



U.S. Department
of Transportation
**Federal Transit
Administration**

REGION VI
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Texas

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June 8, 2011

Mr. John Breeding
President, Harris County Improvement District
1980 Post Oak Boulevard, Suite 1580
Houston, Texas 77056

Re: FY 2011 Triennial Review Final Report

Dear Mr Breeding:

Enclosed is a copy of the final report of the Federal Transit Administration's (FTA's) Triennial Review of the Harris County Improvement District as required by 49 USC 5307 (i). Although less exacting than an audit, the Triennial Review is the FTA's assessment of compliance with federal requirements determined by the examination of grant management practices and program implementation.

The Triennial Review examines 24 areas. Because the District does not operate a transit system, six areas are not applicable. At the time of the review, no deficiencies were found in accordance with the FTA requirements in 14 of the 18 applicable areas. Deficiencies were found in four areas: Disadvantaged Business Enterprise, Title VI, Drug-Free Workplace, and ARRA. The deficiencies and corrective actions that must be taken to attain full compliance are described in the report.

Please convey our appreciation to your staff for the assistance and cooperation they provided to the FTA review team. If you have any questions or comments, please contact Suleman Shoaib at 817-978-0556 or Suleman.Shoaib@dot.gov.

Sincerely,

Robert C. Patrick
Regional Administrator

Enclosure

cc w/enclosure: Shannon Daniels, Uptown

FINAL REPORT

FY2011 TRIENNIAL REVIEW

of the

**Harris County Improvement District No. 1
(Uptown Houston)
Houston, Texas**

Recipient ID: 6777

**Desk Review: February 16, 2011
Site Visit: May 4-5, 2011**

May 2011

**Prepared for the
Federal Transit Administration
Region 6
Fort Worth, Texas**

by

CDI/DCI Joint Venture

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I. TRIENNIAL REVIEW BACKGROUND

The United States Code, chapter 53 of title 49, requires the Federal Transit Administration (FTA) of the United States Department of Transportation (USDOT) to perform reviews and evaluations of Urbanized Area Formula Grant activities at least every three years. This requirement is contained in 49 U.S.C. 5307(i).

- (2) At least once every three years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303-5306 of this title.
- (3) The Secretary may take appropriate action consistent with the review, audit and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

The Triennial Review includes a review of the grantee's compliance in 24 areas. The basic requirements for each of these areas are summarized below.

This report presents the findings from the Triennial Review of the Harris County Improvement District No. 1 (Uptown Houston) of Houston, Texas. This review was performed in accordance with FTA procedures (published in FTA Order 9010.1B, April 5, 1993) and included preliminary reviews of documents on file at the Region 6 Office in Fort Worth and on-site discussions and review of the procedures, practices, and records of Uptown Houston as deemed necessary. The review concentrated primarily on procedures and practices employed during the past three years; however, coverage was extended to earlier periods as needed to assess the policies in place and the management of grants. During the site visit, administrative and statutory requirements were discussed, documents were reviewed, and facilities were toured. Specific documents examined during the Triennial Review are available in FTA's and Uptown Houston's files.

II. REVIEW PROCESS

The desk review was conducted in the Region 6 Office on February 16, 2011. Following the desk review, a review package was sent to Uptown Houston advising it of the site visit and indicating additional information that would be needed and issues that would be discussed.

The site visit to Uptown Houston occurred on May 4-5, 2011. The individuals participating in the review are listed in Section VII of this report.

At the entrance conference, the purpose of the Triennial Review and the review process were discussed. During the site visit, administrative and statutory requirements were discussed and documents were reviewed. Uptown Houston's FTA-funded projects were toured.

Upon completion of the review, an exit conference was held with Uptown Houston's staff to discuss findings, corrective actions, and schedules. This information is summarized in the table in Section V of this report. A draft copy of this report was provided to Uptown Houston at the exit conference.

III. DESCRIPTION OF THE GRANTEE

The Uptown Houston District is a political subdivision of the State of Texas created in 1987 by a special act of the Texas Legislature, the first district of its kind. Its primary purpose is to leverage public funds with coordinated private resources to improve facilities and services in Uptown as well as accelerate area improvements. Uptown is the urban community in Houston's West Loop area anchored by Post Oak Boulevard, about five miles west of downtown, generally bordered by Interstate 10 on the north, Interstate 610 on the east, U.S. Route 59 on the south, and Chimney Rock on the west.

Uptown Houston levies a property tax on all property in the district to provide services and improvements above and beyond what the city, county, and individual property owners can provide. Its projects focus on traffic operations and monitoring, public area maintenance and beautification, infrastructure improvements for enhanced mobility and access, economic development, and communications and marketing. Uptown's offices are located 1980 Post Oak Boulevard, Suite 1580, in Houston.

A twelve-member Board of Directors appointed by the Texas Commission on Environmental Quality governs the District. Board members must be landowners, long-term tenants, or agents of landowners. Board members serve four-year staggered terms.

This review is Uptown Houston's first triennial review. Uptown has one ARRA grant (TX-66-0029) for \$5,000,000 of FHWA funds flexed to FTA. The grant is funding Livable Communities Initiative transit-pedestrian streetscape enhancements within 500 feet of bus stops and traffic signal improvements along five corridors: West Alabama, Post Oak Lane South, Hildago, McCue Middle, and Sage. The project is underway and completion is planned for October 2012. The District has an amendment pending to a CMAQ grant, TX-90-X005 to flex additional funds into this project. The District also has an amendment pending to a Section 5309 discretionary grant, TX-04-0029, for preliminary engineering for a planned Uptown Intermodal Terminal. This work is expected to get underway later this year. If funds are available, the District will expand its streetscape enhancement program to other corridors over the next three to five years.

IV. REVIEW

The Triennial Review normally focuses on compliance in 24 areas. Because Uptown Houston does not operate a transit system, six areas are not applicable. This section provides a

discussion of the basic requirements and findings in each of the eighteen applicable areas. There were no deficiencies in fourteen areas. Deficiencies were found in Disadvantaged Business Enterprise, Title VI, Drug-Free Workplace, and ARRA. The DBE finding is reported in the ARRA area because Uptown has an ARRA grant.

1. Legal

Basic Requirement: The grantee must be eligible and authorized under state and local law to request, receive, and dispense FTA funds and to execute and administer FTA funded projects. The authority to take actions and responsibility on behalf of the grantee must be properly delegated and executed.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for legal.

2. Financial

Basic Requirement: The grantee must demonstrate the ability to match and manage FTA grant funds, cover cost increases and operating deficits, financially maintain and operate FTA funded facilities and equipment, and conduct and respond to applicable audits.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for financial.

3. Technical

Basic Requirement: The grantee must be able to implement the FTA-funded projects in accordance with the grant application, Master Agreement, and all applicable laws and regulations, using sound management practices.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for technical.

4. Satisfactory Continuing Control

Basic Requirement: The grantee must maintain control over real property, facilities, and equipment and ensure that they are used in transit service.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for satisfactory continuing control.

5. Maintenance

Basic Requirement: Grantees and their subrecipients must keep Federally funded equipment and facilities in good operating order and maintain ADA accessibility features.

Findings: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for maintenance.

6. Procurement

Basic Requirement: FTA grantees use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the process ensures competitive procurement and the procedures conform to applicable Federal law, including 49 CFR Part 18 (specifically Section 18.36) and FTA Circular 4220.1F, "Third Party Contracting Guidance."

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for procurement.

7. Disadvantaged Business Enterprise (DBE)

Basic Requirement: The grantee must comply with 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. Grantees also must create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.

Finding: During this Triennial Review of Uptown Houston, deficiencies were found with USDOT requirements for DBE. Uptown exceeds the threshold required for submission of a DBE program and has not yet submitted a program to FTA for approval. Uptown has been addressing DBE participation in its FTA-funded projects under the City of Houston's requirements.

Corrective Action(s) and Schedule: By September 2, Uptown must prepare a DBE program that complies with FTA requirements, must attach the DBE program in TEAM, and must notify the FTA Program Manager when this requirement has been completed.

8. Buy America

Basic Requirement: Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA funded projects are produced in the United States. Grantees must conduct pre-award and post-delivery audits of purchases of revenue rolling stock in order to verify that Buy America provisions, Federal Motor Vehicle Safety Standards, and purchaser's requirements are met.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for Buy America.

9. Debarment and Suspension

Basic Requirement: Debarment and suspension are tools used to protect the public from fraud, waste, and abuse in Federal transactions. Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for debarment and suspension.

10. Lobbying

Basic Requirement: Recipients of Federal grants and contracts exceeding \$100,000 must certify compliance with Restrictions on Lobbying before they can receive funds.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for lobbying.

11. Planning/Program of Projects

Basic Requirement: The grantee must participate in the transportation planning process in accordance with FTA requirements, SAFETEA-LU, and the metropolitan and statewide planning regulations.

Grantees must develop and/or participate in a locally developed, coordinated public transit-human services transportation plan that identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes, provides strategies for meeting those local needs, and prioritizes transportation services for funding and implementation.

Each recipient of a Section 5307 grant shall have complied with the public participation requirements of Section 5307(c)(1) through (7). Each grantee is required to develop, publish, afford an opportunity for a public hearing on, and submit for approval a Program of Projects (POP).

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for planning/POP.

12. Title VI

Basic Requirement: The grantee must ensure that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participating in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. The grantee must ensure that Federally supported transit services and related benefits are distributed in an equitable manner.

Finding: During this Triennial Review of Uptown Houston, deficiencies were found with the FTA requirements for Title VI. Uptown does not have an FTA-approved Title VI program. The District has been addressing Title VI responsibilities under a plan modeled on Texas Department of Transportation and Federal Highway Administration requirements.

The District has not conducted an analysis of how the four factors in the DOT limited English proficiency (LEP) guidance apply to its programs and activities.

Corrective Action(s) and Schedule: By September 2, 2011, the District must:

- Prepare a revised Title VI program that meets FTA requirements
- Complete an analysis of how the four factors in the DOT LEP guidance apply to its programs and activities
- Prepare a description of any language assistance provided along with a timeline
- Attach these documents in TEAM, and
- Notify the FTA Region 6 Program Manager when these requirements have been completed.

13. Public Comment on Fare and Service Changes

Basic Requirement: Section 5307 grantees are expected to have a written locally developed process for soliciting and considering public comment before raising a fare or carrying out a major transportation service reduction.

Finding: Uptown Houston does not operate transit service. This area is not applicable.

14. Half Fare

Basic Requirement: During non-peak hours for fixed route service supported with Section 5307 assistance, fares charged elderly persons, persons with disabilities or an individual presenting a Medicare card will not be more than half the peak hour fare.

Finding: Uptown Houston does not operate transit service. This area is not applicable.

15. ADA

Basic Requirement: Titles II and III of the Americans with Disabilities Act of 1990 provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility and the provision of service, including complementary paratransit service.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for ADA.

16. Charter Bus

Basic Requirement: FTA grantees are prohibited from using Federally funded equipment and facilities to provide charter service if a registered private charter operator expresses interest in providing the service. Grantees are allowed to operate community based charter services excepted under the regulations.

Finding: Uptown Houston does not operate transit service. This area is not applicable.

17. School Bus

Basic Requirement: Grantees are prohibited from providing exclusive school bus service unless the service qualifies and is approved by the FTA Administrator under an allowable exemption. Federally funded equipment or facilities cannot be used to provide exclusive school bus service. School tripper service that operates and looks like all other regular service is allowed.

Finding: Uptown Houston does not operate transit service. This area is not applicable.

18. National Transit Database (NTD)

Basic Requirement: Grantees that receive 5307 and 5311 grant funds must collect, record, and report financial and non-financial data in accordance with the Uniform System of Accounts (USOA) and the *National Transit Database (NTD) Reporting Manual* as required by 49 USC 5335(a).

Finding: Uptown Houston does not operate transit service. This area is not applicable.

19. Safety and Security

Basic Requirement: Under the safety authority provisions of the Federal transit laws, the Secretary has the authority to investigate the operations of the grantee for any conditions that appear to create a serious hazard of death or injury, especially to patrons of the transit service.

As recipients of Urbanized Area Formula Grant Program funds, grantees must annually certify that they are spending at least one percent of such funds for transit security projects or that such expenditures for security systems are not necessary.

FTA and the Department of Homeland Security's (DHS) Transportation Security Administration (TSA) have developed a list of 17 Security and Emergency Management Action Items for Transit Agencies. The action items aim to elevate security readiness throughout the public transportation industry by establishing baseline measures that transit agencies should employ.

The goal of FTA's Safety and Security Program is to achieve the highest practical level of safety and security in all modes of transit. To this end, FTA continuously promotes the awareness of safety and security throughout the transit community by establishing programs to collect and disseminate information on safety/security concepts and practices. In addition, FTA develops guidelines that transit systems can apply in the design of their procedures and by which to compare local actions. Many of the questions in this review area are designed to determine what efforts grantees have made to develop and implement safety, security, and emergency management plans. While there may not be specific requirements associated with all of the questions, grantees are encouraged to implement the plans, procedures, and programs referenced in these questions. For this reason, findings in this area will most often result in advisory comments rather than deficiencies.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for safety and security. Uptown indicated in its ARRA grant that it would not expend one percent of its flexed funds on security. Uptown's pedestrian improvements are constructed on public city streets. Security is provided by Houston Metropolitan Police and Houston Metro Transit Police.

20. Drug-Free Workplace

Basic Requirement: FTA grantees are required to maintain a drug-free workplace for all employees and to have an ongoing drug-free awareness program.

Finding: During this Triennial Review of Uptown Houston, deficiencies were found with the FTA requirements for drug-free workplace. Uptown does not have a Drug-Free Workplace policy or an ongoing drug-free awareness program.

Corrective Action(s) and Schedule: By September 2, 2011, the District must submit to FTA:

- An adopted drug-free workplace policy that includes all elements required by the Drug-free Workplace Act of 1988
- Evidence that it has implemented an ongoing drug-free awareness program and informed employees of the dangers of drug abuse and any available drug counseling, rehabilitation, and employee assistance programs.

21. Drug and Alcohol Program

Basic Requirement: Grantees receiving Urbanized Area Formula Program (Section 5307), Non-Urbanized Area Formula Program (Section 5311), or Capital Investment Program (Section 5309) funds must have a drug and alcohol testing program in place for all safety-sensitive employees.

Finding: Uptown Houston has no safety sensitive employees. This area is not applicable.

22. Equal Employment Opportunity (EEO)

Basic Requirement: The grantee must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participating in, or denied the benefits of, or be subject to discrimination in employment under any project, program, or activity receiving Federal financial assistance under the Federal transit laws. (Note: EEOC's regulation only identifies/recognizes religion and not creed as one of the protected groups.)

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for EEO.

23. ITS Architecture

Basic Requirement: Intelligent Transportation Systems (ITS) projects funded by the Highway Trust Fund and the Mass Transit Account must conform to the National ITS Architecture, as well as to United States Department of Transportation adopted ITS Standards.

Finding: During this Triennial Review of Uptown Houston, no deficiencies were found with the FTA requirements for ITS architecture.

24. American Recovery and Reinvestment Act (ARRA)

Basic Requirement: Grantees must have the legal, financial and technical capacity to carry out the proposed program of projects and meet the additional reporting requirements for its ARRA-funded grant activities.

Finding: Uptown has one ARRA grant, TX-66-0029, for \$5,000,000 of FHWA funds flexed to FTA for transit-pedestrian streetscape improvements. The project is underway and completion is planned for October 2012.

During this Triennial Review of Uptown Houston, deficiencies were found with the FTA requirements for ARRA. Uptown exceeds the threshold required for submission of a DBE program and has not yet submitted a program to FTA for approval.

Corrective Action(s) and Schedule: By September 2, Uptown must submit a DBE program that complies with FTA requirements. See DBE.

V. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

Review Area	Finding	Deficiency	Corrective Action	Response Date	Date Closed
1. Legal	ND				
2. Financial	ND				
3. Technical	ND				
4. Satisfactory Continuing Control	ND				
5. Maintenance	ND				
6. Procurement	ND				
7. Disadvantaged Business Enterprise	D-02	No approved program	Prepare DBE program, attach in TEAM, and notify Program Manager when complete	9/2/2011	
8. Buy America	ND				
9. Debarment and Suspension	ND				
10. Lobbying	ND				
11. Planning/POP	ND				
12. Title VI	D-01	Program not submitted in a timely manner	Prepare Title VI Program, attach in TEAM, and notify Program Manager when complete	9/2/2011	
	D-06	Lacking assessment for LEP persons	Prepare four factor analysis with language assistance plan and timeline, attach in TEAM, and notify Program Manager when complete	9/2/2011	
13. Public Comment on Fare and Service Changes	NA				
14. Half Fare	NA				
15. ADA	ND				
16. Charter Bus	NA				
17. School Bus	NA				
18. National Transit Database	NA				
19. Safety and Security	ND				
20. Drug-Free Workplace	D-02	No written policy	Submit adopted Drug-Free Workplace Policy and ongoing drug-free awareness program	9/2/2011	
21. Drug and Alcohol Program	NA				
22. Equal Employment Opportunity	ND				
23. ITS Architecture	ND				
24. ARRA	D-16	No approved program	See DBE	9/2/2011	

Findings: ND = No Deficiencies; D = Deficient; AC = Advisory Comment; NA = Not Applicable

VI. TRANSIT SECURITY EXPENDITURES

Does the grantee expend one percent or more of its Section 5307 Urbanized Area Formula Grant funds for transit security?

FY2008:	Yes:	<i>na</i>	No:	<i>na</i>
FY2009:	Yes:	<i>na</i>	No:	<i>na</i>
FY2010:	Yes:		No:	<i>X</i>

If no, why does the grantee consider such expenditure unnecessary (check all that apply):

	No deficiency found from a threat and vulnerability assessment
	TSA/FTA Security and Emergency Management Action Items met or exceeded
x	Other (please describe): Security provided by local and transit police.

Security Funding	FTA Section 5307 Funds		
	FY 2008	FY 2009	FY 2010
Total amount of 5307 funds expended			\$1,188,500
Amount of 5307 funds expended on security			0
Percent of 5307 funds expended on security			0
Infrastructure/Capital Improvement Security Projects:			
Lighting, fencing & perimeter control			
CCTV and surveillance technology			
Communications systems			
Security planning			
Drills & tabletop exercises			
Employee security training			
Other security-related infrastructure & capital improvements (please list)			
Operating/Personnel Expenditures (for agencies in areas with populations under 200,000):			
Contracted security force			
In-house security force			
Other security-related operating expenditures (please list)			

VII. ATTENDEES

Name	Title/Organization	Phone Number	E-mail Address
<i>Harris County Improvement District No. 1 (Houston Uptown)</i>			
John R. Breeding	President	713-621-2011	jrbreeding@houston-uptown.com
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Robert Taube	Director of Engineering and Construction	713-621-2011	rtaube@houston-uptown.com
<i>The Goodman Corporation</i>			
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