

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Official Audit Report – Issued October 4, 2024

Berkshire Regional Transit Authority

For the period January 1, 2021 through December 31, 2022



OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

October 4, 2024

Robert Malnati, Administrator
Berkshire Regional Transit Authority
1 Columbus Avenue, Suite 201
Pittsfield, MA 01201

Dear Mr. Malnati:

I am pleased to provide to you the results of the enclosed performance audit of the Berkshire Regional Transit Authority. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2021 through December 31, 2022. 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 Berkshire 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: Monica Tibbits-Nutt, Secretary and Chief Executive Officer of the Massachusetts Department of Transportation
Douglas McNally, Advisory Board Chair of the Berkshire Regional Transit Authority

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LIST OF ABBREVIATIONS

ADA	Americans with Disabilities Act
BRTA	Berkshire Regional Transit Authority
FTA	Federal Transit Administration
MassDOT	Massachusetts Department of Transportation
RTA	regional transit authority

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 Berkshire Regional Transit Authority (BRTA) for the period January 1, 2021 through December 31, 2022.

In this performance audit, we assessed whether BRTA 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; Sections 5.3, 5.4, and 5.6 of Chapter 8 of the Federal Transit Administration's Circular 4710.1; and BRTA's "ADA Policies and Procedures." We also examined BRTA's ADA paratransit complaint resolution procedures to determine whether BRTA investigated and responded to ADA paratransit complaints in accordance with Section 27.13(b) of Title 49 of the Code of Federal Regulations and BRTA's "ADA Policy Manual."

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

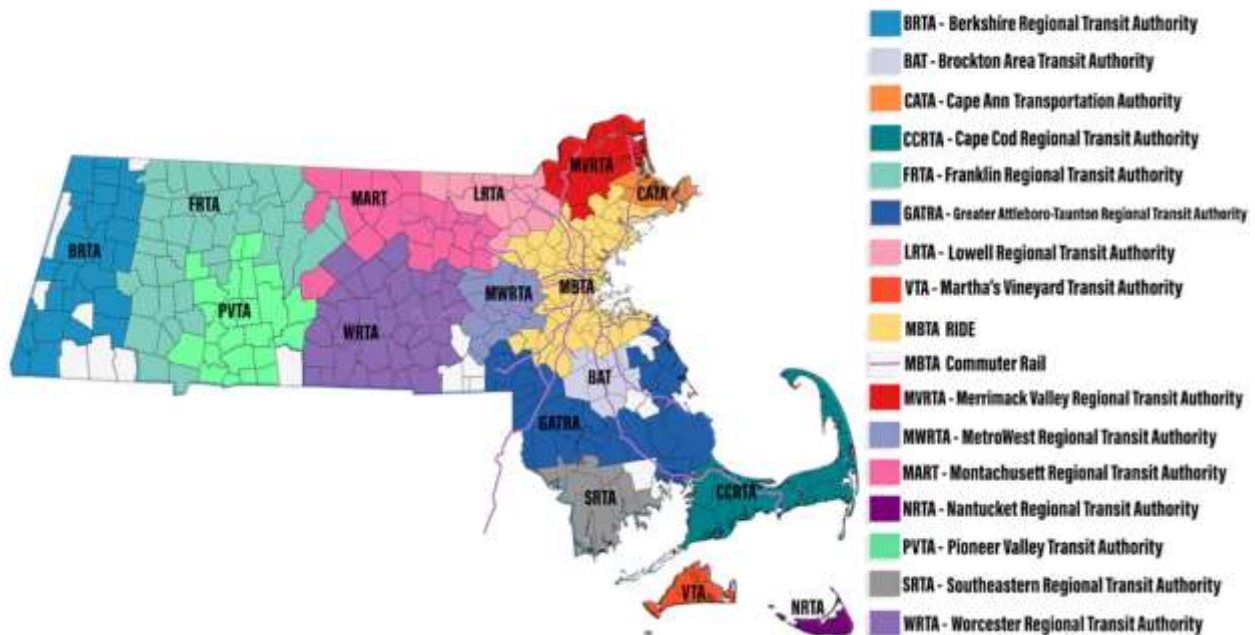
Finding 1 Page 13	BRTA did not accurately calculate its paratransit service performance metrics and did not meet the Massachusetts Department of Transportation's (MassDOT's) performance targets.
Effect	If BRTA does not accurately calculate its performance metrics, then it cannot identify how well its ADA-required paratransit service is performing. Late ADA-required paratransit services, whether for pickups or drop-offs, may have a negative impact on those relying on these paratransit services.
Recommendations Page 14	<ol style="list-style-type: none">1. BRTA should separately calculate its ADA-required paratransit service on-time pickup and drop-off performance metrics.2. BRTA should ensure that its scheduling and dispatching system is updated to accurately calculate its current performance metrics.3. BRTA should establish adequate policies and procedures, including a monitoring component, to ensure that it accurately calculates and updates performance metrics within its scheduling and dispatching system when necessary.4. BRTA should establish adequate policies and procedures, including a monitoring component, to ensure that it meets the performance targets it agreed to with MassDOT.

Finding 2 Page <u>16</u>	BRTA did not follow required procedures, or have a segregation of duties, for processing ADA paratransit complaints.
Effect	By not ensuring that it follows required procedures for its ADA paratransit complaint process, BRTA may not resolve significant issues regarding its transportation services in a timely manner or at all. This could have a negative impact on the quality of services that BRTA provides to its ADA-required paratransit riders. If BRTA allows its contracted paratransit provider to receive, investigate, and validate ADA paratransit complaints, which could potentially be about or against the provider, then BRTA cannot ensure that it is aware of all complaints and that there are no conflicts of interest.
Recommendations Page <u>17</u>	<ol style="list-style-type: none">1. BRTA should maintain a log of all complaints, investigation dates, and actions taken to resolve the complaints.2. BRTA should segregate duties related to ADA paratransit complaint processing, such as receiving, investigating, and validating complaints.3. BRTA should establish monitoring controls to ensure that its employees and its contracted paratransit provider follow its ADA paratransit complaint policies and procedures.

OVERVIEW OF AUDITED ENTITY

Chapter 161B of the Massachusetts General Laws established regional transit authorities (RTAs), which provide public transportation services for communities outside the reach of the Massachusetts Bay Transportation Authority. This law defines the roles and responsibilities for these authorities and the municipalities in which they operate. Each RTA has an advisory board composed of elected officials from the communities in which they operate (e.g., selectperson 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 (MassDOT) “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: MassDOT—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, transit 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 ADA-required paratransit services.

Berkshire Regional Transit Authority

The Berkshire Regional Transit Authority (BRTA) was established in 1974 and reports to MassDOT's Rail and Transit Division under Chapter 25 of the Acts of 2009. According to its website, BRTA's mission is "to provide an efficient and effective public transportation service to enhance the economic vitality of the member communities through improved access to jobs, education, and the marketplace." BRTA's administrator, hired by the advisory board, is responsible for the day-to-day administration of the agency.

BRTA provides transportation services to the following 30 cities and towns: Adams, Alford, Becket, Cheshire, Clarksburg, Dalton, Egremont, Florida, Great Barrington, Hancock, Hinsdale, Lanesborough, Lee, Lenox, Monterey, Mount Washington, New Ashford, New Marlborough, North Adams, Otis, Peru, Pittsfield, Richmond, Savoy, Sheffield, Stockbridge, Washington, West Stockbridge, Williamstown, and Windsor. BRTA operates local fixed-route and demand-response transportation services³ within the 384-

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

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

square-mile Berkshire County, serving a population of over 121,500. BRTA's operations include a network of 14 local transit routes. The local fixed-route service operates six days a week. Weekday service runs from 5:30 a.m. to 11:15 p.m., and Saturday service runs from 6:30 a.m. to 9:45 p.m. Buses and minibuses provide transit services to the vast majority of BRTA's riders, and its vans⁴ provide ADA-required paratransit services.

During the audit period, BRTA contracted with Berkshire Transit Management, Inc., a privately operated company, to provide transit management and operations services for its fixed-route bus and demand-response transportation services provided to paratransit riders.

BRTA managed all ADA-required paratransit and demand-response transportation services provided during the audit period using a transit scheduling and dispatching system.

Performance Targets for ADA-Required Paratransit Services

BRTA has a memorandum of understanding with MassDOT that includes on-time performance targets. These performance targets include a minimum on-time pickup rate for trips.

According to this memorandum of understanding, BRTA was to pick up at least 96.25% of riders within the scheduled pickup window for fiscal years 2021, 2022, and 2023.⁵

On-Time Performance

BRTA uses a 20-minute pickup window (15 minutes before and 5 minutes after the scheduled pickup time) for its on-time performance target. For example, if a rider has a scheduled pickup time of 7:45 a.m., the driver is considered on time if they arrive between 7:30 a.m. and 7:50 a.m. Depending on their arrival time, a driver will only wait either 5 minutes beyond the scheduled pickup time or 5 minutes beyond the time they arrive, whichever is later.

Untimely Drop-offs

BRTA uses a 20-minute drop-off window (15 minutes before and 5 minutes after the scheduled drop-off time) for its drop-off performance target. For example, if a rider has a scheduled drop-off time of 9:00 a.m., the driver is considered on time if the driver arrives at the drop-off location

4. BRTA owns these vans.

5. Note that, while the audit period corresponds to calendar years, the information here corresponds to fiscal years. Our entire audit period is encompassed within fiscal years 2021 through 2023.

between 8:45 a.m. and 9:05 a.m. BRTA considers any drop-off outside of this window an untimely drop-off.

Missed Trips

For BRTA's ADA-required paratransit services, a trip is considered missed when a driver arrives more than 30 minutes after the scheduled pickup time.

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.

Customer service representatives from BRTA's contracted paratransit provider receive ADA paratransit complaints from riders by telephone, email, mail, or in person. Upon receipt of one of these complaints, these customer service representatives record relevant information about the incident (such as the date, time, vehicle number, route, and complaint description) on a customer feedback form, then provide the complainant with an acknowledgment receipt. BRTA's contracted paratransit provider has five calendar days to investigate the complaint, after which they determine whether the complaint is valid. The contracted paratransit provider considers a complaint valid if it can verify that events occurred as described in the complaint, whereas it considers a complaint invalid if it cannot confirm that events occurred as described in the complaint. BRTA's contracted paratransit provider forwards complaints considered valid to BRTA's civil rights officer, who determines whether any remedial action should be taken to address the complainant's concern. BRTA's civil rights officer notifies the complainant of the investigation determination within seven calendar days after BRTA makes its determination. If the complainant disagrees with BRTA's determination, then they may submit an appeal in writing to BRTA's administrator within 30 days of the date of the determination letter.

BRTA Paratransit Ridership Information

The table below summarizes BRTA's paratransit information for fiscal years 2021, 2022, and 2023.

	Fiscal Year 2021*	Fiscal Year 2022*	Fiscal Year 2023*
Number of Trips	11,611	18,617	22,243
Number of Miles	194,118	228,829	300,018
Number of Drivers	12	13	13
Number of Vehicles Used	12	13	13

* While the audit period corresponds to calendar years, the information here corresponds to fiscal years.

BRTA Funding Sources

In fiscal years 2021, 2022, and 2023, BRTA received revenue from a variety of sources, including fares and federal, state, and local assistance. The table below shows the types of funding BRTA received during fiscal years 2021, 2022, and 2023.

Type of Funding	Fiscal Year 2021*	Fiscal Year 2022*	Fiscal Year 2023*
State and Contract Assistance	\$ 3,204,047	\$ 3,428,804	\$ 3,024,059
Local Assistance	999,065	1,024,042	1,049,644
Federal Assistance	2,260,349	2,393,345	1,846,309
Fixed-Route Income	465,840	508,150	538,795
Paratransit Income	46,721	64,868	75,456
Other Income**	136,010	105,303	343,013
Total	<u>\$ 7,112,032</u>	<u>\$ 7,524,512</u>	<u>\$ 6,877,276</u>

* While the audit period corresponds to calendar years, the information here corresponds to fiscal years.

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

BRTA's management stated that the RTA is a reporting component of MassDOT, and it submits its financial statements to MassDOT.

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 Berkshire Regional Transit Authority (BRTA) for the period January 1, 2021 through December 31, 2022.

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 BRTA 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; Sections 5.3, 5.4, and 5.6 of Chapter 8 of the Federal Transit Administration's (FTA's) Circular 4710.1; and BRTA's "ADA Policies and Procedures"?	No; see Finding <u>1</u>
2. Does BRTA ensure that all complaints from ADA-required paratransit riders are investigated and responded to as required by Section 27.13(b) of Title 49 of the Code of Federal Regulations and BRTA's "ADA Policies and Procedures"?	No; see Finding <u>2</u>

To accomplish our audit objectives, we gained an understanding of the aspects of BRTA's internal control environment relevant to the objectives by reviewing applicable agency policies and procedures and by interviewing BRTA employees and management. We evaluated the design of controls over ADA-required paratransit services and ADA paratransit complaints.

To obtain sufficient, appropriate evidence to address our audit objectives, we performed the procedures described below.

Performance Targets for ADA-Required Paratransit Services

We determined whether BRTA complied with its targets for ADA-required paratransit services regarding on-time performance, untimely drop-offs, and missed trips by taking the following actions:

- We obtained data from BRTA's transit scheduling and dispatching system regarding all trips that occurred during the audit period and extracted the 34,638 ADA-required paratransit trips that occurred during the audit period.
- Using Microsoft Excel, we analyzed all of these 34,638 ADA-required paratransit trips to determine whether BRTA met the performance targets in BRTA's "ADA Policies and Procedures" and FTA's guidelines in FTA Circular 4710.1.
- We compared the information corresponding to these 34,638 trips to BRTA's performance targets regarding on-time performance, untimely drop-offs, and missed trips by performing the testing described below.

On-Time Performance

To determine whether BRTA complied with the performance target of picking up at least 96.25% of riders within the scheduled pickup window, we took the following actions. We calculated the number of minutes between the ADA-required paratransit rider's actual pickup time and the scheduled pickup time for each of the trips that occurred during the audit period. We calculated the percentage of pickups that were on time from every trip that occurred during the audit period and compared this percentage to the performance target established in the memorandum of understanding between BRTA and the Massachusetts Department of Transportation. We identified 5,370 late pickups that were outside of the on-time pickup window and sorted these trips by the number of minutes that they were late. We selected a random, statistical sample⁶ of 47 trips out of the 5,370 trips with late pickups using a 90% confidence level,⁷ a 0% expected error rate,⁸ and a 5% tolerable error rate.⁹ In addition, we interviewed BRTA officials about the reasons for the 5,370 late pickups that occurred during the audit period.

Untimely Drop-Offs

To determine whether BRTA met FTA's performance target of having an untimely drop-off rate of no more than 0%, we took the following actions. We identified 8,454 trips that resulted in riders being

6. Auditors use statistical sampling to select items for audit testing when a population is large (usually over 1,000) and contains similar items. Auditors generally use a statistics software program to choose a random sample when statistical sampling is used. The results of testing using statistical sampling, unlike those from judgmental sampling, can usually be used to make conclusions or projections about entire populations.

7. Confidence level is a mathematically based measure of the auditor's assurance that the sample results (statistic) are representative of the population (parameter), expressed as a percentage.

8. Expected error rate is the number of errors that are expected in the population, expressed as a percentage. It is based on the auditor's knowledge of factors such as prior year results, the understanding of controls gained in planning, or a probe sample.

9. The tolerable error rate (which is expressed as a percentage) is the maximum error in the population that is acceptable while still using the sample to conclude that the results from the sample have achieved the objective.

dropped off after their scheduled drop-off time. We then calculated the number of minutes between each rider's actual drop-off time and scheduled drop-off time for each of these trips. We selected a random, statistical sample of 47 trips out of the 8,454 untimely drop-off trips, using a 90% confidence level, a 0% expected error rate, and a 5% tolerable error rate. In addition, we met with BRTA officials to identify the cause of each untimely drop-off in our sample.

Missed Trips

To determine whether BRTA met FTA's performance target of having a missed trip rate of no more than 0%, we took the following actions. We calculated the number of minutes between the actual pickup time and the scheduled pickup time for each of the ADA-required paratransit trips that occurred during the audit period. We identified 477 trips where the driver arrived more than 30 minutes after the scheduled pickup time. We determined that the percentage of missed trips for the audit period was 1.38%. From the 477 trips, we selected a random, nonstatistical sample¹⁰ of 40 trips out of the 477 missed trips by targeting 100% (27) of the trips where the driver was over two hours late and randomly selected 13 trips from the remaining 450 trips. In addition, we met with BRTA officials to identify the cause for each missed trip in our sample.

See Finding 1 for more information regarding the results of our testing regarding whether BRTA delivered ADA-required paratransit services on time and in accordance with its performance targets.

ADA Paratransit Complaints

To determine whether BRTA investigated and responded to ADA paratransit complaints, we took the following actions. We reviewed all of the 17 valid paratransit complaints that BRTA received during the audit period. Of these 17 paratransit complaints, one was related to ADA concerns. We reviewed the one ADA paratransit complaint to determine whether (1) BRTA's contracted paratransit provider documented the complaint in a summary log, (2) the complainant received an acknowledgement of receipt from BRTA's contracted paratransit provider customer service representative, and (3) BRTA notified the complainant of the determination of the investigation within seven days after the investigation was completed.

10. Auditors use nonstatistical sampling to select items for audit testing when a population is very small, the population items are not similar enough, or there are specific items in the population that the auditors want to review.

See Finding 2 for more information regarding the results of our testing of BRTA's ADA paratransit complaint process.

We used a combination of statistical and nonstatistical sampling methods for testing, and we did not project the results of our testing to any populations.

Data Reliability Assessment

Transit Scheduling and Dispatching System

To determine the reliability of the ADA-required paratransit trip dataset from BRTA's transit scheduling and dispatching system, we interviewed officials who were knowledgeable about the ADA-required paratransit rider data and tested selected information system controls (security management, configuration management, contingency planning, segregation of duties, and application controls). We then tested the ADA-required paratransit trip dataset to ensure that there were no records that were missing, duplicate, or outside of the audit period.

We obtained a list of 1,298 riders who were on BRTA's list of approved ADA-required paratransit riders from BRTA's administrator. To test this list for accuracy, we randomly selected a sample of 20 riders' names and the dates of their trips from this list and compared these to their hardcopy ADA-required paratransit rider applications to confirm that the riders' names and the dates of their trips matched. To test this list for completeness, we randomly selected 20 hardcopy ADA-required paratransit rider applications and traced these applications to the list. We verified that all riders who received ADA-required paratransit services from BRTA during the audit period were on BRTA's list of approved ADA-required paratransit riders.

ADA Paratransit Complaint Documentation

To determine the reliability of the list of ADA paratransit complaints we received from BRTA's electronic file storage, we interviewed officials who were knowledgeable about BRTA's complaint records. We compared the total number of complaints from BRTA's electronic file storage for calendar years 2021 and 2022 to the number of valid complaints published on BRTA's website.

To determine the reliability of the complaint data, we obtained electronic copies of the 36 complaints that BRTA received during the audit period and identified 17 complaints that BRTA considered valid.

We verified that there were no gaps in the sequential numbers used to identify each complaint. We also verified that there were no duplicate complaint records.

Based on the results of the data reliability assessment procedures described above, we determined that the information we obtained was sufficiently reliable for the purposes of our audit.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Berkshire Regional Transit Authority did not accurately calculate its paratransit service performance metrics and did not meet the Massachusetts Department of Transportation's performance targets.

The Berkshire Regional Transit Authority (BRTA) did not accurately calculate the pickup and drop-off performance metrics for its paratransit services required by the Americans with Disabilities Act (ADA). BRTA also did not achieve the on-time performance targets outlined in its memorandum of understanding with the Massachusetts Department of Transportation (MassDOT).

BRTA inaccurately calculated its on-time performance by combining its pickup and drop-off percentages; the calculation for on-time performance should only include ride pickup percentages. This resulted in over-reporting of BRTA's on-time performance percentages as shown below.

Fiscal Year	BRTA's On-time Performance Percentage	On-time Performance Percentage Using Federal Transit Administration Guidelines
Second Half of Fiscal Year 2021	91.2%	88.63%
Fiscal Year 2022	89.8%	83.57%
First Half of Fiscal Year 2023	89.1%	82.91%

In addition, the drop-off percentages were not calculated correctly because BRTA included a five-minute window after a rider's scheduled drop-off, which does not match the Federal Transit Administration's (FTA's) untimely drop-off guidelines. Using this method of including a five-minute window, BRTA calculated 1,383 untimely drop-offs for the audit period. When using FTA's guidelines that consider any drop-off after the originally scheduled time as late, we calculated that BRTA had 8,454 untimely drop-offs during the audit period.

If BRTA does not accurately calculate its performance metrics, then it cannot identify how well its ADA-required paratransit service is performing. Late ADA-required paratransit services, whether for pickups or drop-offs, may have a negative impact on those relying on these paratransit services.

Authoritative Guidance

Sections 5.3 and 5.6 of Chapter 8 of FTA's Circular 4710.1 states,

When assessing the timelines of service, it is important to distinguish among on-time, early, and late pickups. . . . When calculating on-time performance, transit agencies often combine early pickups together with on-time pickups when documenting on-time performance. . . . For analysis purposes, transit agencies typically report this combined metric as "early arrivals plus on-time arrivals" and separately track the number and rate of early pickups, late pickups, and on-time pickups. . . .

FTA encourages establishing policies to drop off riders . . . no later than appointment times.

According to the Bilateral Memorandum of Understanding between BRTA and MassDOT, BRTA's on-time performance targets are as follows:

On-Time Performance—Demand Response:

- *Target ([fiscal year (FY) 2021]): 96.25%*
- *Interim Milestone (FY22): 96%*
- *Target (FY23) 96.25%*

Reasons for Issue

BRTA management stated that, when the scheduling and dispatching system was implemented at BRTA, the system was programmed by the scheduling and dispatching system vendor to calculate performance metrics. The scheduling and dispatching system vendor has since changed ownership. However, BRTA did not have adequate policies and procedures, including a monitoring component, to ensure that it accurately calculated and updated performance metrics. Further, BRTA did not have adequate policies and procedures, including a monitoring component, to ensure that it met the performance targets it agreed to with MassDOT.

Recommendations

1. BRTA should separately calculate its ADA-required paratransit service on-time pickup and drop-off performance metrics.
2. BRTA should ensure that its scheduling and dispatching system is updated to accurately calculate its current performance metrics.

3. BRTA should establish adequate policies and procedures, including a monitoring component, to ensure that it accurately calculates and updates performance metrics within its scheduling and dispatching system when necessary.
4. BRTA should establish adequate policies and procedures, including a monitoring component, to ensure that it meets the performance targets it agreed to with MassDOT.

Auditee's Response

BRTA disagrees with the methodology used to determine on-time performance with isolating pickup and drop-off percentages. BRTA riders are allowed to choose a scheduled time, either pickup or drop off. The rider is given the freedom to choose that critical timepoint for each leg of the trip. In order to effectively calculate on-time performance, percentages for pickup would need to be compared to those trips that were scheduled as customer choice-pickup time. The same logic would apply for drop off, if that time was chosen as critical to the rider. As noted in FTA Circular 4710.1, "the FTA encourages establishing policies to drop off riders no more than 30 minutes before appointment times and no later than appointment times." BRTA believes the flexibility of riders' choice in which time is critical (pickup or drop-off) allows for greater freedom and control by the ADA community we serve.

BRTA has the capacity to calculate on-time pickup as well as on-time drop off as outlined in the audit report. BRTA Administrator will pursue updating the data points reported in the [memorandum of understanding] with MassDOT.

Auditor's Reply

As noted above, BRTA combined its pickup and drop-off percentages when calculating its on-time performance metric, which the FTA's guidelines do not allow.

In addition, BRTA incorrectly included a five-minute window after a rider's scheduled drop-off when calculating its timely drop-off percentages. Section 4.5 of Chapter 8 of FTA's Circular 4710.1 allows for transit agencies to "establish a reasonable 'window' around the negotiated pickup time during which the vehicle may arrive and still be regarded as 'on time,' to account for day-to-day variability in the operation of complementary paratransit." The on-time window allowed by FTA is solely related to **pickup** times, not **drop-off** times. As previously mentioned, FTA's guidelines consider any drop-off after the originally scheduled time to be late.

We also want to note here that we have audited the topic of on-time performance of paratransit services at nine other RTAs across the Commonwealth over the past 20 months. No other RTA raised concerns regarding the methodology we used to determine on-time performance. We urge BRTA to fully implement our recommendations.

2. The Berkshire Regional Transit Authority did not follow required procedures, or have a segregation of duties, for processing Americans with Disabilities Act paratransit complaints.

We examined the one ADA paratransit complaint that BRTA received during the audit period and found the following issues:

- BRTA did not maintain a log of all complaints, investigation dates, and actions taken to resolve the complaints.¹¹
- BRTA's contracted paratransit provider did not send an acknowledgement receipt regarding the complaint to the complainant.
- BRTA's civil rights officer did not notify the complainant of their complaint resolution.
- BRTA does not have a segregation of duties by allowing its contracted paratransit provider to receive, investigate, and validate complaints, which could potentially be about or against the provider.

By not ensuring that it follows required procedures for its ADA paratransit complaint process, BRTA may not resolve significant issues regarding its transportation services in a timely manner or at all. This could have a negative impact on the quality of services that BRTA provides to its ADA-required paratransit riders. If BRTA allows its contracted paratransit provider to receive, investigate, and validate ADA paratransit complaints, which could potentially be about or against the provider, then BRTA cannot ensure that it is aware of all complaints and that there are no conflicts of interest.

Authoritative Guidance

Section 27.13(b)(1–3) of Title 49 of the Code of Federal Regulations states, “The recipient 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.”

BRTA's “ADA Policy Policies and Procedures” states, “Complaints received by Berkshire Regional Transit Authority will be logged and numbered.”

BRTA's ADA Concern/Complaint Policy, according to its website, states, “Upon receiving a concern notice, the complainant will receive an acknowledgement receipt. . . . The Civil Rights Officer will notify the

11. While the auditee did not maintain sufficient information regarding complaints, investigations, and complaint resolution, we were able to conduct our audit work by reviewing other information as explained above in the “Data Reliability Assessment” section of this report.

complainant in writing of BRTA's decision regarding the concern typically within seven (7) calendar days after the investigation has been completed."

Section 10.04 of Office of the Comptroller of the Commonwealth's *Internal Control Guide* from June 2015 states,

Management should divide or segregate key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud. This includes separating the responsibilities . . . so that no one individual controls all key aspects of a transaction or event.

Though BRTA is not required to follow this guide, we believe it is a best practice.

Reasons for Issue

BRTA did not have established monitoring controls to ensure that its employees and its contracted paratransit provider follow its complaint policies and procedures. It also did not have policies and procedures for segregating duties related to ADA paratransit complaint processing.

Recommendations

1. BRTA should maintain a log of all complaints, investigation dates, and actions taken to resolve the complaints.
2. BRTA should segregate duties related to ADA paratransit complaint processing, such as receiving, investigating, and validating complaints.
3. BRTA should establish monitoring controls to ensure that its employees and its contracted paratransit provider follow its ADA paratransit complaint policies and procedures.

Auditee's Response

The [complaint selected was] actually not an ADA [paratransit complaint]. The [customer feedback form was] incorrectly labeled by staff who selected two boxes. The ADA box signifies the type of passenger, not the type of complaint. BRTA agrees that increased tracking and monitoring of any complaint, including paratransit, is judicious and BRTA has updated our website and complaint tracking procedures.

Following your input, BRTA has updated our complaint procedures. The follow up conversation on August 14, 2024 outlined the internal and external documents that need to flow cohesively. BRTA will initiate this project on September 3, 2024 with an expected completion date of 90 days or November 4, 2024.

Auditor's Reply

In its response, BRTA indicates that the complaint reviewed was a general service complaint that was improperly classified as an ADA paratransit complaint by BRTA's contracted paratransit provider. This information was not provided to us during this audit. We reiterate our recommendation that BRTA should establish monitoring controls to ensure that its contracted paratransit provider follows its ADA paratransit complaint policies and procedures, which would include accurately classifying complaints that it receives.

BRTA also states that the ADA box selected on the customer feedback form signifies the type of passenger, not the type of complaint. As pictured below, BRTA's customer feedback form has a section called "Type" with the following six options: schedule, operator, late bus, general, ADA, and Title VI.

For Office Use Only					
Complaint	<input checked="" type="checkbox"/>	#	20	Fiscal Year:	23
Compliment	<input type="checkbox"/>				
Comment	<input type="checkbox"/>				
Decision: (complaints only)	<input checked="" type="checkbox"/> Valid <input type="checkbox"/> Invalid <input type="checkbox"/> Unable to Determine	Type:	<input type="checkbox"/> Schedule <input checked="" type="checkbox"/> Operator	<input type="checkbox"/> Late Bus <input type="checkbox"/> General	<input checked="" type="checkbox"/> ADA <input type="checkbox"/> Title VI
Distribution :	General Manager	Asst. General Manager	* Title VI Officer	File	
Administration (by GM/AGM)					

We believe these six options more accurately reflect types of complaints rather than types of passengers. However, if the expectation is that these options represent passenger types, BRTA should revise its complaint procedures, including its customer feedback form, to clearly reflect this.

Based on its response, BRTA is taking measures to address our concerns on this matter.