Notice for Public Hearing on March 18, 2001 in the <i>Houston Chronicle</i> and conducted a Public Hearing on April 3, 2001 to report the findings of the third performance audit.</p>
<p>6. A copy of each report of a performance audit conducted under this section and the response of the Authority shall be delivered by the Authority 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, the county judge of each county having territory in the authority, and each member of the state legislature whose district includes territory within the Authority.</p> <ul style="list-style-type: none"> • The copies shall be delivered before February 1, of every second odd-numbered year. 	<p>451.457</p>	<p>Non-compliance. METRO sent copies of the third performance audit to all appropriate parties on April 16, 2001 (the required delivery date was February 1, 2001).</p>

III. CONCLUSIONS AND RECOMMENDATIONS

METRO IS IN FULL OR PARTIAL COMPLIANCE WITH ALL BUT ONE OF THE REQUIREMENTS THAT APPLY TO THE AUTHORITY

- Compliance findings documented in Section II of this report indicate that METRO is in full or partial compliance with all but one of the requirements that were applicable to the Authority during the FY01-FY04 audit period
- METRO is in partial compliance with the requirement to post notice of public meetings in a place readily accessible to the general public at least 72 hours prior to the scheduled meeting time. METRO assesses compliance with this requirement based on the time that notice is posted at City Hall. Based on review of a sample of the postings during the audit period, METRO did not meet the requirement in three instances, as a result of delays in traffic and at the Courthouse. Changing the location of the public posting to METRO's administrative offices would provide greater assurance of complying with this requirement,
- METRO is also in partial compliance with the requirement to conduct at least one regular Board meeting each month. In one instance during the audit period, a Board meeting was postponed. The January 2001 meeting was postponed to February 5, 2001. The partial compliance finding is made because proper notification of the postponement was given
- METRO is in non-compliance with the requirement to provide performance audit reports to the governor and other government officials by February 1 of every second odd-numbered year. For the prior audit, that date was February 1, 2001; the audit reports were provided on April 16, 2001. Because METRO is on an October 1st-September 30th fiscal year, audited financial data are not available in time to complete the performance audit by the February 1 deadline

RECOMMENDATIONS FROM THIS REVIEW ARE INTENDED TO IMPROVE COMPLIANCE

- This section includes recommendations to capitalize on opportunities to improve compliance with legislative requirements
- Two recommendations are offered for METRO's consideration:
 1. Institute a change to the official posting location for announcement of Board and Special meetings
 2. Sponsor legislation to change the performance audit due date to a specified number of months following the end of a transit authority's fiscal year

THESE RECOMMENDATIONS ARE DISCUSSED IN MORE DETAIL ON THE FOLLOWING PAGES

RECOMMENDATION 1: INSTITUTE A CHANGE TO THE OFFICIAL POSTING LOCATION FOR ANNOUNCEMENT OF BOARD AND SPECIAL MEETINGS

- One of the legislative requirements that applies to METRO stipulates that notices of Board and Special meetings must be posted “in a place readily accessible to the general public at all times” for at least 72 hours preceding the scheduled time of the meeting
- METRO posts meeting notices at the Courthouse and at METRO’s headquarters, and has designated the posting at the Courthouse as the one that must comply with the 72-hour requirement
- While the 72-hour advance posting is exceeded in most cases, three instances were identified when the 72-hour requirement was not met (see Open Meetings and Public Information Compliance, item 14) with the Courthouse posting. The late postings occurred as a result of traffic delays or lines at the Courthouse. As a result, the time stamps on the meetings notices were less than 72 hours before the meeting
- It is recommended that METRO designate the posting at METRO’s offices as the one that satisfies the advance posting requirement, since the Authority has greater control over the on-site postings. With METRO’s move to the new administrative facility, the postings will be readily accessible to the public

RECOMMENDATION 2: SPONSOR LEGISLATION TO CHANGE THE PERFORMANCE AUDIT DUE DATE TO A SPECIFIED NUMBER OF MONTHS AFTER THE END OF THE AUTHORITY'S FISCAL YEAR

- The only non-compliance finding of the current audit pertains to the completion date of audit conducted in FY01, which was not completed until METRO sent copies of the audit reports to all appropriate parties on April 16, 2001 (see Performance Audits Compliance, item 6)
- Texas Transportation Code Section 451.457 requires transit authorities to deliver copies of performance audit reports to the governor and other government officials by February 1 of every second odd-numbered year. For the prior audit, that date was February 1, 2001
- Because METRO is on an October 1st-September 30th fiscal year, audited financial data are not available in time to complete the performance audit by the February 1 deadline
- The audits conducted in FY93, FY97 and FY01 did not meet the State's February 1 due date. The last audit found METRO in non-compliance with respect to the timely completion of the performance audit conducted in FY97 and recommended that METRO consider sponsoring legislation to change the due date to a specified number of months following the end of a transit authority's fiscal year. That recommendation is reiterated by the current audit