

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Official Audit Report – Issued August 29, 2023

MetroWest Regional Transit Authority

For the period October 1, 2019 through September 30, 2021



OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

August 29, 2023

James Nee, Administrator
MetroWest Regional Transit Authority
15 Blandin Avenue
Framingham, MA 01702

Dear Mr. Nee:

I am pleased to provide to you the results of the enclosed performance audit of the MetroWest Regional Transit Authority. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, October 1, 2019 through September 30, 2021. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at the MetroWest Regional Transit Authority. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team have any questions.

Best regards,



Diana DiZoglio
Auditor of the Commonwealth

cc: Gina Finandaca, Secretary of Transportation of the Massachusetts Department of Transportation
Joseph Nolan, Advisory Board Chairman of the MetroWest Regional Transit Authority

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
OVERVIEW OF AUDITED ENTITY	2
AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY	6
DETAILED AUDIT FINDINGS WITH AUDITEE’S RESPONSE.....	8
1. The MetroWest Regional Transit Authority did not ensure that its contracted paratransit provider met its required minimum on-time pickup rate of 96%.	8
2. The MetroWest Regional Transit Authority could not provide complete evidence that it investigated and responded to Americans with Disabilities Act paratransit complaints from its riders within the required timeframe.....	9

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the MetroWest Regional Transit Authority (MWRTA) for the period October 1, 2019 through September 30, 2021.

In this performance audit, we assessed whether MWRTA delivered paratransit services required by the Americans with Disabilities Act (ADA) on time in accordance with Section 37.23(a) of Title 49 of the Code of Federal Regulations and MWRTA's *The MetroWest Ride Guide*. We also examined MWRTA's ADA paratransit complaint resolution procedures to determine whether MWRTA responded to ADA paratransit complaints in accordance with both Section 27.13 of Title 49 of the Code of Federal Regulations and *The MetroWest Ride Guide*.

Below is a summary of our findings and recommendations, with links to each page listed.

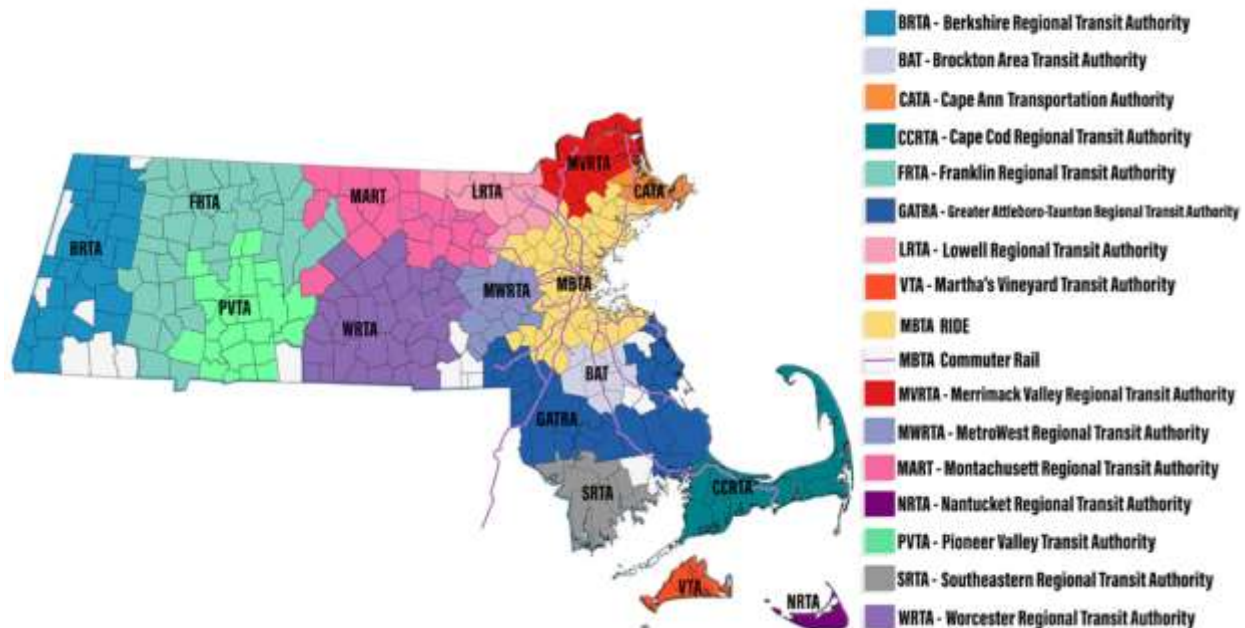
Finding 1 Page 8	MWRTA did not ensure that its contracted paratransit provider met its required minimum on-time pickup rate of 96%.
Recommendations Page 9	<ol style="list-style-type: none">1. MWRTA should monitor its contracted paratransit provider's performance to ensure that it meets the on-time pickup rate of 96%.2. MWRTA should develop performance reports that correctly calculate on-time pickup rates based on its internal performance standard of a 15-minute pickup window.
Finding 2 Page 9	MWRTA could not provide complete evidence that it investigated and responded to ADA paratransit complaints from its riders within the required timeframe.
Recommendations Page 10	<ol style="list-style-type: none">1. MWRTA should monitor all open ADA paratransit complaints to ensure that it investigates and responds to complaints from its riders within the required timeframe.2. MWRTA should document the date when an investigation begins; the date when an investigation ends; the date when MWRTA notifies a complainant of the resolution, which should be within 10 business days; and the actual text of MWRTA's response.

OVERVIEW OF AUDITED ENTITY

Massachusetts Regional Transit Authorities

Chapter 161B of the Massachusetts General Laws established regional transit authorities (RTAs) and defined the roles and responsibilities for these authorities, the municipalities in which they operate, and the Commonwealth. According to Chapter 161B of the General Laws, RTAs are controlled by the municipalities in which they operate. Each RTA is governed by an advisory board composed of elected officials from the community (e.g., city manager or mayor), as well as one representative of the disabled commuter population¹ and one representative of the local rider community. The advisory boards appoint administrators, establish bylaws, and approve budgets and changes to RTA services.

Section 53 of Chapter 6C of the General Laws makes the Rail and Transit Division of the Massachusetts Department of Transportation “responsible for overseeing, coordinating and planning all transit and rail matters throughout the commonwealth,” including intercity buses, the Massachusetts Bay Transportation Authority, and RTAs.



Source: Massachusetts Department of Transportation—Rail and Transit Division (<https://www.mass.gov/info-details/public-transportation-in-massachusetts>)

1. According to Section 5 of Chapter 161B of the General Laws, “This representative shall be mobility impaired, have a family member who is mobility impaired, be a caretaker of a person who is mobility impaired or work for an organization that serves the needs of the physically disabled.”

Currently, there is a network of 15 RTAs operating in the Commonwealth, in addition to the transit services provided by the Massachusetts Bay Transportation Authority. These RTAs serve a total of 272 cities and towns outside the greater Boston area. RTAs are funded through a combination of state appropriations, federal grants, local governments, fares, and other sources. State appropriations for the 15 RTAs increased from approximately \$80 million in fiscal year 2018 to approximately \$94 million in fiscal years 2021 and 2022.

Americans with Disabilities Act—Required Paratransit Services

The Americans with Disabilities Act (ADA) of 1990 recognized that some individuals' disabilities prevent them from using a fixed-route² transit system. Section 37(F) of Title 49 of the Code of Federal Regulations, which covers the transportation and related stipulations of ADA, states,

Each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

The above regulation also establishes minimum levels of service that RTAs must provide for complementary paratransit services.

MetroWest Regional Transit Authority

The MetroWest Regional Transit Authority (MWRTA) was established in 2006 and reports to the Rail and Transit Division of the Massachusetts Department of Transportation under Chapter 25 of the Acts of 2009. According to MWRTA's website, its mission is to "build a public transportation system to deliver convenient and dependable service that enhances mobility, environmental quality and economic vitality in the region."

MWRTA's operations are overseen by an advisory board. MWRTA's administrator, hired by the advisory board, is responsible for the day-to-day administration of the agency.

MWRTA provides transportation services to the following 16 cities and towns: Ashland, Dover, Framingham, Holliston, Hopedale, Hopkinton, Hudson, Marlborough, Milford, Natick, Sherborn, Southborough, Sudbury, Wayland, Wellesley, and Weston.

2. Fixed-route transportation services have established routes, schedules, and stops.

During our audit period, MWRTA contracted with Kiessling Transit, Inc., a privately operated company, to provide transit management and operations services for its fixed-route bus services, as well as for the demand-response transportation services³ that MWRTA provided to ADA-required paratransit riders. MWRTA oversaw its contracted paratransit provider and managed the eligibility of its ADA-required paratransit and on-demand ridership at its administrative offices. The contracted paratransit provider managed services for all ADA-required paratransit and demand-response trips provided during the audit period using a transit scheduling and dispatching system.

On-Time Performance for ADA-Required Paratransit Services

MWRTA has a memorandum of understanding with the Massachusetts Department of Transportation that includes on-time performance standards. These performance standards include a required minimum on-time pickup rate for trips.

While the Federal Transit Administration suggests that pickup windows should not exceed 30 minutes, MWRTA uses a 15-minute pickup window for its on-time performance standard, in order to help minimize the amount of time a rider is expected to be ready and waiting for the driver to arrive. A 15-minute pickup window means that, in order for a pickup to be considered on time, a driver has up to 15 minutes after a scheduled pickup time to reach their rider.

ADA Paratransit Complaints

ADA paratransit complaints are complaints related to ADA-required paratransit services. According to Section 27.13 of Title 49 of the Code of Federal Regulations, transportation programs that receive federal funding must adopt complaint procedures and designate a responsible employee to coordinate these procedures.

MWRTA's call center receives ADA paratransit complaints from riders by email, mail, or phone calls. MWRTA call center employees record these complaints in the transit scheduling and dispatching system, investigate them, and respond to the complainants within 10 business days.

3. Demand-response transportation services are non-fixed-route services that must be requested by riders and scheduled by dispatchers through a transportation service.

MWRTA Paratransit Ridership Information

The table below summarizes MWRTA's paratransit information for fiscal years 2019, 2020, and 2021.

	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021
Number of Active Riders	1,633	1,475	982
Number of Trips	99,912	76,701	51,325
Number of Drivers	59	44	41
Number of Vehicles Used	47	54	45

MWRTA Funding Sources

In fiscal years 2019, 2020, and 2021, MWRTA received revenue from a variety of sources, including fares and federal, state, and local assistance. The table below shows the types of funding MWRTA received during the audit period.

Type of Funding	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021
State and Contract Assistance	\$ 2,715,598	\$ 3,206,558	\$ 3,515,286
Local Assistance	4,078,597	3,876,600	3,035,621
Federal Assistance	1,790,366	1,824,016	2,622,499
Fixed Route Income	607,985	479,129	20,701
Paratransit Income	237,134	175,754	4,226
Other Revenue*	926,388	858,708	682,073
Total	<u>\$ 10,356,068</u>	<u>\$ 10,420,765</u>	<u>\$ 9,880,406</u>

* Other revenue is from advertising, insurance claims, and interest.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the MetroWest Regional Transit Authority (MWRTA) for the period October 1, 2019 through September 30, 2021.

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.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Does MWRTA deliver paratransit services required by the Americans with Disabilities Act (ADA) on time in accordance with Section 37.23(a) of Title 49 of the Code of Federal Regulations and MWRTA's <i>The MetroWest Ride Guide</i> ?	Partially; see Finding <u>1</u>
2. Does MWRTA ensure that all complaints from ADA-required paratransit riders are investigated and responded to as required by Section 27.13 of Title 49 of the Code of Federal Regulations and MWRTA's <i>The MetroWest Ride Guide</i> ?	No; see Finding <u>2</u>

To achieve our audit objectives, we gained an understanding of MWRTA's internal control environment related to the objectives by reviewing applicable agency policies and procedures, as well as by conducting interviews with MWRTA employees and management. We evaluated the design of controls over ADA-required paratransit services and ADA paratransit complaints related to compliance with the ADA.

We performed the following procedures to obtain sufficient, appropriate audit evidence to address the audit objectives.

On-Time Performance for ADA-Required Paratransit Services

To determine whether MWRTA provided on-time ADA-required paratransit services to its riders, we analyzed 100% of the 100,845 trips that occurred during the audit period. To calculate the number of late trips, we assessed the on-time pickup rate by comparing actual pickup times to scheduled pickup times

for each trip and found that there were 5,891 late trips (see Finding 1). We interviewed MWRTA's management about their on-time performance standard report to determine the difference in their calculation (99%) and the on-time performance calculation we made (94%) based on the standard within MWRTA's *The MetroWest Ride Guide*. In addition, we interviewed MWRTA management about the reasons for the 5,891 late trips that occurred during the audit period.

ADA Paratransit Complaints

To determine whether MWRTA responded to all ADA paratransit complaints in accordance with MWRTA's *The MetroWest Ride Guide*, which stipulates that all complaints should be responded to within 10 business days, we analyzed all 9 complaints that MWRTA received during the audit period. We verified documentation in the transit scheduling and dispatching system to determine the reasons for each investigation. In addition, we verified the date that each complainant was notified of the complaint resolution.

Data Reliability Assessment

To assess the reliability of the ADA-required paratransit service data from the transit scheduling and dispatching system, we interviewed MWRTA's information technology consultant and deputy administrator, who were both responsible for the oversight of the transit scheduling and dispatching system and its data.

We tested selected information system controls (access controls, security management, configuration management, contingency planning, and segregation of duties) to determine the reliability of the data in the transit scheduling and dispatching system. We verified the ADA-required paratransit service data from the transit scheduling and dispatching system by testing it for records that were missing, duplicates, or outside of the audit period. We traced 20 names found on the ADA-required paratransit applications to names on the list of MWRTA-approved ADA-required paratransit riders that we obtained from MWRTA, then we traced 20 different names from the list of MWRTA-approved ADA-required paratransit riders to the names found on the ADA-required paratransit services applications.

Based on the data reliability assessment, we determined that the data were sufficiently reliable for the purposes of this report.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The MetroWest Regional Transit Authority did not ensure that its contracted paratransit provider met its required minimum on-time pickup rate of 96%.

The MetroWest Regional Transit Authority (MWRTA) did not ensure that its contracted paratransit provider met its required minimum on-time pickup rate of 96%. MWRTA's transit scheduling and dispatching system generated monthly on-time performance reports that indicated an on-time pickup rate of 99% for the audit period. However, using MWRTA's Americans with Disabilities Act (ADA) paratransit service data, we determined that 5,891 trips (6%) out of 100,845 trips provided to ADA-required paratransit riders during the audit period were late. Therefore, MWRTA's on-time pickup rate for ADA-required paratransit services was actually 94%.

If MWRTA does not ensure that its contracted paratransit provider meets the required minimum on-time pickup rate of 96%, it risks incurring reputational losses. This may also impact the quality of services MWRTA provides to its ADA-required paratransit riders.

Authoritative Guidance

According to Section 37.23(a) of Title 49 of the Code of Federal Regulations,

When a public entity enters into a contractual or other arrangement . . . or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

MWRTA's *The MetroWest Ride Guide* states that riders should "be prepared to wait up to 15 minutes after [their scheduled pickup] time."

According to MWRTA's 2020 Request for Proposal for Demand Response Services,

Service Delivery standards shall include, but are not limited to, the following:

On Time Performance shall be maintained at a minimum of 96% for all trips. On time performance shall be defined as a vehicle arriving at the correct passenger location, no later than fifteen minutes beyond the scheduled pick-up time communicated to the passenger by the MetroWest Call Center.

Reasons for Issue

MWRTA management stated that, when monitoring their contracted paratransit provider's on-time pickup rate, they used the federal performance standard of a 30-minute pickup window, instead of MWRTA's internal performance standard of a 15-minute pickup window included in *The MetroWest Ride Guide*.

Recommendations

1. MWRTA should monitor its contracted paratransit provider's performance to ensure that it meets the on-time pickup rate of 96%.
2. MWRTA should develop performance reports that correctly calculate on-time pickup rates based on its internal performance standard of a 15-minute pickup window.

Auditee's Response

The MWRTA closely monitors to ensure its contracted paratransit provider is held to the same standards MWRTA would be held to if providing the service itself. The contractor has in all instances met industry standard and [Federal Transit Administration] sanctioned on time performance measures. The MWRTA simultaneously holds itself to a higher standard than required or normal in the industry, while providing efficient and on time ADA trips. . . .

The MetroWest Ride Guide's language in reference to on time performance lacks the precision and nuance of the difference between a pickup time and a pickup window. The MWRTA will take corrective action to improve the precision of language in the Guide to accurately reflect the pickup window, and how that relates to the on time performance. The MWRTA will engage ADA community members and organizations to assure that changes are done in an equitable manner, while upholding the highest standards.

Auditor's Reply

We commend MWRTA for establishing on-time performance standards that exceed industry standards and the Federal Transit Administration's guidance. Based on the response above, MWRTA is taking measures to address our concerns.

2. The MetroWest Regional Transit Authority could not provide complete evidence that it investigated and responded to Americans with Disabilities Act paratransit complaints from its riders within the required timeframe.

MWRTA could not provide complete evidence that it investigated and responded to ADA paratransit complaints submitted during the audit period by its riders within 10 business days. For all 9 ADA paratransit complaints submitted during the audit period, we could not determine whether each

complaint was investigated and responded to within 10 business days because information regarding complaints (specifically, the dates when investigations began and ended, as well as when complainants were notified) was not properly documented in MWRTA's transit scheduling and dispatching system.

By not ensuring that MWRTA responds to all ADA paratransit complaints, significant issues regarding MWRTA's transportation services may not be resolved in a timely manner or at all. This could lessen the quality of MWRTA's services and negatively impact MWRTA's ADA-required paratransit riders.

Authoritative Guidance

Regarding complaint procedures, Section 27.13 of Title 49 of the Code of Federal Regulations states,

(b) Adoption of complaint procedures. . . .

(3) The recipient [in this case, MWRTA] must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant by a means that will result in documentation of the response.

The Federal Transit Administration's *Topic Guide 6—The On-Time Performance in ADA Paratransit* states,

The thorough investigation of all complaints related to the use of ADA paratransit service is an important part of monitoring and compliance. Transit agencies should ensure that all rider complaints are recorded and investigated. Transit agencies are required to have procedures to receive, resolve, maintain records of, and report on complaints.

Although MWRTA is not required to follow this guide, we consider it a best practice.

MWRTA's *The MetroWest Ride Guide* states, "All complaints will be investigated and responded to within 10 business days."

Reasons for Issue

MWRTA management stated that they do not consistently document the following dates: when an investigation begins, when an investigation ends, and when MWRTA notifies a complainant of the resolution.

Recommendations

1. MWRTA should monitor all open ADA paratransit complaints to ensure that it investigates and responds to complaints from its riders within the required timeframe.

2. MWRTA should document the date when an investigation begins; the date when an investigation ends; the date when MWRTA notifies a complainant of the resolution, which should be within 10 business days; and the actual text of MWRTA's response.

Auditee's Response

The MWRTA monitors all ADA paratransit complaints and investigates and responds to each in a timely manner. . . . Additional steps have been implemented to improve the recording process in order to enhance our practice of responding to ADA complaints within required timeframes. . . .

The MWRTA does document when investigations begin and end, along with the content of the complaint response. While the documentation in the paratransit software does require staff to more meticulously record complaint responses with associated time stamps, in practice complaints are generally responded to appropriately and timely. The MWRTA will take steps to assure that all records appropriately reflect reality.

Auditor's Reply

Based on the response above, MWRTA is taking measures to address our concerns.