

# Report on Local Transportation Fund Triennial Performance Audits



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Report to the Legislature

2021

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## **Executive Summary**

In 1971, the California State Legislature passed the Transportation Development Act (Public Utilities Code Section 99200 et. seq.), which revolutionized transportation financing in California through a large, dedicated source of funding, particularly for transit. The Transportation Development Act created two programs: State Transit Assistance from the diesel fuel sales tax and Local Transportation Fund from the ¼ cent general sales tax. The money generated for these funds is significant: in Fiscal Year 2018-19, State Transit Assistance amounted to \$665.9 million and Local Transportation Fund to \$1.79 billion. To guarantee that Local Transportation Fund moneys are spent appropriately, triennial performance audits are conducted on fund recipients.

The California Department of Transportation (Caltrans) drafted this report on the Local Transportation Fund performance audits as required by Assembly Bill (AB) 149 (Committee on Budget, Chapter 81, Statutes of 2021). The report focuses on opportunities for streamlining the audits and opportunities to make the audits more effective. Caltrans consulted with transportation planning agencies, county transportation commissions, and transit development boards.

Caltrans recommends convening stakeholders to comprehensively review and consider amending the Transportation Development Act and relevant Public Utilities Code sections to incorporate sustainability and equity as statewide priorities in transit funding and to require audits include data compliant with the California General Transit Feed Specification Guidelines. This would modernize these and make the audits more streamlined and accurate.

Transportation Development Act spending accounts for a substantial amount of transportation funding by the state. Similarly, annual allocations for Transportation Development Act-Local Transportation Fund (Local Transportation Fund) indicates substantial funding for transit activities at the local level throughout the state.

Centering sustainability and equity in funding formulae would help achieve the statewide vision of accessibility and transportation system network access for all as outlined in the California Transportation Plan 2050 and the 2020-2024 Caltrans Strategic Plan. Modernization would reduce costs by eliminating redundant requirements and would facilitate sustainability and equity goals. Streamlining the audits could be accomplished through requiring reporting data compliance with the California Minimum General Transit Feed Specification Guidelines, as well as more comprehensive, centralized guidance for the performance audit process. These are multi-faceted efforts that would require extensive stakeholder and expert engagement and could lead to reductions in greenhouse gas emissions and increased transit services to underserved communities.

## **Background**

The Transportation Development Act established two funding sources enacted to improve existing public transportation services and encourage regional transportation coordination: The Local Transportation Fund, and the State Transit Assistance fund. The law provides funding to be allocated to transit and non-transit related purposes that comply with regional transportation plans. Providing certain conditions are met, counties with a population under 500,000 (according to the 1970 federal census) may also use the Local Transportation Fund for local streets and roads, construction, and maintenance. The State Transit Assistance funding can only be used for transportation planning and mass transportation purposes.

The Local Transportation Fund is derived from a ¼ cent of the general sales tax collected statewide. The State Board of Equalization, based on sales tax collected in each county, returns the general sales tax revenues to each county's Local Transportation Fund. Each county then apportions the funds within the country based on population.

The State Transit Assistance funds are appropriated by the legislature to the State Controller's Office, which then allocates the tax revenue, by formula, to planning agencies and other selected agencies. Statute requires that 50 percent of State Transit Assistance funds be allocated according to population and 50 percent be allocated according to transit operator revenues from the prior fiscal year.

The Road Repair and Accountability Act of 2017, SB 1 (Beall, Chapter 5, Statutes of 2017) augments the base of the State Transit Assistance program, increasing the amount in this fund from \$273 million in Fiscal Year 2016-17 (the last year before SB 1) to \$666 million in Fiscal Year 2018-19 (after SB 1). SB 1 stipulates that an additional 4 percent sales and use tax on diesel fuel with continuous appropriations of revenue attributable to 3.5 percent of the diesel fuel sales and use tax to the Controller for allocation to transportation agencies for public transit purposes under the State Transit Assistance Program. To provide for SB 1 reporting and transparency, transit agencies are asked to work with Caltrans to report on planned expenditures for these augmented funds. This information is reported on the SB 1 Program website: [www.rebuildingca.ca.gov](http://www.rebuildingca.ca.gov).

Public Utilities Code Section 99241 authorizes Caltrans to administer the statutes and regulations of the Transportation Development Act. Caltrans' statutory requirements are to:

- Review performance audits of transportation planning agencies (PUC 99246 (c))
- Review schedule of performance audits on operators (PUC 99248)
- Review/approve Transportation Planning Agency formula for blended fare ratios (PUC 99270.1)
- Ensure Transportation Development Act is implemented according to the law (PUC 99315 (c)).

## Statutory Reference

Caltrans drafted this report to fulfill the requirements of AB 149 (Committee on Budget, Chapter 81, Statutes of 2021) (See Appendix A for statutory reporting reference). The statute requires that Caltrans:

- Review Transportation Development Act performance audits requirements of transit agencies;
- Consult with transportation planning agencies, county transportation commissions, and transit development boards on the review of Transportation Development Act performance audits requirements;
- Identify opportunities for streamlining performance audits; and
- Identify opportunities for increasing the efficacy of performance audits.

## Program Background

Public Utilities Code Section 99245 and Section 99246 mandate that all state agencies conduct two types of audits: fiscal and performance audits. These audits are conducted to verify program compliance. Fiscal audits are conducted annually and include transit operator's expense-to-revenue ratio, known as farebox recovery. Performance audits are conducted triennially for any transit agency receiving Transportation Development Act funds as well as the Regional Transportation Planning Agency. The performance audits are used to evaluate the efficiency, effectiveness, and economy of operation of planning agencies and transit operators. Both fiscal and performance audits are conducted by entities designated by the transportation planning agency, a county transportation commission, or an operator. The Public Utilities Code defines the scope of the fiscal and performance audits that are to be conducted:

- Fiscal Audits (Public Utilities Code Article 3, Section 99245)
  - Conducted every year and
  - Submitted to State Controller's Office and relevant transportation planning agency,
- Performance Audits (Public Utilities Code Article 3, Section 99246)
  - Conducted every three years and
  - Submitted to Caltrans.

The triennial performance audits include evaluations of:

- Compliance with pertinent sections of Public Utilities Code;
- Progress to implement prior performance audit recommendations;
- Agency goals, objectives, and performance monitoring systems; and
- System-wide and functional area performance trends.

### Audit Criteria

The objective of the performance audit is to identify significant achievements, as well as opportunities for improvements, and to provide recommendations for short-term and long-term efficiency and effectiveness improvements. California law and regulations both require these audits and provide sanctions for those agencies that do not complete these performance audits in a timely manner.

The statute requires Transportation Development Act recipient agencies to conduct the performance audit as well as the penalty for non-compliance. Further requirements are given in Public Utilities Code Section 99246 et seq. The Public Utilities Code defines the performance audit requirements to ensure that transit agencies are being evaluated relatively uniformly and that there is a common baseline for assessing transit agency performance. Public Utilities Code Section 99246 stipulates that the performance audit must be conducted triennially and be conducted by an "entity other than itself, a county transportation commission, a transit development board, or a (transit) operator." The performance audit criteria include verification of:

- Operator's operating cost per passenger;
- Operating cost per vehicle service hour;
- Passengers per vehicle service hour;
- Passengers per vehicle service mile; and
- Vehicle service hours per employee.

Furthermore, as defined in Public Utilities Code Section 99247, the triennial performance audits include the consideration of the needs and types of the passengers being served and the employment of part-time drivers and the contracting with common carriers of persons operating under a franchise or license to provide services during peak hours. (See *Appendices B and C for statutory and regulatory references.*)

The performance audits are an important tool for improving transit service throughout the state and maximizing the impact of the state's investment in transit. Caltrans is committed to implementing audit recommendations that will result in better outcomes for transit in the state.

### California Integrated Travel Program and the General Transit Feed Specification

Caltrans' California Integrated Travel Program is dedicated to making travel simple, modernized, and cost-effective for all. With the growth of interconnectivity, more information is available that can lead to new and critical insights, such as what types of services are available where, how frequently transit reaches an area, how much transit costs, and where paratransit is available. This new information offers insights into transit's reach and benefits to certain communities.

This information has relevance to performance audits. This format used for this information is called the General Transit Feed Specification and is used by people throughout the world to track transit systems for performance monitoring and customer-facing services, such as trip planning. To facilitate this in California, the California Integrated Travel Program worked with stakeholders and experts to produce the California Minimum General Transit Feed Specification Guidelines. These Guidelines are the minimum requirements that an agency must meet to have valid General Transit Feed Specification data that is useful for planning and management purposes. Therefore, it is of the utmost importance that the General Transit Feed Specification be adopted according to the approved Guidelines.

### **Report Methodology**

The recommendations in this report are based on learnings from Caltrans' oversight of local agency performance and fiscal audits, as well as input from Local Transportation Fund recipient agencies. To gather this information, Caltrans conducted meetings with subject matter experts and transit operators, and reviewed fiscal and performance audits, and legislation evaluation to document policy and procedural recommendations.

Caltrans also consulted with transportation planning agencies, county transportation commissions, and transit development boards, pursuant to AB 149. Caltrans released a survey to the California Transit Association and the California Association for Coordinated Transportation (*see Appendix D for survey questions*). Caltrans hosted a webinar listening session with agencies to gain further insight into the triennial performance audits. The comments gathered at this listening session were then incorporated into this report and are incorporated into the recommendations and analysis below.

Finally, Caltrans Division of Rail and Mass Transportation discussed with key State government stakeholders and subject matter experts about their experiences working with the triennial performance audits. These discussions were with diverse experts from different divisions within Caltrans and at the California State Transportation Agency.



## **Findings**

The survey results, webinar discussions, and interviews with key stakeholders and subject matter experts led to several important findings and conclusions about the triennial performance audits of Local Transportation Fund recipient agencies.

### **Existing Barriers to Streamlining Performance Audits**

Streamlining the audits means creating a simpler, friendlier, and less costly process to complete the audits in a shorter timeframe. These barriers include the following:

- Many of the data requirements are redundant or outdated. Of the 19 survey respondents, 2 noted that the Full Time Employees number is burdensome to calculate. Five agencies noted that tracking the farebox recovery ratio is burdensome. As one respondent noted, "The performance metrics do not meet the current operating climate."
- There is a duplication of data gathering efforts for some items. For example, the financial audits and federal reporting requirements ask for similar data to those in the triennial performance audits. As one respondent wrote, "The number of files needed is tedious. More sampling rather than a full upload would reduce the workload."
- The vast majority (85 percent) of transit agencies in California use the General Transit Feed Specification in producing basic schedule data. Many (32 percent) also use the General Transit Feed Specification – Real Time in producing a greater amount of high-quality data. If agencies were permitted to use General Transit Feed Specification data to fulfill the triennial audit requirements, there would be several benefits to transit agencies. It would eliminate the difficult, redundant analytical work because it can be done automatically. It would permit automatic collection of data in an accepted format that would not require large amounts of analysis by staff.
- Triennial performance audits can be expensive for the metropolitan planning organizations. For the larger ones, they can cost approximately \$500,000 for the consultants to perform them over a three-year period. The smaller metropolitan planning organizations can still pay in the low \$10,000s for these audits each cycle.

### **Barriers that Reduce the Effectiveness of the Triennial Performance Audits**

The triennial performance audits have not seen great changes in their requirements or formats over the fifty years of the Transportation Development Act. At the same time, transit systems have greatly changed, with many new developments since the Act was passed. These new developments include mobility as a service, dial-a-ride services, and others. Analysis of the interviews, survey, and webinar indicated the following barriers to increased effectiveness of the audits:

- Sustainability and equity are statewide policy goals. This means the State of California promotes the incorporation of sustainability and equity considerations, such as in project selection through discretionary programs. The Transportation Development Act does not currently reflect these goals. Incorporating sustainability and equity into the audits would make them more effective at promoting statewide policy goals.
- As a result, the current data in the triennial performance audits cannot be easily used for analyses of sustainability and equity in transit. To make the audits a more effective tool, the audits should use other metrics that can be applied to such analyses, particularly on a geographic or socioeconomic basis.
- The Performance Audit Guidebook was last updated in 2008 and does not cover developments in transportation since that time. As one survey respondent wrote, "The Performance Audit Guidebook was last updated in 2008. It should be updated again to better reflect the current environment. The functional review guidance (topics and questions) should also be updated." These new advances in transportation include transportation network companies, micromobility, and the advances in the General Transit Feed Specification. Including these elements would make the performance audits more effective because they can evaluate the innovations that reflect transportation programs today.

## **Recommendation 1: Streamline Performance Audit Process**

Performance audits are costly, often costing tens of thousands of dollars or more, and produce a significant administrative burden for transit agencies. AB 149 requires that Caltrans identify opportunities to streamline performance audits.

Caltrans recommends requiring that agencies submit data compliant with the California Minimum General Transit Feed Specifications Guidelines and revising the Performance Audits Guidebook to streamline the transit agency Transportation Development Act performance audit process. The following details those, and additional, recommendations.

### **Recommendation 1A: Require Data Compliance with California Minimum General Transit Feed Specifications Guidelines**

Caltrans recommends that agencies report data in a format compliant with the General Transit Feed Specification Guidelines. This would allow Caltrans to easily collect and review performance audit information.

Currently, transit agencies must report on transit performance data using three different mechanisms. First, the General Transit Feed Specification collects in-depth information regarding transit services. Second, annual financial audits include fiscal information on transit agencies. Third, the federally mandated National Transit Database collects transit performance measures annually. Of these data sources, the California Minimum General Transit Feed Specification guidelines provides accurate data in a known format that is widely used. Data compliant with these guidelines are readily comparable between routes and between transit agencies. With standardized data compliance, agencies that do not submit compliant data would face significant scrutiny and additional data requirements. Therefore, requiring that transit agencies submit data compliant with General Transit Feed Specification Guidelines would reduce administrative burden in processing data and increase both the feasibility and accuracy of comparisons between transit agencies.

#### *Implementation Recommendations*

- Caltrans and the Public Utilities Commission consult with the transportation planning agencies, county transportation commissions, and transit development boards to identify the most appropriate metrics from General Transit Feed Specification data.
- Caltrans assist local transit agencies with technical assistance in gaining and maintaining compliance with the Guidelines.

## **Recommendation 1B: Centralize Guidance for Performance Audits**

Caltrans recommends producing stronger, centralized guidance for the transit agencies. This would include publishing an updated Performance Audits Guidebook and increasing stakeholder engagement. The Performance Audits Guidebook was last updated in 2008 before many current programs and transit practices existed, and the Guidebook needs to reflect those changes. In particular, the General Transit Feed Specification has become the go-to data format for California's and much of the world's transit industry. Not having the General Transit Feed Specification data in the Guidebook is a large gap in the guidance, and this type of data is a critical component of changes to the triennial performance audit as outlined above. Further, stronger guidance at state level will help clarify the more difficult parts of the audits and make the process more streamlined.

### *Implementation Recommendations*

- Caltrans consult with transportation planning agencies, county transportation commissions, and transit development boards to determine the criteria for a risk-based approach and risk management strategies.
- Caltrans incorporate a risk-based approach to the review of audits in the Performance Audits Guidebook. This would mean that certain audits would receive greater scrutiny based on potential risk. For example, those agencies that adhere to the General Transit Feed Specification Guidelines would receive less scrutiny, and those that do not would be subject to much greater scrutiny. In this way, the Transportation Development Act overhaul and General Transportation Feed Specification data integration could be accomplished concurrently.

### **Additional Streamlining Recommendations**

In addition to these main recommendations, the following would make the performance audits easier for transit agencies. These recommendations come from the surveys, the webinar, and internal Caltrans discussions and were selected by Caltrans management based on the feasibility of implementation.

- Update the Performance Audit Guidebook to reflect the latest in state policy and transit management, with a priority in making California Minimum General Transit Feed Specifications Guidelines-compliant data a core focus and key requirement dates. The Guidebook was last updated in 2008, and much has changed since. The California Integrated Travel Program could provide critical technical assistance and support for the update.
- Coordinate between transit agencies' fiscal and performance audits. The two audits could even be combined to include a performance component in the annual financial audits. This would reduce the number of reports and could greatly reduce the overall workload. Coupled with more automated information gathering and strengthened single-entity guidance, this reduction could be significant.

- Review the data, documents, and files collected and evaluate whether they are truly necessary. Survey respondents noted these concerns and noted that some of the items collected are excessive and could be cut. For example, full-time employee calculation was called out in the survey as excessive or burdensome. Future Guidebook revisions should carefully consider which items are necessary and cut those that are not. The required data items in California Public Utilities Code 99246 could be reviewed and revised to reflect today's data needs. Consultation with stakeholders will help guide which data, documents, and files are necessary.
- Evaluate and study whether the California Multiple Award Schedule could be used to facilitate the finding of suitable auditors. This approach can greatly speed up the procurement process for certain qualified areas.
- Simplify data collection by enacting several reforms recommended by the survey respondents. These recommendations include the following:
  - Electronic submission and collection of data;
  - Providing a checklist or manual of expectations in the Guidebook;
  - Providing data in charts or tables instead of extensive narrative;
  - Consider data sampling instead of full submission or lower information requests, both of which would require a review of true data requirements;
  - Pulling financial information from the metropolitan planning organizations or State Controller's Office; and
  - Eliminating duplication of work for different audits.
- Work with the Federal Transit Administration to evaluate whether state audits could be streamlined with federal audits.

## **Recommendation 2: Increase Effectiveness of Performance Audit Criteria**

AB 149 requires that the report include an analysis of how to increase the efficacy of the Transportation Development Act triennial performance audits of transit agencies. Caltrans identified two main areas where the triennial performance audits can be made more effective: incorporating sustainability criteria and incorporating equity criteria in the Transportation Development Act.

It is important to note that the following recommendations rely on the streamlining recommendations listed above. The standardized data from the General Transit Feed Specification not only allows easier reporting, it would also allow for additional types of analyses that make sustainability and equity considerations possible. The General Transit Feed Specification data can be combined with socioeconomic data and geographic location to make the recommendations below possible.

## **Recommendation 2A: Incorporate Sustainability in the Transportation Development Act**

Caltrans recommends convening stakeholders to consider amending the Transportation Development Act to require transit agencies to use Local Transportation Fund moneys for transit or greenhouse gas-reducing projects such as bicycle and pedestrian facilities. This could mean reconsidering the ability of counties under 500,000 in population in 1970 to spend Local Transportation Fund moneys on local streets and roads.

The State of California is committed to reducing greenhouse gas emissions and vehicle miles traveled. Currently, counties that were under 500,000 in 1970 can use Local Transportation Fund moneys for local street and road construction and repairs in addition to transit uses. Other counties must use Local Transportation Fund moneys for transit only. Amending the law in this manner would increase transit funding in smaller counties and lead to higher transit ridership, which would reduce greenhouse gas emissions and reduce the need to build more roads, thereby preserving the natural landscape.

Local Transportation Fund spending could favor investments in electrification, such as charging infrastructure and hydrogen-powered vehicles. The performance audits should be used as an opportunity to ensure that recipient agencies are using Local Transportation Fund resources to achieve Caltrans' sustainability goals. Regular greenhouse gas emissions reduction reporting could serve as one way to add greater accountability in this area. The triennial performance audits could report on adherence to these guidelines. This information could appear in the triennial audits through carefully chosen metrics that will measure where and how funds are spent and whether they have been spent in a sustainable way.

### *Implementation Recommendations*

- Caltrans convene a stakeholder working group to:
  - Reconsider the Transportation Development Act exception for counties with populations under 500,000 to apply Local Transportation Fund moneys to local street and road construction.
  - Consider amending the Transportation Development Act to add greenhouse gas emissions reductions as a triennial performance audit efficacy criterion.
  - Produce greenhouse gas emission reduction calculation methodology and standardized performance metrics for transit agency performance audits.

## **Recommendation 2B: Incorporate Equity in the Transportation Development Act**

Caltrans recommends convening stakeholders to consider amendments to the Transportation Development Act to put greater emphasis on essential services to transit-dependent populations. The Transportation Development Act should be re-examined with an eye toward making equity a key component of funding. Such a reform effort must include strong consideration of equity and economic opportunities for all Californians.

California is seeking to address historic inequities for underserved populations by supporting a state transportation system that provides transportation access for all. The Transportation Development Act does not take equity into consideration.

### *Implementation*

- Caltrans convene a stakeholder working group to:
  - Consider amending the Transportation Development Act to require that transit agencies spend a certain percentage of Local Transportation Fund moneys on areas with more unmet transportation needs, such as areas with poor transit connections, or disadvantaged communities. For example, bus services could be favored over expanded regional rail so that lower income individuals who rely on transit could benefit from bus services with more flexible schedules.
  - Consider utilizing key metrics in performance audits to incorporate equity in transit agency performance audits.

### **Additional Efficacy Recommendations**

There are several other opportunities to improve the transit agency performance audit efficacy that were identified by stakeholders. The survey respondents, webinar participants, and internal Caltrans discussions identified these recommendations. These opportunities complement the safety, efficiency, mobility, equity, and livability priorities of Caltrans' Strategic Plan.

Additional opportunities are presented below for Caltrans and the Public Utilities Commission to consider improving audit effectiveness include the following:

- Form a working group to modernize transit operations and management in alignment with General Transit Feed Specification updates and website posting.
- Create a standard format and uniform procedure for agency audits. Each agency conducts its performance audits in different ways. While it is important to have flexibility to meet local needs, more consistency in approach could make these audits more useful regionally and statewide.

- Establish a single entity to conduct audits. Communications with the 44 regional transportation planning agencies and metropolitan planning organizations in California established that they all used diverse means to conduct the audits. A single, centralized auditor would strengthen the quality of the audits and reduce administrative burden on individual local agencies.
- Investigate the following key areas that are necessary for performance audits:
  - Operating expenses;
  - Follow-up on past recommendations;
  - The effectiveness of the transit operator;
  - Big-picture considerations of system health (as opposed to limited considerations of revenues and expenses); and
  - Regional transportation planning agency spending on planning and administration.
- Cover additional, new areas that have not yet been included in performance audits. These areas include federal performance measures and progress toward them, context of general trends (e.g., COVID-19 impacts), planning, and administration.
- Adjust the coverage of some additional areas, either increasing or decreasing their depth, so that all pertinent areas are covered in the audits in proportion with their importance. Consideration may be given to eliminating several graphs and charts of performance measures, counting the number of full-time employees, and the requirement for analyzing unmet needs if that agency spends 100 percent of funds on transit. The future guidebook update should modify the full-time equivalent to 2,080 hours instead of 2,000 hours, and it should add a section on agency-specific considerations, such as external influences and notable achievements.

## Conclusion

After 50 years with few changes, the Transportation Development Act has formed a core component of transportation spending in California. The performance audits have served a vital purpose in making sure that California taxpayers get value from their tax dollars. It is an important tool in accountability and helps guide future spending for Local Transportation Fund, which totaled over \$1.76 billion in Fiscal Year 2019-20.

To enact many of the recommendations in this report, an effort should be made to develop a comprehensive overhaul of the Transportation Development Act. Stakeholders should be brought together to agree upon a new set of legislative mandates and policy priorities that will become law to achieve the equitable and sustainable transportation future supported by effective and streamlined performance audits.



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## Appendix A. Statutory Reporting Reference

### Public Utilities Code Section 99246.5:

**99246.5.** (a) On or before November 30, 2021, the department, in consultation with transportation planning agencies, county transportation commissions, and transit development boards, shall review the requirements for, and submit a report to the Legislature on, the performance audits conducted pursuant to Section 99246 to identify opportunities for streamlining the performance audits and to make the performance audits more effective.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2025.

## **Appendix B. Statutory Reference for Performance Audits**

21 CCR § 6662.5

### **§ 6662.5. Performance Audits of Transportation Planning and Programming Entities.**

(a) Each transportation planning agency, county transportation commission and metropolitan transit development board shall designate an independent entity to make a performance audit of its activities with respect to the Act pursuant to Public Utilities Code section 99246. The performance audit shall be submitted to the Director by July 1 triennially, in accordance with a schedule established by the transportation planning agency, county transportation commission and metropolitan transit development board.

(b) If the transportation planning agency or county transportation commission, or metropolitan transit development board fails to transmit a performance audit report of its activities within one year after the date on which the report was due, the agency, commission, or board shall not be eligible to receive funds allocated for administration or planning until the audit report is transmitted or unless prior approval is granted by the Director.

(c) The performance audit prepared pursuant to this section shall be made available to the public pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.)

Note: Authority cited: Section 99241, Public Utilities Code. Reference: Sections 99241, 99246, and 99248, Public Utilities Code.

## Appendix C. Regulatory Reference for Performance Audits

### California Public Utilities Code Sections 99246-99248:

#### 99246.

(a) The transportation planning agency shall designate entities other than itself, a county transportation commission, a transit development board, or an operator to make a performance audit of its activities and the activities of each operator to whom it allocates funds. The transportation planning agency shall consult with the entity to be audited prior to designating the entity to make the performance audit.

Where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall designate entities other than itself, a transportation planning agency, or an operator to make a performance audit of its activities and those of operators located in the area under its jurisdiction to whom it directs the allocation of funds. The board or commission shall consult with the entity to be audited prior to designating the entity to make the performance audit.

(b) The performance audit shall evaluate the efficiency, effectiveness, and economy of the operation of the entity being audited and shall be conducted in accordance with the efficiency, economy, and program results portions of the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." Performance audits shall be conducted triennially pursuant to a schedule established by the transportation planning agency, transit development board, or county transportation commission having jurisdiction over the operator.

(c) The performance audit of the transportation planning agency, county transportation commission, or transit development board shall be submitted to the director. The transportation planning agency, county transportation commission, or transit development board, as the case may be, shall certify in writing to the director that the performance audit of operators located in the area under its jurisdiction has been completed.

(d) With respect to an operator providing public transportation services, the performance audit shall include, but not be limited to, a verification of the operator's operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee, as defined in Section 99247. The performance audit shall include, but not be limited to, consideration of the needs and types of the passengers being served and the employment of part-time drivers and the contracting with common carriers of persons operating under a franchise or license to provide services during peak hours, as defined in subdivision (a) of Section 99260.2.

The performance audit may include performance evaluations both for the entire system and for the system excluding special, new, or expanded services instituted to test public transportation service growth potential.

(e) The performance audit prepared pursuant to this section shall be made available to the public pursuant to the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). (Amended by Stats. 2003, Ch. 354, Sec. 1. Effective January 1, 2004.)

**99246.5.**

(a) On or before November 30, 2021, the department, in consultation with transportation planning agencies, county transportation commissions, and transit development boards, shall review the requirements for, and submit a report to the Legislature on, the performance audits conducted pursuant to Section 99246 to identify opportunities for streamlining the performance audits and to make the performance audits more effective.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2025.

(Added by Stats. 2021, Ch. 81, Sec. 5. (AB 149) Effective July 16, 2021. Repealed as of January 1, 2025, by its own provisions.)

**99247.**

For purposes of Section 99246, and as used elsewhere in this article:

(a) "Operating cost" means all costs in the operating expense object classes exclusive of the costs in the depreciation and amortization expense object class of the uniform system of accounts and records adopted by the Controller pursuant to Section 99243. "Operating cost" excludes all subsidies for commuter rail services operated on railroad lines under the jurisdiction of the Federal Railroad Administration, all direct costs for providing charter services, all vehicle lease costs, and principal and interest payments on capital projects funded with certificates of participation.

(b) "Operating cost per passenger" means the operating cost divided by the total passengers.

(c) "Operating cost per vehicle service hour" means the operating cost divided by the vehicle service hours.

(d) "Passengers per vehicle service hour" means the total passengers divided by the vehicle service hours.

(e) "Passengers per vehicle service mile" means the total passengers divided by the vehicle service miles.

(f) "Total passengers" means the number of boarding passengers, whether revenue producing or not, carried by the public transportation system.

(g) "Transit vehicle" means a vehicle, including, but not limited to, one operated on rails or tracks, which is used for public transportation services funded, in whole or in part, under this chapter.

(h) "Vehicle service hours" means the total number of hours that each transit vehicle is in revenue service, including layover time.

(i) "Vehicle service miles" means the total number of miles that each transit vehicle is in revenue service.

(j) "Vehicle service hours per employee" means the vehicle service hours divided by the number of employees employed in connection with the public transportation system, based on the assumption that 2,000 person-hours of work in one year constitute one employee. The count of employees shall also include those individuals employed by the operator which provide services to the agency of the operator responsible for the

operation of the public transportation system even though not employed in that agency.

(Amended by Stats. 2015, Ch. 716, Sec. 3. (SB 508) Effective January 1, 2016.)

**99248.**

No operator is eligible to receive an allocation under this chapter for any fiscal year until the transmittal of reports of its performance audit to the entity which determines the allocation to the operator and the transportation planning agency for the three-year period ending one year prior to the beginning of the fiscal year of the proposed allocation. The transportation planning agency, county transportation commission, or transit development board, as the case may be, shall make the reports available to interested parties.

In conformance with Section 99246, and prior to September 1 of each fiscal year, the transportation planning agency, county transportation commission, or metropolitan transit development board, as the case may be, shall provide to the director and Controller a schedule of performance audits to be submitted during that fiscal year and a list of all operators or claimants who operated or commenced operations during the prior fiscal year.

(Amended by Stats. 1989, Ch. 630, Sec. 6.)

## Appendix D. Survey Questions

1. What type of agency do you represent?
2. What areas of the triennial performance audit are being conducted well?
3. How are triennial performance audits conducted in your region?
4. Who is responsible for conducting these audits?
5. In your opinion, what performance components are investigated completely?
6. What performance components need further investigation?
7. Are there components that need to be added or deleted? If so, what are they?
8. Are there performance components that were not covered at all? If so, what are they?
9. In terms of your agency completing the audit, what has functioned smoothly and does not need further change?
10. What parts of the audit are excessive or burdensome for your agency to complete?
11. How can audits be simplified?
12. What was not covered in the audit guidance or communications that should have been covered?
13. Are there parts of the audit that are duplicative of what other federal or state audits already do?
14. On a scale of 1 to 10, how difficult was it for you to complete the audit? (1 is easy, 10 is difficult)