PERFORMANCE REVIEW
THE DIVISION OF PUBLIC TRANSIT

AUDIT OVERVIEW

The Division of Public Transit's Database for Managing Public Transit Vehicles Purchased With Public Grant Monies Lacks Adequate Data Quality and Data Validity Controls

The Division of Public Transit Funds Projects to Expand and Extend Transit Services into Underserved Areas of the State; However, It Does Not Have a Formal Plan or Program to Identify, Evaluate, and Select Projects and Instead Relies on Providers or Other Groups to Propose New Projects

Public Transit License Plates Are Not Provided Equitably to All Elderly and Disabled Public Transit Providers and Providers Deemed Ineligible Are Required to Pay Registration Costs

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PERFORMANCE EVALUATION & RESEARCH DIVISION

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John Sylvia
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August 7, 2023

The Honorable Jack Woodrum
West Virginia State Senate
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1900 Kanawha Boulevard, East
Charleston, WV 25305-0470

The Honorable Chris Phillips
House of Delegates
Room 213E, Building 1
1900 Kanawha Boulevard, East
Charleston, WV 25305-0470

Dear Chairs:

Pursuant to the West Virginia Performance Review Act, we are transmitting a Performance Review of the *Division of Public Transit,* within the Department of Transportation. The issues covered herein are: *"The Division of Public Transit's Database for Managing Public Transit Vehicles Purchased with Public Grant Monies Lacks Adequate Data Quality and Data Validity Controls;" "The Division of Public Transit Funds Projects to Expand and Extend Transit Services into Underserved Areas of the State; However, It Does Not Have a Formal Plan or Program to Identify, Evaluate, and Select Projects and Instead Relies on Providers or Other Groups to Propose New Projects;"* and *"Public Transit License Plates Are Not Provided Equitably to All Elderly and Disabled Public Transit Providers, and Providers Deemed Ineligible Are Required to Pay Registration Costs."*

We transmitted a draft copy of the report to the Division of Public Transit on June 30, 2023. We received the agency response on July 21, 2023. If you have any inquiries on this report let me know.

Sincerely,

John Sylvia
John Sylvia

Joint Committee on Government and Finance

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EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted a performance review of the Division of Public Transit as part of the Agency Review of the Department of Transportation pursuant to the Performance Review Act, Chapter 4, Article 10. Objectives of this audit were to (1) determine if the DPT is managing publicly funded transportation resources in a cost-effective manner through the Transportation Asset Management Program, (2) determine if the DPT is endeavoring to achieve an increased ridership with available resources as required by *W. Va. Code* §17-16C-3(c), and (3) determine if all providers within the elderly and disabled public transit grant program (5310) receive the appropriate type of license plates and vehicle registration regardless of their status as a political subdivision of the State of West Virginia. The issues of this report are highlighted below.

Frequently Used Acronyms in this Report:

AVIS – Automated Vehicle Information System
DOT – Department of Transportation
DPT – Division of Public Transit
FTA – Federal Transit Administration
GAO – Government Accountability Office
MPO – Metropolitan Planning Organization
PDC – Planning and Development Council
PERD – Performance Evaluation and Research Division
SDLC – System Development Life Cycle
TAMP – Transportation Asset Management Plan

Report Highlights:

Issue 1: The Division of Public Transit's Database for Managing Public Transit Vehicles Purchased with Public Grant Monies Lacks Adequate Data Quality and Data Validity Controls

- DPT relies on its Automated Vehicle Information System to manage the State's fleet of vehicles purchased through federal public transit grant programs.
- The DPT has not assessed AVIS to ensure that its data are accurate and reliable which puts the agency at risk of having incorrect data in its vehicle management system.
- PERD found a sample of DPT's data from AVIS to be valid, but identified several issues related to its reliability.

Issue 2: The Division of Public Transit Funds Projects to Expand and Extend Transit Services into Underserved Areas of the State; However, It Does Not Have a Formal Plan or Program to Identify, Evaluate, and Select Projects and Instead Relies on Providers or Other Groups to Propose New Projects

- While DPT is tasked with expanding ridership under West Virginia Code, it is not required to develop plans or goals for expanding ridership or services; however, the DOT has acknowledged the need for a formal plan.
- Seventeen (17) counties in the state do not have access to regular public transit services and ridership has decreased where services are available since the start of the pandemic.
- Without a formal plan or strategy, new public transit projects are established on an ad hoc basis when local transit providers and other groups propose projects to the DPT.
- Increasing the availability of public transit could improve the labor force participation rate in West Virginia, which is among the lowest in the country.
- The DPT should utilize information provided through Regional Planning and Development Councils to develop a statewide plan to increase ridership and expand services into underserved areas of the state.

Issue 3: Public Transit License Plates Are Not Provided Equitably to All Elderly and Disabled Public Transit Providers, and Providers Deemed Ineligible Are Required to Pay Registration Costs

- The 5310 public transit grant program is designed to enhance the mobility of seniors and the disabled by providing funding to non-traditional transit providers.
- Public transit vehicles receive different types of license plates under the Division of Motor Vehicles interpretation of West Virginia Code.
- The legislative auditor has determined that 5310 providers are eligible for public transit plates under West Virginia Code; however, Code could be updated to state so explicitly.

PERD's Response to the Agency's Written Response

The DPT provided its response on July 21, 2023 (Appendix C). The DPT reported that it agrees with the findings and recommendations in the report and agrees to implement corrective actions relevant to the recommendations.

Recommendations

1. *The Division of Public Transit should create policies and procedures to ensure that data submitted by subrecipients to its transportation asset management database are valid and accurate.*

2. *The Division of Public Transit should improve data entry controls within its Automated Vehicle Inventory System (AVIS) to reduce the risk of data entry errors.*

3. *The Division of Public Transit should provide subrecipients read-only access to their data in the Automated Vehicle Inventory System (AVIS)*

4. *The Division of Public Transit should develop a long-range plan for increasing and expanding transit services across West Virginia.*

5. *The Division of Public Transit should utilize the Regional Planning and Development Councils' Coordinated Public Transit-Human Services Transportation Plans in identifying areas of needs in developing its long-range plan for increasing ridership and expanding services.*

6. *The Legislature should amend state code to allow all FTA-funded public transit vehicles to retain public transit plates if the vehicle continues to be used for public transit services.*

7. *If allowed to retain public transit plates at the end the grant period, then grantees should be required to submit an affidavit to the DMV confirming that the vehicles are still being used to provide transit services to the public at least annually.*

ISSUE 1

The Division of Public Transit's Database for Managing Public Transit Vehicles Purchased With Public Grant Monies Lacks Adequate Data Quality and Data Validity Controls

Introduction

The Division of Public Transit (DPT) is responsible for receiving and disbursing Federal Transit Administration (FTA) grant monies and state matching funds for capital improvements and vehicle purchases for the various public transit providers across the state. The DPT oversees the management of these vehicle and makes procurement decisions, in part, utilizing data within the agency's automated vehicle inventory system (AVIS). PERD evaluated the AVIS system to determine if it had sufficient data reliability and data validity controls since the system is essential for the agency to manage its procurement decisions. PERD found that the system lacks sufficient data quality and data validity controls and does not have any formal policies and procedures for entering data and managing the database. While PERD did not identify any issues with the data that has prevented the DPT from making procurement decisions, this report identifies some significant issues that could undermine the data reliability and data validity of the system.

PERD evaluated the AVIS system to determine if it had sufficient data reliability and data validity controls since the system is essential for the agency to manage its procurement decisions.

DPT Relies on Its Automated Vehicle Information System to Manage the State's Fleet of Vehicles Purchased Through Federal Public Transit Grant Programs

The main purpose of DPT's funding is to purchase new and replacement transit vehicles for local transit providers. DPT is required under federal and state law to manage public funds for transit projects in a cost-effective manner through a transit asset management plan (TAMP). The purpose of this plan is to track the condition of all public transit vehicles purchased using public funds for the lifecycle of each vehicle so that they are maintained in a state of good repair. "State of good repair" is defined under federal law as *objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities*. Federal law also requires grantees to include, "*at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization*" as part of the TAMP.[1] Cost-effectiveness is ensured by measuring state-of-good-repair and including these elements within the DPT's TAMP. State law lays out similar requirements more plainly by stating that DOT is required to: "*Manage publicly funded transportation resources in a*

The main purpose of DPT's funding is to purchase new and replacement transit vehicles for local transit providers.

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[1] *49 USC Chap. 53 §5326*

cost effective manner."[2] In order to manage resources in a cost-effective manner, the DPT needs to have valid and accurate data regarding the state of vehicles already owned by transit providers so that the areas of greatest need are identified and can be addressed.

The DPT recognizes the need for data to be accurate and has included a goal related to data quality within its Transportation Asset Management (TAM) goals. The current TAMP includes the following goal:

> *The refinement of the current assessment of the condition of vehicles contained in the present West Virginia Automated Vehicle Inventory System (AVIS) to comply with the standard set in the TAM Final Rule and thereby be utilized to determine the State of Good Repair of the West Virginia transit fleet and* **be an accurate source for data to determine the relevant performance measures/ targets** *[emphasis added].*

The agency acknowledged that if the DPT lost the data contained within AVIS, it would be a "serious setback" to its procurement process and make it very difficult to operate its grant programs.

In other words, the DPT needs AVIS to be an accurate source of data to determine if its meeting its performance targets for vehicle replacement. The TAMP goes on to explain how AVIS affects the agencies discretionary spending:

> *In the case of the allocation to the Division, the Division will award projects based on need, with first priority being equipment replacement…. These projects will be developed based on information contained in the Division's equipment tracking system - Automated Vehicle Inventory System (AVIS), [and] communication with the transit organizations.*

AVIS is a Microsoft Access database used to manage the useful life and state of good repair for all the vehicles within the agency's grant programs.

Without AVIS, it would be difficult to accurately plan the replacement cycle for these vehicles. The agency acknowledged that if the DPT lost the data contained within AVIS, it would be a "serious setback" to its procurement process and make it very difficult to operate its grant programs. If the program failed to maintain the useful life cycle, it would not be compliant with federal law and West Virginia's public transit systems would be at risk of losing federal funding, which they rely on to operate.

AVIS is a Microsoft Access database used to manage the useful life and state of good repair for all the vehicles within the agency's grant programs. As such, AVIS is the DPT's property management tool and describes it as:

> *The Automated Vehicle Inventory System (AVIS) establishes a permanent property record for each piece of equipment purchased under a FTA* [Federal Transit

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[2] *W. Va. Code §17-16C-3*

Administration] *grant. This system assists the Division in complying with FTA property management standards and provided equipment data for the WV Statewide Transit Asset Management (TAM) Plan.*

The property management standards require the DPT to establish performance targets for each asset class as part of the TAMP. AVIS was designed to help ensure compliance with FTA standards by tracking various data points including state of good repair, mileage, and vehicle age. As will be discussed in more detail below, these three data points are the key factors for the DPT's asset replacement priorities within the TAMP.

The Division of Public Transit Does Not Have Adequate Data Quality and Data Validity Controls in Place for Its Transportation Asset Management Program's Automated Vehicle Inventory System.

The DPT is not able to manage its grant programs effectively because its data system for managing vehicles does not have adequate system controls and corresponding policies in place to ensure data are accurate and valid. Data reliability controls ensure that data are entered properly, identify mistakes or unusual data, and prevent the unauthorized manipulation of data from occurring. Preventive controls ensure problems are detected before they arise and ensure errors and omissions are not made. Detective controls identify and report errors, omissions, and malicious acts. Finally, corrective controls remedy problems identified by detective controls. As the U.S. Government Accountability Office (GAO) states, *"Documentation is required for the effective design, implementation, and operating effectiveness of an entity's internal control system."*[3] Controls are only effective if they are documented in policy and the processes of each control are defined in procedures. According to the GAO:

> *"Each unit, with guidance from management, determines the policies necessary to operate the process based on the objectives and related risks for the operational process. Each unit also documents policies in the appropriate level of detail to allow management to effectively monitor the control activity."*[4]

The DPT is not able to manage its grant programs effectively because its data system for managing vehicles does not have adequate system controls and corresponding policies in place to ensure data are accurate and valid.

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[3] *U.S. Government Accountability Office "Standards for Internal Controls in the Federal Government (GAO-14-04G)" 2014, p. 19. Also known as the "Green Book," this manual is generally accepted as the standard for establishing baselines for internal controls within government organizations and can be applied at any level of government (i.e. federal, state, and local).*

[4] *Ibid., p. 56.*

The DPT informed PERD that it does not have policies and procedure for AVIS and identified few controls. AVIS policies and procedures would ensure that processes related to data entry and database management are consistent and known across the agency. However, the agency would need to establish standard processes and identify the necessary controls for data quality and data validity first. Data quality relates to the completeness, accuracy, and integrity of the data within the system. Data validity controls ensures that data are input correctly. Such controls should be established by management which then, *"...communicates to personnel the policies and procedures so that personnel can implement the controls activities for their assigned responsibilities."* Once established, management should periodically review, *"policies, procedures, and related controls activities for continued relevance and effectiveness in achieving the entity's objectives or addressing related risks."* In other words, internal control is a dynamic process that should be integrated into normal operations and requires active participation by management in the design, implementation, and review of the internal control system. Therefore, **the Legislative Auditor recommends the DPT establish written policies and procedures documenting the necessary internal controls for its Automated Vehicle Information System (AVIS).**

PERD Found a Sample of DPT's Data from AVIS to be Valid, but Identified Several Issues Related to Its Reliability

PERD tested DPT's data and while the audit team did not identify any detrimental issues, some notable issues were identified in the agency's active vehicle report. The DOT did not provide PERD access to AVIS but demonstrated its functionality for the audit team and answered the team's questions. It also provided a copy of its active vehicle report from the system. PERD reviewed the report and noted issues with several data fields. The findings of that review are discussed below. The audit team also visited 12 providers to validate their vehicles against the data in the system. These site visits included three rural transit providers and nine elderly and disabled transit providers.[5] In May 2022, the audit team confirmed that all the vehicles that were under the five-year grant term were entered correctly into the system. The audit team also confirmed that vehicle mileages were at or exceeded those reported in November 2021 for the rural transit providers. Elderly and disabled providers were excluded from the mileage test because FTA regulations do not require those providers to report mileage, since vehicles in that program may be used for purposes in addition to public transportation, such as delivering meals. PERD found that all the vehicles were accounted for in the system and the mileage of the vehicles in the rural transit program exceed the values reported in AVIS. As the sample confirmed that the DPT's data are reasonably accurate, the audit team determined that no additional testing was necessary.

PERD tested DPT's data and while the audit team did not identify any detrimental issues, some notable issues were identified in the agency's active vehicle report.

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[5] *The different types of providers are discussed in greater detail in Issue 2.*

PERD identified several issues with the dataset the DPT provided and the DPT could not account for the reasons for the data issues. First, the report provided to PERD duplicate entries for 32 vehicles, with the same VIN entered 2, 3, or 4 times for the same vehicle. AVIS contains several fields that the DPT no longer uses. Furthermore, the DPT was unaware that some of those fields were in the system. No one could say why some data fields were empty for some subrecipients except for vehicles that subrecipients in the 5310 Program purchased on their own. DPT's staff did not know why some of the vehicles in the spreadsheet the agency provided to the audit team had empty cells in the "Categories" and "Condition" fields. Both fields should be completed for every vehicle in AVIS. The DPT also did not know why five vehicles owned by a rural transit provider did not have in-service dates. Again, a field that should be complete for every vehicle in the system. The audit team also noted issues with inconsistent and unusual entries, such as one vehicle having an "O" rather than a "Y" (for yes) or "N" (for no) in one field within the database. This shows that fields in the database are not configured to limit data entries to only appropriate responses. While these issues are unlikely to prevent DPT from meeting its goals for vehicle replacement, they do undermine the quality of the data, particularly the completeness and accuracy of it.

PERD finds that the process for entering data into the system relies on manual processes and does not leverage technology to prevent human error during data entry and transmission.

PERD finds that the process for entering data into the system relies on manual processes and does not leverage technology to prevent human error during data entry and transmission. According to the DPT, subrecipients submit their data for annual recertification through an online portal developed by Department of Transportation's Information Technology Division (ITD). Once logged in, the subrecipients upload their data. After the upload process is completed, the data are transmitted from the portal to be processed. An information officer with the ITD receives the subrecipients' data in e-mails and then manually updates the vehicle information in AVIS. The portal is a separate system from AVIS and is not set up to communicate with it. New vehicle data are manually inputted by the DPT's inventory officer. The agency does not have a review process once data is entered to verify that data is properly entered when new vehicles are added or subrecipients provide their data for recertification. The providers cannot view AVIS and therefore cannot verify that their vehicle data are accurate until they receive their recertification packet the following year. Therefore, the DPT's current process increases the risk of incorrect data being entered and without preventative and detective controls in place, undermines the data validity of AVIS.

Furthermore, the data submission process is inefficient, since it requires data to be manually entered twice: once by subrecipients and again by ITD. This process could be significantly improved if

subrecipients could update their data directly and then DPT's inventory officer review it. The system could also utilize data checks (a type of preventative control) to ensure data are submitted in the right format and do not conflict with the information previously entered in the database.

More significantly, the DPT does not have sufficient knowledge of AVIS's development or functionality. The original database was developed before any of the staff were employed by the agency and only one staff member was there when it was converted from the original software to a Microsoft Access database. The DOT's Information Technology Division (ITD) built the Access database version of AVIS and transferred the data for the DPT. ITD also houses the database on its servers and manages it. None of staff PERD met with could provide details about the database's design, nor did they know if the system had been tested to ensure data reliability and accuracy. Currently, the agency does not and has not conducted any type of testing on AVIS. Database testing is crucial to ensure that the database is functioning properly. This, like the issues PERD identified with the data, shows the need for policies and procedures related to database management.

More significantly, the DPT does not have sufficient knowledge of AVIS's development or functionality.

These issues highlight the need for the DPT to develop and apply a system development life cycle (SDLC) for AVIS. SDLC is the overall process of developing, implementing, and retiring information systems through a multistep process from initiation, analysis, design, implementation, and maintenance to disposal. As Figure 1 below shows, SDLC is a cyclical process and represents best practice for managing a system from conception to disposal.[6] Since AVIS is already in the "Operations/Maintenance" phase of SLDC, the agency should identify or develop testing methods and maintenance schedules to ensure data quality and assurance. As the DPT lacks knowledge of its development and implementation phases, the agency should also identify the necessary documentation and tests that should have been developed when the system was initially developed and implemented. These activities could include developing operating manuals, documenting the database's architecture, and identifying the required controls and tests to guarantee the system is operating as intended.

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[6] *The National Institute of Standards and Technology, "The System Development Life Cycle," p. 3.*

Figure 1
The System Development Life Cycle for Information Systems
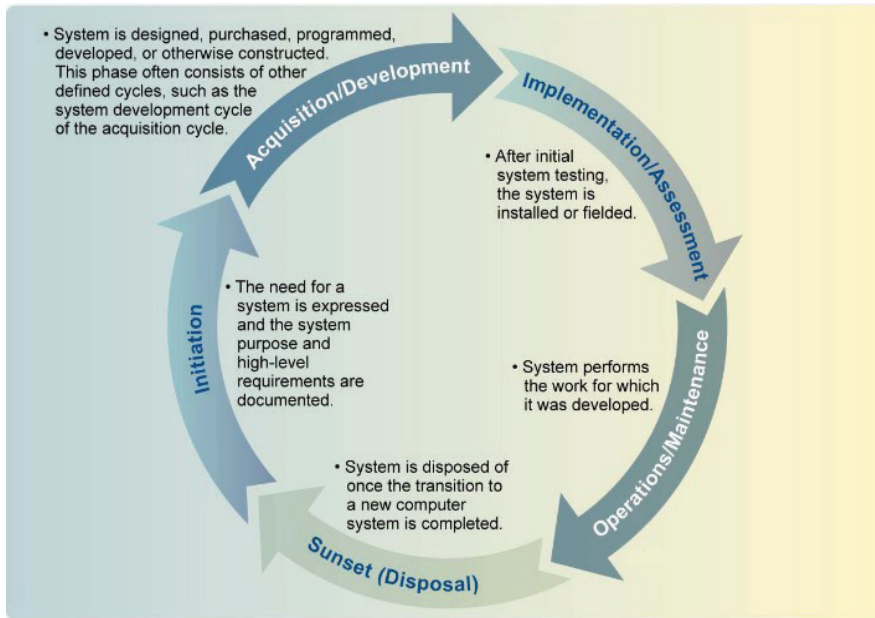
The division director told the audit team that the agency's staff needs to review AVIS and potentially replace it with a new more sophisticated fleet or property management software.

Conclusion

The DPT acknowledged that AVIS has issues. The division director told the audit team that the agency's staff needs to review AVIS and potentially replace it with a new more sophisticated fleet or property management software. He also agreed that there should be better oversight of the database. He and the staff have discussed acquiring a more sophisticated version of AVIS, but those discussions have all been informal and no plan for its replacement has been established. The DPT's director also stated that, "*AVIS is a simple system and it has served the state well. It made a positive difference and put West Virginia ahead of other states when FTA mandated Transit Asset Management.*" The legislative auditor concurs and believes that the DPT is managing its Transit Asset Management effectively, but improvements can be made. Ultimately, the need to replace AVIS is a policy decision that the DOT and the DPT must make. Regardless, if the current system continues or is replaced, the system must be reviewed, and policies and procedures should be established in a formal policy document.

Recommendations

1.   *The Division of Public Transit should create policies and procedures to ensure that data submitted by subrecipients to its transportation asset management database are valid and accurate.*

2.   *The Division of Public Transit should improve data entry controls within its Automated Vehicle Inventory System (AVIS) to reduce the risk of data entry errors.*

3.   *The Division of Public Transit should provide subrecipients read-only access to their data in the Automated Vehicle Inventory System (AVIS)*

ISSUE 2

The Division of Public Transit Funds Projects to Expand and Extend Transit Services into Underserved Areas of the State; However, It Does Not Have a Formal Plan or Program to Identify, Evaluate, and Select Projects and Instead Relies on Providers or Other Groups to Propose New Projects

Introduction

The Legislative Auditor finds that while the Division of Public Transit (DPT) is attempting to expand services and increase ridership, the COVID-19 pandemic has significantly impacted ridership in all three transit programs. *West Virginia Code* tasks the DPT with expanding ridership but the agency does not have a formal plan or goals related to service expansion. While there is no legal requirement for the agency to have a plan or goals, the Department of Transportation (DOT) has acknowledged the need for such a plan in its statewide long-range transportation plan. Currently, 17 counties do not have access to regular public transit services, and ridership has decreased in the counties where services are available since the beginning of the pandemic. If these areas had better access to public transit service, the state's labor force participation rate would likely improve. The DPT's method for selecting pilot projects is ad hoc, and only happens when project suggestions are brought forth from local organizations. The state's 12 Regional Planning and Development Councils (PDCs) are tasked with developing "coordinated public transit-human services plans," which include assessments of unmet needs in public transit services. By utilizing the unmet needs assessments of the PDCs' plans, the DPT could develop a statewide, long-range plan to identify and address the state's great transit needs.

The Legislative Auditor finds that while the Division of Public Transit (DPT) is attempting to expand services and increase ridership, the COVID-19 pandemic has significantly impacted ridership in all three transit programs.

While DPT Is Tasked with Expanding Ridership Under *W. Va. Code,* It Is Not Required to Develop Plans or Goals for Expanding Ridership or Services; However, the DOT Has Acknowledged the Need for a Formal Plan

The DPT is responsible for administering all federal and state programs relating to public transportation under *W. Va. Code* §17-16C-2. As part of its powers and duties, DPT is required to: *Manage publicly funded transportation resources in a cost effective manner and **endeavor to achieve an increased ridership with available resources*** [emphasis added]. Increased ridership can be accomplished by establishing services in unserved areas or by increasing ridership in currently served areas. Public transportation funding is provided through federal grants, as well as state and local matches.

The agency has not established any goals or long-term plans regarding service expansion, nor are they required to under federal or state law. While no legal requirement exists, the DOT acknowledges that such a plan would be beneficial. Federal law requires DOT to create a long-range transportation plan covering all transportation programs within the department, including public transit. In 2021, DOT released its "2050 Multimodal Long-Range Plan." DPT's director was part of the leadership team for developing the plan and the division was part of the policy and technical team. A needs assessment was conducted as part of the plan and was developed based on the findings of the leadership team, policy and technical teams, as well as stakeholder input. The plan's needs assessment section for public transit acknowledges that:

> *Establishing a statewide formal planning process to document rural transit needs will help identify future transit routes, headways, and transit services as well as develop a long-term statewide strategic transit plan to highlight state, regional, and local service connection opportunities like increasing service coverage from thirty-seven (37) counties currently to all fifty-five (55) counties.*

The needs statement quoted above is in line with the findings and recommendations made in this report, as it states the need for a "formal planning process to document rural transit needs" which in turn will allow for the development of a transit plan that is "long-term," "statewide," and "strategic." By creating such a plan, the DOT believes public transit services could reach the goal of providing services to every county in West Virginia. The needs assessment goes on to state, *"More coordination with MPOs* [Metropolitan Planning Organizations] *and respective departments can help address rural transit issues and identify funding solutions."* MPOs play a critical role in identifying transit issues and needs within the areas they cover.

The agency has not established any goals or long-term plans regarding service expansion, nor are they required to under federal or state law.

Citizens in 38 counties have access to public transit services through urban or rural transit providers, while the remaining 17 do not.

Seventeen Counties in the State Do Not Have Access to Regular Public Transit Services and Ridership Has Decreased Where Services Are Available Since the Start of the Pandemic

Citizens in 38 counties have access to public transit services through urban or rural transit providers, while the remaining 17 do not. As Figure 2 below shows, 12 counties are served by 8 urban transit providers in: the panhandles, Monongalia County, Wood County, Cabell County, Kanawha County, Fayette County, and Raleigh County. As expected, urban providers service the counties with West Virginia's largest cities (by population), except for Fairmont and Clarksburg. Twenty-six (26) counties are served by 10 rural providers. These providers are

found throughout the eastern half of the state and surrounding Cabell (Huntington), Kanawha (Charleston), and Raleigh (Beckley). The remaining 17 without a dedicated urban or rural provider are across the state but have concentrations in the south and northwest. With the exception of Putnam, these counties are the most rural in the state. While not dedicated transit providers, some elderly and disabled providers offer on-demand transit services to the general population in the county or counties they serve.
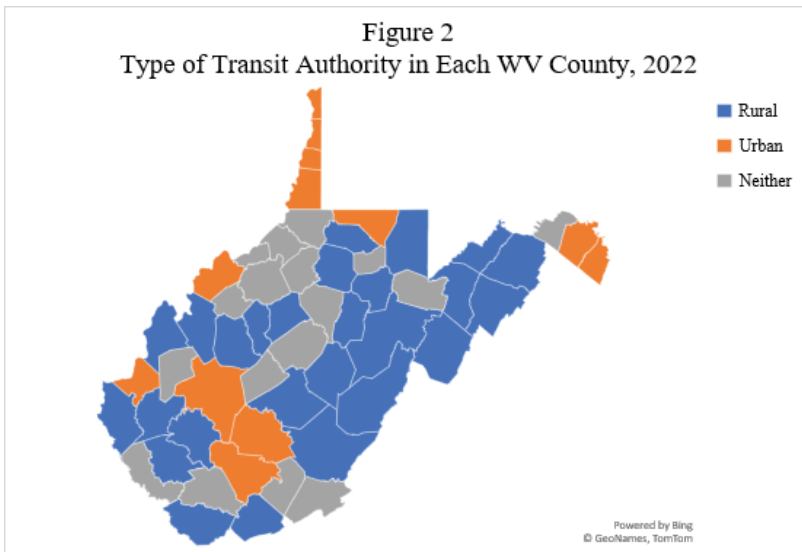
Figure 2
Type of Transit Authority in Each WV County, 2022

■ Rural
■ Urban
■ Neither

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Urban providers had the highest numbers of riders of the three programs, followed by rural providers, and finally the elderly and disabled providers.

Urban providers had the highest numbers of riders of the three programs, followed by rural providers, and finally the elderly and disabled providers. As Table 1 shows, urban providers carried nearly 4.7 million passengers in FY 2017. Rural providers carried 1.1 million passengers that same year and the elderly and disabled providers carried over 290,000 riders that same year. Ridership decreased slightly in all three programs between FY 2018 and 2019 and saw dramatic losses in FY 2020. Altogether, West Virginia transit providers carried more that 6 million passengers in FY 2017, ridership dropped to nearly 3.3 million by FY 2021.

Table 1 Total Passengers by Program FY 2017-20					
Programs:	**FY2017**	**FY2018**	**FY2019**	**FY2020**	**FY2021**
Rural	1,115,951	1,043,584	1,070,690	898,916	663,117
Urban	4,680,738	4,664,415	4,590,521	2,599,953	2,536,350
Elderly and Disabled	290,291	221,982	226,089	128,113	85,158
Totals	**6,086,980**	**5,929,981**	**5,887,300**	**3,626,982**	**3,284,625**
Source: PERD analysis of ridership data provided by the Division of Public Transit					

Table 2 shows the year-to-year changes in ridership from the data provided in Table 1. Prior to the pandemic, the total ridership decreased slightly with a loss of 2.6 percent between FY 2017 and 2018 and a 0.7 percent decrease between FY 2018 and 2019. The 5310 providers saw the only significant decrease in ridership during those years with a 23.5 percent decrease between 2017 and 2018. With the onset of the Coronavirus Pandemic, the state's total ridership dropped by 38.4 percent with ridership dropping by 43 percent in the urban, and elderly and disabled programs. Rural providers saw a significantly smaller decrease with only a 16 percent loss of their total ridership from FY 2019 to 2020.

Prior to the pandemic, the total ridership decreased slightly with a loss of 2.6 percent between FY 2017 and 2018 and a 0.7 percent decrease between FY 2018 and 2019.

Table 2 Annual Variation in Public Transit Ridership by Type of Grant Program, FY2017-21				
Program	**FY17-18**	**FY18-19**	**FY19-20**	**FY20-21**
Rural	-6.5%	2.6%	-16.0%	-26.2%
Urban	-0.3%	-1.6%	-43.4%	-2.4%
Elderly and Disabled	-23.5%	1.9%	-43.3%	-33.5%
Total	**-2.6%**	**-0.7%**	**-38.4%**	**-9.4%**
Source: PERD analysis of ridership data provided by the Division of Public Transit				

All three programs were likely impacted for different reasons. Riders in urban areas likely have transportation options in addition to public transportation and could therefore be less reliant on public transit. Rural riders meanwhile are likely more reliant on public transit and could not find alternatives. Evidence from PERD's site visits to providers suggests that the elderly and disabled riders just avoided public transportation during the height of the pandemic. Several elderly and disabled providers stated that one of their most common services is to carry passengers to senior centers for meals and social activities, but those activities were canceled during the pandemic.

Without a Formal Plan or Strategy, New Public Transit Project Are Established on an Ad Hoc Basis When Local Transit Providers and Other Groups Propose Projects to the DPT

Currently, the DPT's process for selecting projects is informal and requires providers to bring forth project ideas, rather than developing an understanding and a plan that identifies the needs and issues statewide and targets the areas of greatest need. PERD asked the agency how it selects pilot projects and the agency responded by stating:

> *DPT works very closely with the Section 5307, 5311, and 5310 organizations. Consequently, potential pilot projects often first begin as informal discussions about the state of transit in West Virginia and opportunities that have been recognized. Occasionally the DPT, or a transit provider, is approached by someone outside the transit community and discussions begin and based upon what is discovered in these conversations, a pilot project could be formed.*

The agency also uses federal funds for planning studies to identify appropriate pilot projects and these projects are selected in a similar fashion. The DPT provided the following list of recent projects to increase or expand ridership:

- The Division partnered with TriRivers Transit to expand service to Mason County, an area that has never had public transit service.
- The Division partnered with Mountain Transit Authority to expand service to Pocahontas County. An attempt had been made over a decade ago to provide service to Pocahontas County, but that effort was unsuccessful. This effort appears to be attracting ridership and is supported financially by the County Commission.
- A pilot project was initiated by the Division with Mid-Ohio Valley Transit Authority to expand transit service along U.S. 50 into Ritchie County. After several months, the ridership was minimal; in keeping with it being a pilot project, service was discontinued.
- Discussions were underway before the pandemic of a partnership between the Division, West Virginia Department of Veteran Assistance and Country Roads Transit to initiate a new route to allow veterans in the Elkins area to access the VA Hospital in Clarksburg.
- The Division has changed its policy on vehicle acquisition to allow Section 5310 eligible organizations to apply for four-wheel drive vehicles to transport the elderly in remote rural areas. The following agencies have received four-wheel drive vehicles since March 2020. Pocahontas County Seniors is the only Section 5310 agency to receive two SUVs. All others are scheduled to receive one vehicle.

Currently, the DPT's process for selecting projects is informal and requires providers to bring forth project ideas, rather than developing an understanding and a plan that identifies the needs and issues statewide and targets the areas of greatest need.

According to the DPT, planning studies often begin after the Metropolitan Planning Organizations (MPOs) (discussed below) and the small urban transit agencies have developed a scope of work and approach the Division to partner with them in a study. These scopes of work often deal with an individual transit provider's scheduling and/or routes. The agency provided the following example:

> DPT recently participated in a transit study with the Huntington MPO/Transit Authority [KYOVA] concerning this issue. The routes and schedules of the Authority had not been critically examined for over a decade. The MPO, the Transit Authority and the Division all provided a share of funding for a transit consultant to come and examine the present situation and propose improvements to service. In rural areas, transit studies are of a much smaller nature, but often have a similar scope…. They [are] initiated in much the same way, a transit provider becomes aware of a need and they approach the Division about a planning project partnership.

As the example above shows, the DPT does not actively plan for or study service expansion, and projects are only initiated when proposed by an MPO, transit provider, or another party. The agency acknowledges that KYOVA's routes and schedules had not been examined for more than a decade and that improvements can be made following the study's completion. Since the agency does not have a regular schedule for reviewing routes, it would likely be useful for additional studies to be done on other providers to ensure routes match the needs of the current pool of riders.
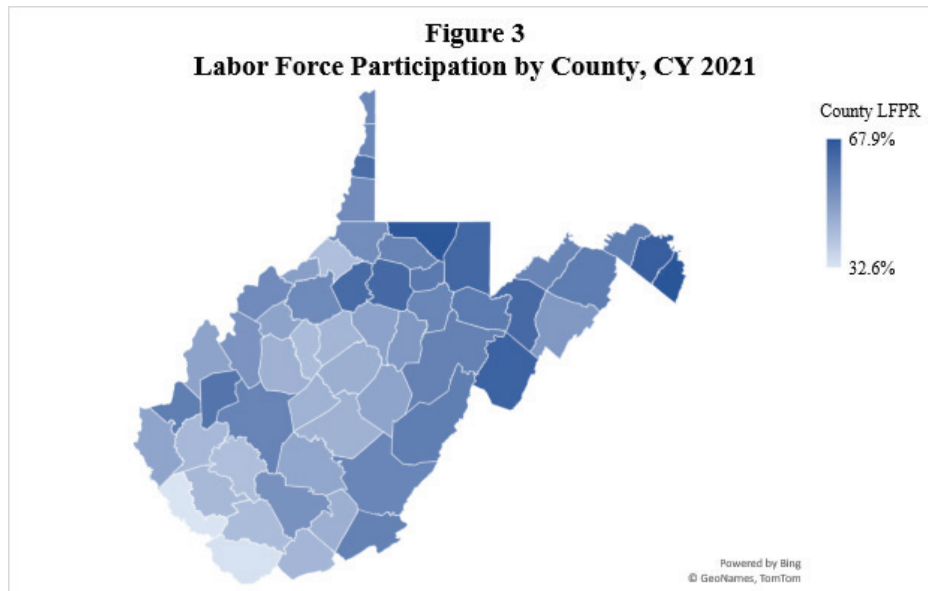
Since the agency does not have a regular schedule for reviewing routes, it would likely be useful for additional studies to be done on other providers to ensure routes match the needs of the current pool of riders.

Increasing the Availability of Public Transit Could Improve the Labor Force Participation Rate in West Virginia

West Virginia has one of the lowest labor force participation rates (LFPR) in the United States and improved access to public transportation could aid in increasing the state's rate. LFPR is a measure of the "the number of people in the labor force as a percentage of the civilian noninstitutional population […] the participation rate is the percentage of the population that is either working or actively looking for work."[7] In other words, it is an estimate of the proportion of able-bodied adults who are working or looking for work out of the total population of adults in a given area. LFPR differs from unemployment, in that it includes individuals not working or actively looking for work. As of 2020, West

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[7]*United State Federal Reserve (St. Louis), Federal Reserve Economic Database.* *https://fred.stlouisfed.org/series/CIVPART# [accessed April 4, 2023].*

Virginia has the lowest LFPR at 55%, while the US average was 62%. PERD obtained county-level data for LFPR for calendar year 2021 from Workforce WV, as shown in Figure 3. At the county level, LFPR ranges from a low of 32.6% in Mingo County to a high of 67.9% in Jefferson County. In other words, one to two-thirds of prime working age adults are not actively working or looking for work in every county in West Virginia.

Figure 3
Labor Force Participation by County, CY 2021

County LFPR
67.9%

32.6%

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At the county level, LFPR ranges from a low of 32.6% in Mingo County to a high of 67.9% in Jefferson County.

While many factors contribute to an area's LFPR, access to transportation is a significant one. PERD reviewed more than a dozen studies on the relationship between public transportation accessibility and its impact on employment outcomes. The consensus from these studies is that access to public transit has a positive effect. For instance, a study by the United States Department of Agriculture found, *"Poorer nonmetro communities, and/or those with large concentrations of other transit-dependent individuals (the disabled, the elderly, carless individuals) and areas suffering from high levels of unemployment can also benefit from transit because it promotes economic well-being and reduces economic and social inequalities."*[8] A study that looked at transit accessibility and employment outcomes for welfare recipients in Broward County, Florida concluded that, *"The length of stay on welfare decreases with the increase in transit accessibility to jobs… and vice versa."*[9] Additionally, a study commissioned by the Minnesota Department of Transportation

[8]*Brown, Dennis M. "Public Transportation on the Move in Rural America" United States Department of Agriculture, Economic Research Service, 2004.*

[9]*Alam, Bhuiyan Monwar. "Transit Accessibility to Jobs and Employment Prospects of Welfare Recipients Without Cars: A Study of Broward County, Florida, Using Geographic Information Systems and an Econometric Model." Transportation Research Record: Journal of the Transportation Research Board, 2009.*

found that, *"...by improving access to work, transit reduced spending on public assistance that would be needed to support those who are unemployed."*[10]

Most studies PERD reviewed looked at a specific area (e.g., county or city); however, researchers at the University of Leeds in the United Kingdom conducted a meta-analysis review of previous studies to determine if there is a positive relationship between transportation access and employment outcomes. This approach allowed the researchers to analyze the impact transportation access has in different geographical contexts. The researchers concluded that: *"By systematically merging 93 empirical studies... in different geographical context and synthesizing the data through meta-analysis, this study establishes a positive association between transport access and employment probability outcomes."*[11] People cannot work without access to their places of employment and public transit provides opportunities to individuals without private vehicle.

DPT Should Utilize Information Provided Through Regional Planning and Development Councils to Develop a Statewide Plan to Increase Ridership and Expand Services Into Underserved Areas of the State

The DPT uses the Transportation Asset Management Plan (TAMP) to set funding priorities across the plan's five-year planning cycle based on the vehicles' life span categories.

The DPT receives grant funds for all state transit projects except for the urbanized area grants which go directly to the urban transit providers. Most grant funds are used to purchase transit vehicles but are also used for capital projects and the purchase of equipment, such as communication equipment and bus stop shelters. The DPT uses the Transportation Asset Management Plan (TAMP) to set funding priorities across the plan's five-year planning cycle based on the vehicles' life span categories. As the name of the plan implies, the TAMP is limited to planning for the purchase and management of program assets.

The greater transit needs of a region are considered in the development and drafting of the regional PDCs' Coordinated Public Transit-Human Services Transportation Plans and their subsequent updates. The states 11 PDCs are established within West Virginia Code to "*serve as 'development districts' to more effectively utilize funding resources and maximize small communities' chances of attracting funds from federal, state, and local organizations to foster community*

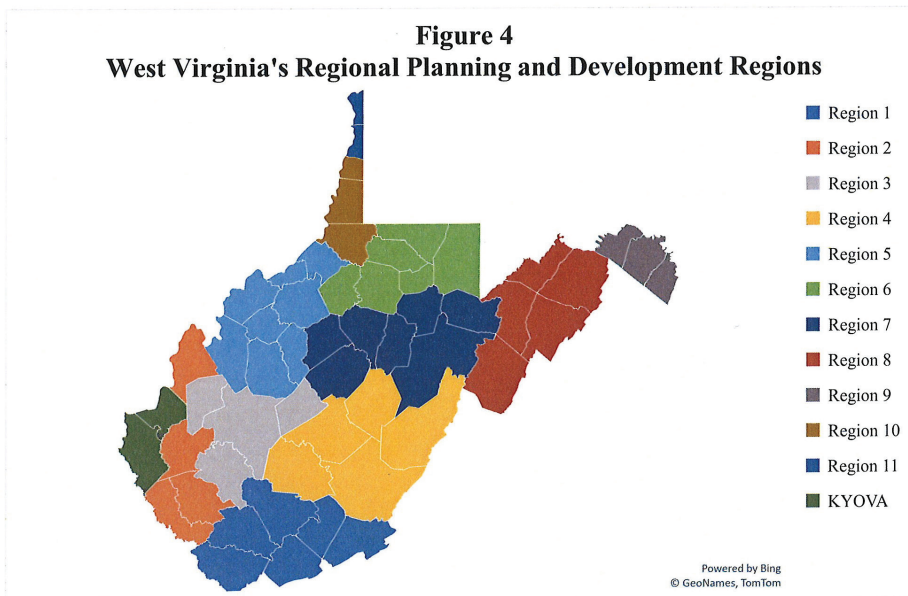[10]Mattson, Jeremy et al. *"Measuring the Economic Benefits of Rural and Small Urban Transit Services in Greater Minnesota." Minnesota Department of Transportation, Office of Research & Innovation, 2020.*

[11]Bastiaanssen, Jeroen et al. *"Does Transport Help People to Gain Employment? A Systematic Review and Meta-Analysis of the Empirical Evidence." Transportation Reviews, 2020.*

and cooperation throughout the state." PDCs focus on expanding and improving all types of infrastructure, including transportation as well as employment, industry, small business development, housing, health care, education and recreation. The regional coordinated transportation plans also incorporate the goals of the MPOs in the region which are tasked with improving programs "*through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.*"[12] In other words, the PDC plans are intended to establish the goals and objectives for transit projects within the MPO regions, as well as the surrounding rural areas adjacent to the MPO regions.

Every county in West Virginia is served by one of 11 PDC regions or the interstate planning region known as KYOVA, as shown in Figure 3 below. Each region consists of contiguous counties with the exception of Region 2 where Mason County is isolated from its other member counties. KYOVA is also the only region that extends beyond West Virginia's borders and serves the tri-state area of West Virginia, Kentucky, and Ohio. Each PDC is operated through a planning organization that oversees the planning and development of operations for transportation plans and programs within its region. For instance, Region V's planning organizations are the Mid-Ohio Valley Regional Council and the Wood-Washington-Wirt Interstate Planning Commission. The Morgantown Monongalia MPO and the Region VI Planning and Development Council are the planning organizations that develop the plan for the region.

PDCs focus on expanding and improving all types of infrastructure, including transportation as well as employment, industry, small business development, housing, health care, education and recreation.

Figure 4
West Virginia's Regional Planning and Development Regions

Region 1
Region 2
Region 3
Region 4
Region 5
Region 6
Region 7
Region 8
Region 9
Region 10
Region 11
KYOVA

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[12] *23 USC §134 (c)(1)*

The planning process for the PDC reports involves identifying unmet transportation needs and gaps in services through input gathered from public outreach efforts, demographic analysis, and stakeholder inventory. Based on those needs and gaps in services, a series of goals, objectives, and strategies are developed by the participating organizations within the PDC region and a contractor. Then local transportation stakeholders prioritize goals and strategies during a second public meeting. All 12 PDC reports follow the same layout and the comments discussed above are included in a section of the reports assessing the transportation and mobility needs of the region. The DPT is supposed to consider the results of these plans in making its performance targets under the TAMP; however, there is no requirement that the agency consider these in selecting pilot projects and the agency informed PERD that it does not.

The planning process for the PDC reports involves identifying unmet transportation needs and gaps in services through input gathered from public outreach efforts, demographic analysis, and stakeholder inventory.

The most important issues identified in the PDC reports related to routes and services followed by administration and coordination issues. PERD reviewed all 12 reports and compiled the comments by category as presented in Figure 4 below. Nearly 64 percent (169 out of 265) of the comments related to routes and services, followed by administration and coordination at 24 percent (64). Ten (10) percent of comments addressed issues with transit vehicles and/or equipment. The final two percent of comments were about non-transportation issues. Each of these categories and the issues identified in each will be discussed in greater detail below.

Figure 5
Analysis of Comments By Major Categories from West Virginia's Regional Planning and Development Council Reports, 2019
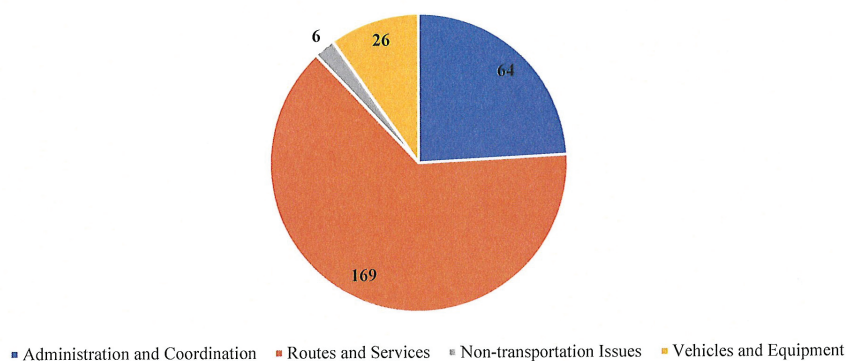
| | 6 | 26 |
| 64 |
| 169 |

■ Administration and Coordination   ■ Routes and Services   ■ Non-transportation Issues   ■ Vehicles and Equipment

The most important issues identified in the PDC reports related to routes and services followed by administration and coordination issues.

Each of the categories identified by PERD in Figure 5 from the PDC reports can be broken down into additional subcategories. The audit

team identified 10 subcategories for the routes and services comments. Each are listed below with the corresponding number of comments in parentheses. They include:

- expanded service hours in the early morning, late at night, on weekends, and on holidays (43);
- service expansion in current locations (36);
- unserved/underserved areas (21);
- issues with transportation for employment and education (14);
- access to non-emergency medical transportation (14);
- expanded services and/or options for elderly, disabled, and veterans (11);
- out-of-area transportation (i.e. transportation beyond the providers normal service area) (10);
- the need for additional transportation options (8);
- on-demand transportation (7); and,
- rider-assistance in vehicles (5).

Greater access to public transit options is clearly the most significant issue, whether it be just extending the hours/days, more frequent service, and/or including new areas including better access to work and education, primarily higher educational institutes.

Greater access to public transit options is clearly the most significant issue, whether it be just extending the hours/days, more frequent service, and/or including new areas including better access to work and education, primarily higher educational institutes. Transportation for vulnerable populations also shows up in the expanding services for the elderly, disabled, and veterans, as well as non-emergency transportation options and rider-assistance in vehicles. Comments regarding additional transportation options either focused on certain groups, such as the elderly or young adults, or were more broadly stated as a need for additional options.

Administration and Coordination covers issues with how public transit services are managed. These comments include the following seven subcategories:

Administration and Coordination covers issues with how public transit services are managed.

- interagency cooperation (28),
- funding (10),
- administration and governance (9),
- passenger fares (5),
- public advocacy (5),
- driver availability and training (4), and
- public information about services and routes (3).

Interagency cooperation comments include the need for coordination between transportation providers, government organizations, service organizations, and medical providers. Funding comments were generally statements that more funding for public transit

is needed. Administration and governance comments cover issues with administrative policies or a need for public transit to be a more prominent issue for state and local officials. Public advocacy differs slightly in that the comments are related to getting additional public support and/or awareness of public transit and its importance. Passenger fares comments were all about reducing fares, including one for subsidizing taxi fares. Driver availability and training comments address the need for more bus drivers and additional training opportunities for current drivers. The three comments about public information all dealt with improving information about routes and the availability of services.

Vehicle and equipment comments are all related to issues with public transit fleets and ancillary equipment within public transit systems.

Vehicle and equipment comments are all related to issues with public transit fleets and ancillary equipment within public transit systems. PERD identified four subcategories for vehicle and equipment comments, and include:

- vehicle components or features (12),
- vehicle expansion or replacement (12),
- passenger amenities (2), and
- adequate maintenance options (1).

Comments regarding vehicle components and features addressed the need for four-wheel drive vehicles in rural areas, communication equipment (i.e. radios), and wheelchair accessible vehicles. As the subcategory name suggests, vehicle expansion or replacement comments either are about the need for additional vehicles or more frequent replacement of those already in the fleet. One of the passenger amenities comments was a general comment about the need for more amenities and the other was requesting bus shelters. Last, the maintenance options comment regards the lack of maintenance options for servicing transit vehicles. While only mentioned once in the PDC reports, this issue was frequently mentioned by transit providers during PERD's site visits. The most common issue is with the lack of maintenance shops certified to work on wheelchair lifts in the state. For instance, Raleigh County Senior Services reported that it had to travel to Hurricane, WV or Roanoke, VA to have its wheelchair lifts repaired.

The legislative auditor believes these reports provide DPT with an adequate source to begin developing a statewide plan for improving and expanding transit services.

The six comments labelled non-transportation issues are issues with no direct connection to DPT or transit providers. These include broader transportation issues, such as road maintenance and highway access. Two comments are related to Medicaid. One comment is about housing development and developers including public transit in their plans. Finally, one comment appears to be targeted to a specific provider and simply says, "Stop client dumping."

The legislative auditor believes these reports provide DPT with an adequate source to begin developing a statewide plan for improving and expanding transit services. While not every comment is relevant and

additional research is needed before deciding to pursue projects identified in the PDC reports, these reports provide sufficient information to begin developing a long-range plan to meet West Virginia's transit needs. Therefore, **the legislative auditor recommends that the DPT develop a long-range plan for increasing and expanding transit services across West Virginia**. Furthermore, **the legislative auditor recommends that DPT utilize the Regional Planning and Development Councils' Coordinated Public Transit-Human Services Transportation Plans in identifying areas of needs in developing its long-range plan for increasing ridership and expanding services.**

Conclusion

As the coordinating agency for public transit for the State of West Virginia, the DPT is best positioned to address statewide issues related to public transit. Public transit providers rely on federal funding as well as the matching state funding to sustain services. How that money is spent ultimately rest with the DPT. With its position over public transit and the limited access to public funding, it is essential that the DPT have a formal plan to identify and address the most significant transit projects in the state. The PDC reports provide the DPT with information and data to begin developing a formal process, yet these plans are not currently being utilized. A formal plan should also address the issues with decreased ridership as a result of the COVID-19 pandemic.

With its position over public transit and the limited access to public funding, it is essential that the DPT have a formal plan to identify and address the most significant transit projects in the state.

Recommendations

4.   *The Division of Public Transit develop a long-range plan for increasing and expanding transit services across West Virginia.*

5.   *The Division of Public Transit should utilize the Regional Planning and Development Councils' Coordinated Public Transit-Human Services Transportation Plans in identifying areas of needs in developing its long-range plan for increasing ridership and expanding services.*

ISSUE 3

Public Transit License Plates Are Not Provided Equitably to All Elderly and Disabled Public Transit Providers and Providers Deemed Ineligible Are Required to Pay Registration Costs

Introduction

Although all grant recipients under the Division of Public Transit's grant program provide public transit services, the titling and licensing of public transit vehicles is not equitable among the different types of transit providers. Urban and rural transit providers qualify for tax exempt public transit license plates (see Figure 6 below) which they maintain for the life of the vehicles. However, providers within the 5310 program —the elderly and disabled program— are required to qualify for local government plates, based on their association with either a city or county government to qualify for tax exempt plates. If they are not considered part of the local government, they are required to obtain Class A or B plates, which require annual registration fees, that the public transit and local government plates do not. While these organizations are non-traditional transit providers, they provide a critical public transit function; yet, 35 providers are required to pay registration fees, because the Division of Motor Vehicles (DMV) changed its interpretation of *West Virginia Code* to require recipients to be political subdivisions of the state. However, a legal opinion by Legislative Services, within the Office of the Legislative Auditor, finds that all 5310 providers do qualify as the relevant section of Code is written broadly enough to qualify them for public transit plates.

Although all grant recipients under the Division of Public Transit's grant program provide public transit services, the titling and licensing of public transit vehicles is not equitable among the different types of transit providers.

Figure 6
A West Virginia Public Transit License Plate

Source: *Photograph taken by PERD staff during a site visit at New River Transit Authority's garage in Beckley, WV*

The 5310 Public Transit Grant Program Is Designed to Enhance the Mobility of Seniors and the Disabled By Providing Funding to Non-Traditional Transit Providers

The Federal Transit Administration's (FTA) public transit grant programs provide funds for the purchase of vehicles, equipment, and capital projects to support and enhance public transit services. Grants under the 5310 program can be used for four purposes:

1. The planning, designing, and implementation of public transportation projects to meet the needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.
2. Public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990.
3. Public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit.
4. Alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

Traditionally, transit providers operate with the sole function of providing transit services for a specific geographic region; however, the elderly and disabled transit providers that receive grant funding through the FTA's 5310 "Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities" include a variety of non-traditional providers, including government entities, special districts, and nonprofit organizations.

Traditionally, transit providers operate with the sole function of providing transit services for a specific geographic region; however, the elderly and disabled transit providers that receive grant funding through the FTA's 5310 "Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities" include a variety of non-traditional providers, including government entities, special districts, and nonprofit organizations. Special districts are political subdivisions established to provide a single public service within a specific geographic area and include organizations like water and sewer public service districts as well as senior service organizations. In West Virginia, most 5310 providers are county aging providers, which are organizations that receive funding from the State to provide a variety of services to seniors, including nutrition and transportation services. The nonprofits are all social service-oriented organizations and include community health centers, community action associations, sheltered workshops, and mental health organizations. Overall, 5310 providers are organizations in which transportation services are secondary to the organizations main mission.

While transportation is not the main purpose of 5310 subrecipients, they are transit providers, nonetheless. Urban and rural providers primarily operate fixed and deviated bus services to the general public; whereas, elderly and disabled providers primarily offer on demand services to elderly and disabled individuals. Elderly and disabled provides may provide on demand services to the general public but are not required to do so under federal law. For instance, Wirt County Senior Services offers transit services to all county citizens, since there is no urban or rural provider that operates in the area.

Vehicles purchased through the 5310 program are released to subrecipients under the authority of the DPT for a five-year grant term. During that time, the subrecipient is required to submit vehicle maintenance and usage data to the DPT and the DPT is co-owner of the vehicle until the end of the grant's term. Furthermore, 5310 providers can be either "open" or "closed" providers. Open providers offer transit services to all senior and disabled citizens in a geographic area; whereas, closed providers only offer services to clients that the provider serves.

Vehicles purchased through the 5310 program are released to subrecipients under the authority of the DPT for a five-year grant term.

All 5310 vehicle fleets are standardized like other transit vehicles. The fleet is made up of small buses and mini vans. As Figure 7 below shows, the vehicles also receive standard decals that identify the vehicle as part of the 5310 program. The decals are retained on the vehicle even when the vehicle comes off the grant, as long as the vehicles continue to be used for its intended purpose.

Figure 7
A Typical Bus Purchased with 5310 Funds

Source: Wood County Senior Services Association, Inc.

Public Transit Vehicles Receive Different Types of License Plates Under the Division of Motor Vehicles Interpretation of State Code

The issue with 5310 subrecipient license plates involves what happens after the vehicle is no longer co-titled under the DPT and the organization becomes sole owner of the vehicles. All grant recipients receive public transit plates while the vehicle is under the five-year grant

term and the vehicles are co-owned by the DPT and the subrecipient. At the end of the five years, the title is transferred to the subrecipient and the DPT no longer tracks the maintenance and usage. Until 2018, the DMV issued various tax-exempt plates to all 5310 transit providers. Organizations that qualified as subdivisions received city or county vehicle plates if they were part of the county or city government. Nonprofit and unaffiliated special districts meanwhile received state agency plates since these organizations did not meet the qualifications to receive local government plates. Following changes to *W. Va. Code* in 2018, the DMV was required to issue new plates for all state agency-owned vehicles and required the vehicle to be an asset a state spending unit to qualify for agency plates. As such, public transit vehicles could not receive agency plates. The changes in qualifications for agency plates is discussed in greater detail below.

Following changes to W. Va. Code in 2018, the DMV was required to issue new plates for all state agency-owned vehicles and required the vehicle to be an asset a state spending unit to quali-fy for agency plates.

As special districts, county aging providers serve the citizens of the county but may or may not be part of the county government organization. For instance, the director of the Putnam Aging Program reported that it was not under the authority of the Putnam County Commission. Likewise, the director of the Harrison County Senior Center stated that the Senior Center was independent from the Harrison County Commission. Raleigh County Commission on Aging meanwhile is under the Raleigh County Commission's authority. The Wood County Senior Citizens Association is under the authority of the county commission. As such, the Putnam and Harrison counties senior programs are required to obtain Class A or B plates, while the Raleigh County and Wood County organizations are eligible for red county plates. All four organizations provide similar services to the senior citizens in their respective counties. The inclusion of county aging organizations as part of the county government is solely based on whether or not the county chooses to consider it part of the government.

The difference in the type of plates agencies receive matters because some require paying fees and taxes while others do not.

The difference in the type of plates agencies receive matters because some require paying fees and taxes while others do not. Class A plates are standard plates that are issued for privately owned vehicles. Class B plates are issued for privately-owned trucks with a gross weight of 10,001 pounds or greater, which includes small buses like those utilized by 5310 providers. Both Class A and B require paying annual registration fees. The registration fees for Class A plates is $51.50. Class B plates are based on gross vehicle weight and range from $34.50 a year for a vehicle weighing 10,001 lbs. to 11,000 lbs. to $1,132.75 for a vehicle with a gross vehicle weight between 79,001 lbs. to 80,000 lbs. The weight of public transit vehicles varies based on the components and configuration of the vehicle, so the registration fees vary from one vehicle to another. As an example, a small bus used by many providers has a gross weight of 26,000 lbs. and the corresponding registration fee is $180 annually.

The benefit of public transit plates, like other governmental license plates is that they do not require the payment of registration fees or vehicle taxes. Nonprofits and special districts are required to register for class A/B plates and pay vehicle registration fees while government organizations are provided public transit or government subdivision plates tax-free, even though both types of organizations provide the same services. **The DMV does not consider nonprofits and special districts, such as senior service organizations, that provide transit services to seniors and the disabled to be public transit providers based on the current wording of state law.**

In April 2018, the DMV and DPT began corresponding about issues with the DPT's asset list with the Department of Administration's Fleet Management Office. The issue was that the nongovernmental organizations that had received state agency plates did not qualify and should have never been issued them. DMV's solution was to replace the state agency plates with transit authority plates. According to the DPT, DMV issued public transit plates until October 2019 when, without prior notification to the DPT, DMV changed its position and denied public transit plates to 5310 providers and instead required these recipients to either qualify as a political subdivision or apply for standard plates.

PERD requested clarification from the DMV regarding the change in its position on issuing transit plates to 5310 providers and received, in part, the following response:

> *It is recognized that* [former DMV Director] *Mr. Maggard's response left the Division of Public Transit with the impression that all 5310 providers qualify for a "public transit" plate and it is unfortunate that the Division of Public Transit was led to believe DMV held a position that was inconsistent with statute but that was resolved in later communications.*

The DMV's statement implies that the DPT misunderstood the DMV's interpretation of *W. Va. Code* and that it resolved the confusion in later correspondences. However, the statement does not align with reality as the DMV issued transit authority (TA) plates to 5310s for 18 months before it changed its position. While the cause for the change is still unclear, the reasoning for the change was based on the definition of transit provider in West Virginia Code.

The benefit of public transit plates, like other governmental license plates is that they do not require the payment of registration fees or vehicle taxes.

According to the DPT, DMV issued public transit plates until October 2019 when, without prior notification to the DPT, DMV changed its position and denied public transit plates to 5310 providers and instead required these recipients to either qualify as a political subdivision or apply for standard plates.

The Legislative Auditor Has Determined that 5310 Providers Are Eligible for Public Transit Plates Under W. Va. Code; However, Code Could Be Updated to State so Explicitly

PERD and Legislative Services have reviewed the relevant sections of Code and finds that while there are no specific references to 5310 recipients, the law is written broadly enough to qualify them as transit providers and thus makes them eligible for the transit authority tags. 5310 grant recipients provide transportation services but are neither a mass transit authority or a common carrier (i.e., private transit provider, such as private bus companies and taxicab services). 5310 recipients do not qualify as "Urban mass transportation systems." These organizations are also exempt from being considered a commercial motor carrier under W. Va. Code §24A-1-3(12). Paragraph (12) exempts public transit vehicles and defines them as:

> "Motor vehicles designated by the West Virginia Division of Public Transit operated by **organizations that receive federal grants from the Federal Transit Administration**: Provided, That the vehicles and their operators are subject to the safety and insurance rules promulgated by the commission;"

PERD and Legislative Services have reviewed the relevant sections of Code and finds that while there are no specific references to 5310 recipients, the law is written broadly enough to qualify them as transit providers and thus makes them eligible for the transit authority tags.

5310 providers meet this definition while under the 5-year grant distribution period since these organizations are receiving FTA grant funds through the program; however, their status when they have completed the grant disbursement period and outright own the vehicle(s) is unclear. Based on these definitions, it seems logical to conclude that 5310 recipients are public transit providers.

If they are public transit providers, then they should be exempt from paying vehicle registration fees and consumer sales taxes to the DMV. Article 3 of Chapter 17A of *W. Va. Code* establishes the regulations for original and renewal of vehicle registration and the issuance of the certificate of title. Subsection 23 addresses registration plates to state, county, municipal and other government-owned vehicles, all of which are exempt for registration fees. Fees that range from $34.50 a year for a vehicle weighing 10,001 lbs. to 11,000 lbs. to $1,132.75 for a vehicle with a gross vehicle weight between 79,001 lbs. to 80,000 lbs. Paragraph (t) creates a public transit registration plate and classifies such vehicles as: "*motor vehicles titled in the name of the Division of Public Transit or in the name of a public transit authority as defined in this subsection and operated by a public transit authority **or a public transit provider to transport persons in the public interest***." The legislative auditor interprets this sentence to be a list of three categories that qualify for the plates: vehicles registered to the DPT, public transit authorities, and

public transit providers to transport persons in the public interest. A similarly worded provision exempts such entities from paying consumers sales taxes on motor vehicle sales in W. Va. Code §11-15-3c(f)(7), which states:

> *The tax imposed by this section does not apply to motor vehicles acquired by an urban mass transit authority, as defined in article twenty-seven, chapter eight of this code, or a nonprofit entity exempt from federal and state income tax under the Internal Revenue Code for the purpose of providing mass transportation to the public at large or designed for the transportation of persons and being operated for the transportation of persons in the public interest.*

Vehicles purchased through the DPT's grant programs also clearly qualify since DPT co-titles the vehicles with the subrecipient until they have complied with the grant requirements for five years.

Legislative Services determined that they would qualify for public transit plates as a "public transit provider to transport persons in the public interest." Code does not provide additional qualifications or definitions for this term, like it does for public transit authority. Vehicles purchased through the DPT's grant programs also clearly qualify since DPT co-titles the vehicles with the subrecipient until they have complied with the grant requirements for five years. It should be noted that SB 722, introduced during the 2020 legislative session, attempted to clarify the definition of a transit provider in both §17A-3-23 and §11-5-3c by "exempting certain vehicles operated in the name of a public transit provider or nonprofit transit provider from motor vehicle sales tax; and authorizing special license plates for certain vehicles titled in the name of a public transit provider, private nonprofit transit provider, or certain nonprofit entities." Therefore, **the Legislature should consider amending state code to allow all FTA-funded public transit vehicles to retain public transit plates as long as the vehicle continues to be used for public transit services.** If the Legislature were to take such action and there is concern that vehicles may not continue to be used for public transit purposes, then **the legislative auditor recommends that grantees should be required to submit an affidavit to the DMV confirming that the vehicles are still being used to provide transit services to the public at least annually**.

5310 providers fill a critical need in West Virginia, by providing transit services to vulnerable sectors of the population: the disabled and elderly.

Conclusion

5310 providers fill a critical need in West Virginia, by providing transit services to vulnerable sectors of the population: the disabled and elderly. They also provide these services as part of a larger mission of providing other essential needs, including feeding, rehabilitating, and providing social opportunities to these often-overlooked sections of the population. While transit is not their primary focus, they are transit providers nonetheless and should be treated as such. While the

registration cost and other titling fees are not necessarily significant, they are costs that other types of transit providers are not required to pay. This creates an inequity that can be resolved by the recommendations of this report.

Recommendations:

6. *The Legislature should amend state code to allow all FTA-funded public transit vehicles to retain public transit plates as long as the vehicle continues to be used for public transit services.*
7. *If allowed to retain public transit plates at the end the grant period then grantees should be required to submit an affidavit to the DMV confirming that the vehicles are still being used to provide transit services to the public at least annually.*

Appendix A
Transmittal Letter

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

1900 Kanawha Blvd. East
Building 1, Room W-314
Charleston, WV 25305-0610
(304) 347-4890

John Sylvia
Director

June 30, 2023

Bill Robinson, Director
West Virginia Division of Public Transit
1900 Kanawha Blvd., East
Building 5, Room 650
Charleston, WV 25301

Dear Mr. Robinson:

This is to transmit a draft copy of the Performance Review of the Division of Public Transit. This report is tentatively scheduled to be presented during the August interim meeting of the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting between July 17 and July 19. Please notify us to schedule an exact time. In addition, we need your written response by noon on July 21, 2023 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, August 3, 2023 to make arrangements.

We request that your personnel not disclose the report to anyone unaffiliated with your agency. However, the legislative auditor advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,

John Sylvia

John Sylvia

Enclosure

Appendix B
Objectives, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this performance review of the Division of Public Transit (DPT) as part of the Agency Review of the Department of Transportation, as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code,* as amended. The purpose of the DPT, as established in West Virginia Code §17-16C-1 et seq., is to administer all federal and state programs relating to public transportation.

Objectives

The objectives of this review are to: (1) determine if the DPT is managing publicly funded transportation resources in a cost-effective manner through the Transportation Asset Management Program; (2) determine if the DPT is endeavoring to achieve an increased ridership with available resources as required by §17-16C-3(c); and, (3) determine if all providers within the elderly and disabled public transit grant program (5310) receive the appropriate type of license plates and vehicle registration regardless of their status as a political subdivision of the State of West Virginia.

Scope

The scope of this review consisted of the DPT**'s** effectiveness of oversight of the grant money the Division distributes to public transit providers (the grantees) in the 5310, 5311, and 5337 federal grant programs since the implementation of the Transit Asset Management (TAM) program in FY 2017 through FY 2022. Cost-effectiveness was measured by the quality of DPT's internal controls within its Automated Vehicle Inventory System (AVIS) to provide reasonable assurance that data is accurately reported and opportunities for fraud, waste, and abuse are identified and minimized to an acceptable level. PERD's access to AVIS was limited by the Department of Transportation to receiving copies of data dumps. Vehicle data was verified through site visits to a sample of providers in the 5310 and 5311 programs.

The scope of Issue 2 was limited to reviewing DPT's efforts to increase ridership among the state's public transportation providers from FY 2017 through FY 2021. Since *W. Va. Code* only requires the agency to attempt to increase ridership, the agency's performance was measured based on whether it complied with the requirements rather than the success of the pilot projects. The audit team requested documentation regarding pilot projects; however, the agency could only provide testimonial evidence in the form of project narratives. As part of the evaluation, the audit team also analyzed passenger data for each of the three programs reviewed to determine changes in ridership over the audit timeframe. Finally, the audit team used provider data to determine the coverage of urban and rural transit services across the state to identify the areas where services are available and unavailable.

The scope of Issue 3 was limited to reviewing the types of license plates issued to providers in the 5310 program. Other types of providers were excluded since they all qualify and receive public transit plates for the entirety of the vehicles' lives. The timeframe was from 2018 when the Division of Motor Vehicles (DMV) changed its interpretation of Code through the summer of 2022, when the audit team discovered the issue. This issue focused on the communication and decision-making process for issuing the plates and the role the DPT and the DMV play in that process. Testimonial evidence was gathered from both the DPT and DMV and physical evidence, including email exchanges between the two agencies at the time the decision was made to exclude non-governmental entities from receiving the plates.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

Testimonial evidence gathered for this review through interviews with the DPT's staff to gain an understanding of the agency's policies, procedures, and internal controls. Testimonial evidence was confirmed by written statements and in some cases by corroborating evidence. The audit team reviewed both state and federal code and regulations related to public transit grant programs and state transit program requirements to establish criteria for this review. Data from the DPT's AVIS database was provided by the agency. Internal control and procedural manuals were requested from the agency; however, the DPT informed the audit team that no such documents exist. The audit team also used standards from the United States Government Accountability Office and National Institute for Standards and Technology as criteria in assessing AVIS's internal controls.

Passenger data were obtained from the DPT as reported by the transit providers. The auditors used passenger data primarily for informational purposes in this audit. Therefore, the significance of passenger data to the audit did not warrant extensive testing procedures by the auditors other than requesting from the DPT written representations as to the accuracy of the data. However, auditors recognized that quality passenger data are important for the agency in developing its long-range plan for increasing ridership. The DPT stated that it has no formal procedure to confirm the accuracy of passenger data. The DPT further stated that local providers collect passenger data in various ways by the different types of providers (i.e. urban, rural, and elderly and disabled) which includes both estimates and actual head counts. The variation in counting methods and the small number of staff in the agency prevents the DPT from being able to verify the accuracy of passenger data.

The Coordinated Public Transit-Human Services Transportation Plans were obtained from the DPT's website and the unmet transportation needs were compiled by the audit team. For Issue 3, the audit team requested a legal opinion from the Legislative Services Division within the Office of the Legislative Auditor regarding the qualifications for public transit license plates.

The audit team corroborated the evidence from AVIS through site visits at the headquarters of a sample of providers including eight 5310 and four 5311 providers. The 5337 providers were excluded from the sample since they received their funds directly from the Federal Transit Administration; whereas 5310 and 5311 funds are distributed through the DPT. The audit team used a selective sample based on provider location to ensure a wide cross-section of the state was included. Site visit locations included the following counties: Kanawha, Putnam, Mercer, Marion, Harrison, Wirt, Wood, Raleigh, and Calhoun. During the site visits, the audit team documented the vehicle identification numbers (VINs), vehicle makes and models, license plate numbers, and mileages. Maintenance records were also reviewed and documented. Testimonial evidence about the providers' experiences in their respective programs was also gathered during site visits.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C
Agency Response

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Multimodal Transportation Facilities
1900 Kanawha Boulevard East • Building Five • Room 132
Charleston, West Virginia 25305-0432 • (304) 414-4645
FAX: (304) 558-3326 • TDD: (800) 742-6991

Lucinda K. Butler
Commissioner

Jimmy Wriston, P.E.
Secretary of Transportation
Commissioner of Highways

July 21, 2023

John Sylvia, Director-
West Virginia Legislature
Performance Evaluation and Research Division
1900 Kanawha Blvd., East
Building 1, Room W-314
Charleston, West Virginia 25305-0610

Dear Mr. Sylvia,

The Division of Multimodal Transportation Facilities – Public Transit (DMTF-PT) concurs with Recommendations 1-3 for Issue 1. As discussed, Public Transit is actively seeking a new system to house the transit inventory and will integrate the recommendations into the new system.

DMTF-PT also concurs with Issue 2's recommendations 4-5. A process and related documentation for the initiation of transit service in an area previously without transit service can be developed and integrated into the transit expansion process.

Finally, the DMTF-PT agrees with Issue 3, Recommendations 6-7. The resolution of this issue will remove a financial burden on the organizations that are recipients of this program's vehicles. Per the direction of Secretary Wriston and Commissioner Butler, Public Transit will pursue the re-issuance of Public Transit plates as outlined in the recommendations.

Public Transit recognizes these recommendations contain merit and agrees to implement corrective actions relevant to the recommendations.

Sincerely,

William C. Robinson
Executive Director

WCR/br

E.E.O./AFFIRMATIVE ACTION EMPLOYER