Metro

Transit-oriented Development Program
Improve transparency and oversight

August 2008
A Report by the Office of the Auditor

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Metro Auditor

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MEMORANDUM

August 20, 2008

To: David Bragdon, Council President
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            Carlotta Collette, Councilor, District 2
            Carl Hosticka, Councilor, District 3
            Kathryn Harrington, Councilor, District 4
            Rex Burkholder, Councilor, District 5
            Robert Liberty, Councilor, District 6

From: Suzanne Flynn, Metro Auditor

Subject: Audit of the Transit-oriented Development Program

The attached report covers our audit of the Transit-oriented Development Program in the Planning Department. This audit was included in our FY07-08 Audit Schedule.

The TOD Program was transferred from TriMet in 1996 and is relatively new to Metro. It is also a fairly unique program nationally. The purpose of our audit was to review the oversight and selection processes.

Since its inception, the Program has undergone changes and has completed several projects. That makes this an opportune time to re-examine its objectives and tighten some of its procedures. We found that the role of the Oversight Committee needs clarification and that the Program could improve documentation and transparency of its selection and funding decisions.

We have discussed our findings and recommendations with Andy Cotugno, Planning Director, and Megan Gibb, Manager, TOD Program. A formal follow-up to this audit will be scheduled within 1-2 years. We would like to acknowledge and thank the management and staff in the Department who assisted us in completing this audit.

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Summary

Metro's Transit-oriented Development (TOD) Program was designed to provide incentives for developers to build mixed-use, higher density projects near public transit. These projects are intended to serve as examples to encourage private developers to build similar projects and assist the region in accommodating future housing and transportation needs. Organizationally part of the Planning Department, the Program was transferred to Metro in 1996 from TriMet. Its projects have won national and local awards. When adjusted for inflation, operating expenditures were approximately $273,600 in FY03 and increased to $457,900 in FY07. Expenditures on projects totaled $3.7 million in FY06 and $2.8 million FY07.

Because the TOD Program invests in areas that the financial community is not yet willing to invest, there is some risk involved. To its credit, the Program has been able to bring 14 projects to completion. While the Program needs to maintain some flexibility to operate successfully in the real estate market, we concluded that additional steps could be taken to improve Program administration and reduce unnecessary risks that might prevent objectives from being met.

Selecting projects to fund is an important element of the Program's effectiveness. We found the selection process to be somewhat ad hoc. Program objectives have broadened over time in response to market opportunities. The Program made repeat investments with some developers which have the potential of increasing dependence on one developer. With a growing assortment of completed projects, the Program could benefit from documenting the selection process and distributing this information.

The Program uses an economic model to assess the cost effectiveness of new projects. The results are considered when approving projects and funding amounts. The model avoided some sources of errors that are common in cost effectiveness models but has many assumptions that can be modified and have a large impact on project selection and funding decisions. We recommended that a template be developed to ensure consistency and accuracy.

Program transparency could also be improved. Recently, the Program completed an annual report and also improved financial tracking. However, the Program does not consistently report costs in addition to those of construction separately for each project. It is also difficult for the Program to demonstrate its effectiveness because it has no system for regularly and consistently monitoring results. It does contract for periodic reviews of projects but these reviews do not look at Program results in a comprehensive way. We also recommended that the Program follow Metro policies and procedures for personal services contracts more closely.

At the start of this Program, a Steering Committee was designated to provide oversight of the Program and approve project sites. We found that the role of this oversight committee needs to be clarified and the information it receives could be improved.

Background

Metro's charter gives Metro jurisdiction over planning for regional population growth and the transportation system. Metro plans to accommodate future growth with denser development near existing or future transit. This pattern of development is intended to reduce the amount of land needed to house the region's population, make the transportation system more efficient, reduce automobile use and air pollution from automobiles, and preserve natural areas and farmland from sprawl.

The Transit-oriented Development (TOD) Program was designed to provide incentives for developers to build mixed-use, higher density projects near public transit. These projects serve as examples to encourage private developers to build similar projects. To date, the Program has helped bring 14 projects to completion. It has 16 additional projects underway (See Appendix I for a complete list of TOD projects).

Organizationally part of the Planning Department, the TOD Program was originally part of TriMet and was transferred to Metro in 1996. The Program has a Steering Committee that is responsible for approving projects within criteria established by the Metro Council. The Metro Council regularly approves a work plan that outlines the types of projects that will be funded.

The projects get financial support from the TOD Program in one or more of the following ways:

- Metro buys the land and re-sells it to a developer at a lower cost (land value write-down).

- Metro provides a low-interest or zero interest loan.

- Metro purchases an easement from the developer, an agreement that the project will be used in a manner that supports high density and mixed use.

- Metro provides funding to make physical improvements to a building in order to attract urban amenities like grocery stores and restaurants to make higher density development in the area more feasible.

- Metro uses Business Energy Tax Credits to integrate sustainable elements (like energy and water conservation features) into buildings.

Most of the money used to fund the Program comes through an inter-governmental agreement with TriMet. When adjusted for inflation, the Program's operational expenditures were approximately $273,600 in FY03 and increased by 67% to $457,900 in FY07. Investments in projects varied over the past five years, with most of the expenditures occurring in the two most recent years ($3.7 million in FY06 and $2.8 million in FY07).

EXHIBIT 1
TOD program expenditures
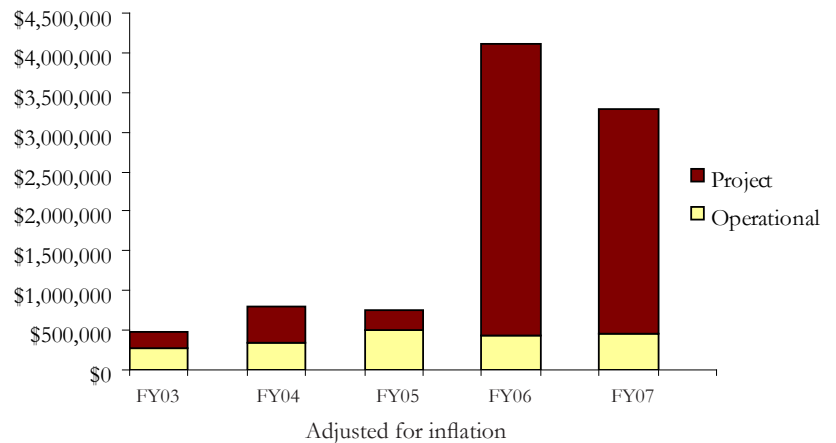
SOURCE: *Auditor's Office analysis of spreadsheet provided by Metro's Finance and Administrative Services Department*

Metro's TOD Program has been recognized for its leadership in transit-oriented development. Its projects have won local and national awards. It is the first program of its kind in the United States to use flexible federal transportation funds for TOD implementation and the first to receive authorization to use federal transportation funding to acquire land adjacent to a light rail station for redevelopment. Its work has helped to shape the joint development policies of the Federal Transit Administration. In 2008, Metro's Transit-oriented Development Program received the National Planning Association's National Planning Award for Best Practice.

Scope and methodology

The objectives of this audit were:
- To determine whether the Program had adequate oversight over its use of public funds
- To determine whether the Program had an effective, transparent process for choosing projects
- To determine whether the Program had adequate processes to monitor projects
- To determine whether the Program had procedures to adequately administer and account for the use of funds

To meet these objectives, we reviewed TOD Program documents, Metro Council resolutions, professional literature and studies of the Program's projects. We conducted a five-year analysis of TOD Program expenditures, attended meetings of the Steering Committee and reviewed minutes of their meetings. To understand the goals and activities of the Program, we reviewed an audit of the Program conducted in 2001, interviewed the Metro Council President, Metro's Chief Operating Officer, Program staff and members of the TOD Steering Committee, and visited TOD project sites. We interviewed staff of Metro's Finance and Administrative Services Department, as well as developers who have worked with the TOD Program and other developers who have not. Project files were reviewed to assess compliance with Metro procurement policies and to identify the complete costs for each project.

This audit was included in the FY08 audit schedule and conducted under generally accepted government auditing standards.

Case study methodology

The audit team adopted a case study approach for this audit. We were interested in understanding whether the Transit-oriented Development Program was implemented in the way it was intended and in understanding the effects of the Program. To do this, we selected five projects in different jurisdictions and in different stages of development to examine in depth. The sample was limited to projects with a Metro investment of $200,000 or greater. The projects included in the case studies are listed in Exhibit 2.

EXHIBIT 2
Case study projects

Project	Description
The Beranger	Four-story building with 24 one- and two-bedroom condominiums and 7,000 sq. ft. of retail space. • Jurisdiction: Gresham • Status: Completed 2007 • Other public partners: City of Gresham supported an Oregon Vertical Housing Tax Abatement (60% of the taxes on the value of the condominiums for 10 years)
bside6	Seven story building on East Burnside Street and 6th Avenue with 3,800 sq. ft. of office space and 23,200 sq. ft. of retail space. This building design won the American Institute of Architects' Portland Chapter Unbuilt Merit Award. • Jurisdiction: Portland • Status: Under construction; to be completed in 2009 • Other public partners: None
Gresham Civic Neighborhood Station & Plaza	Cornerstone of the Gresham Civic Neighborhood with five other TOD projects. The station is planned to include a platform (already built), a building and a plaza that integrates with the adjoining developments. • Jurisdiction: Gresham • Status: Design being developed; to be completed in 2009 • Other public partners: TriMet ($1.17 million), City of Gresham ($600,000)
Milwaukie Town Center	This project is planned for the site of a former gas station owned by Metro and a parking lot owned by the City of Milwaukie. The developer withdrew from the project, citing concerns about the downturn in the housing market and a lack of local commitment to the project. • Jurisdiction: Milwaukie • Status: Developer being selected; to be completed in 2009 • Other public partners: City of Milwaukie (contributed portion of the land)
Westgate	Former site of the Westgate Theater adjacent to the Round in Beaverton. Two developers were selected to submit proposals to develop the property through a Request for Qualifications process, but only one has submitted a proposal. • Jurisdiction: Beaverton • Status: Developer being selected; to be completed in 2010 • Other public partners: City of Beaverton ($2.25 million)

Source: Transit-oriented Development Program reports

Results

The TOD Program's projects are intended to encourage higher density, mixed-use development in areas where the financial community is not yet willing to invest in this type of development. Mixed-use buildings have higher costs than single use buildings for parking structures, fire safety features, elevators, steel frames for taller buildings and structural elements to separate retail space from offices and apartments. The financial community does not typically invest in projects unless costs can be recovered by anticipated apartment and office rents and condominium sale prices. As a result, the Program's involvement in transit-oriented developments poses some risk that funds will be expended without accomplishing Program objectives.

Assuming this type of risk may be necessary to meet the Program's goals. The Program has taken steps to reduce these risks. Development agreements we reviewed are structured to have developers assume financial risks, and developers are required to show that financing is available to them before TOD funds are provided. We found that the Program could take additional steps to minimize administrative risks.

We found that the TOD Program could benefit from:

- use of clear and consistent criteria to select projects and make funding decisions,
- clarification of oversight responsibilities, and
- stronger procedures for file management and to track performance.

Procedure for selecting projects needs to be standardized

Standardized and publicized procedures for selecting projects allow for fair competition among developers. It will also increase the likelihood that the best projects are selected. Such procedures can also provide for greater Program continuity when there is a change in the staff and increase the likelihood that Program objectives will be met. The TOD Program has few program materials available that accurately outline the criteria for project selection and funding levels. Project staff can orally describe the processes used and why decisions were made. Formalizing this information and making it available would improve program transparency.

Document and advertise selection criteria

It is important to ensure the existence and appearance of fair competition in the selection process. Developers should have easy access to information that would let them determine independently whether a project would be considered for funding.

Information about what types of projects would be considered is not readily available to developers. Developers for 26 TOD projects were interviewed and stated the most frequent way they heard about the Program (8 out of 26 projects) was through direct contact with TOD staff. Some of these direct contacts are likely the result of the Program's outreach effort. The Program could routinely broaden the potential base of projects by making project requirements available on the Program's web site and through periodic advertisements.

EXHIBIT 3
How developers heard about the TOD program

Information Source	No. of Developers
TOD Program staff	8
PDC	6
Other local government referral	4
Architect	2
Metro connection	2
Banker	1
Other developer	1
Does not recall	1
Realtor	1

Source: Auditor's Office developer interviews

Re-examine program criteria

The original objectives of the TOD Program were:

- Construction of higher density housing, mixed-use projects (i.e. apartments over retail, office over retail), and destination uses that have a physical and functional connection to transit, through partnerships with the private sector
- Developing suburban building types with the lowest reasonable parking ratios and highest reasonable floor area ratios (FAR's)
- Increasing the modal share of transit and pedestrian trips within station areas while decreasing reliance on personal automobiles
- Leveraging and focusing public expenditures within station areas to support Metro's 2040 Growth Concept

Subsequently, criteria for projects have broadened and need to be re-examined. Over the course of the Program, objectives have changed in response to market opportunities (see Exhibit 4). Changes in Program criteria have expanded the scope of the Program beyond its original mission of increased density and transit ridership. For example, TOD funding was used for roof-top gardens and for Leadership in Energy and Environmental Design (LEED) certification. With limited funds, expansion of the Program's criteria can dilute its ability to impact any one objective significantly.

EXHIBIT 4
Expansion of TOD Program criteria

Criteria	Council Action	Purpose	Project
Site improvements	March 9, 2000	Facilitate The Round and other projects (Metro Resolution 00-2906). Uses infrastructure improvements to support development	The Round
Urban centers	July 15, 2004	Support development in urban centers	Milwaukie North Main Village
Green buildings	July 15, 2004	Use revenues from Business Energy Tax Credits to integrate sustainable building practices into projects	Burnside Rocket, Milwaukie North Main Village, The Crossings, The Beranger
Frequent bus	May 19, 2005	Support development along frequent bus lines	North Flint and The Rocket
Unsolicited proposals	Sept. 13, 2005	Add a process for unsolicited proposals	Bruning proposal for Gresham Civic Neighborhood
Urban living infrastructure	Nov. 1, 2007	Expand the use of infrastructure improvements to support development	Hillsboro Town Theater, The Crossings

Source: Steering Committee minutes and Metro Council resolutions

Repeat investments with the same developer can make the TOD Program dependent on that developer's success. While the Program structures development agreements to limit Metro's risk, there are no established criteria to guide decisions related to repeat or concurrent investments in projects with the same developer. The Program has made repeated investments with three developers. One developer received support for three projects and has a commitment of support for two more. However, two earlier projects had not yet stabilized, and required additional investments from Metro. Management stated that project failure can have a negative impact on efforts to demonstrate market viability. As a result, the Program is willing to continue to support a troubled project. Explicitly stating a policy regarding this practice would increase program transparency.

Ensure consistency of assumptions used to measure cost effectiveness

The Program has developed an economic model to systematically examine the cost effectiveness of new projects. Results from these analyses are considered by the Steering Committee and Metro Council when approving projects and funding amounts. The model avoids some of the common errors found in transportation cost effectiveness analyses. However, we found that there are a number of assumptions in the model that can be varied. Inconsistent treatment of these assumptions might lead to over or underestimation of a project's benefits. As a result, the Program may select projects or funding levels that otherwise would not be chosen.

The Program calculates the cost effectiveness of Metro's investment using several factors. It computes:

- The number of new transit trips made per day ("induced ridership")
- The cost per trip (Metro's investment divided by induced trips)
- The dollar amount of transit fares over 30 years as a result of the project ("capitalized fare box revenue")

Results from cost effectiveness analyses are used as guides for how much Metro will invest in a project. The Program tries to keep Metro's investment below estimated capitalized fare box revenue. For example, The Beranger project's request for $250,000 is below its estimated capitalized fare box revenue of $252,000. The Program also compares cost per trip for new projects to that of previously funded projects.

The Program's cost effectiveness model avoids some sources of error that are common in analyses of transportation projects. The model compares the project to a base case, rather than assuming no alternative. Revenue and costs are discounted to adjust for the time value of money, because one dollar received today is worth more than one dollar received in the future. Transit use is based on actual travel behavior data.

Nonetheless, the model has many assumptions that can be modified and treatment of these assumptions can have a large impact on outcomes and potentially affect funding decisions. For example, the Program estimated capitalized fare box revenue of $354,000 to $425,000 for the bside6 project. The cost effectiveness analysis assumes that one floor of the building would be used for a sit-down restaurant. If this same space is used for retail, the suggested funding level would be less than one half this amount. Market conditions may change, making assumptions inaccurate. However, clearly outlining assumptions and their impact on proposed funding levels can assist in monitoring the success of the project and applying that information in future decisions.

Differences in assumptions can also create difficulties in comparing cost effectiveness across projects. One of the Program model's assumptions is the percentage of trips taken by transit. The analyses for two Portland area projects used different transit assumptions, even though they were similar projects and located five blocks from one another. One analysis assumes that 15% to 18% of trips will be made by transit, and the other assumes only an 8% to 12% transit share. These analyses were conducted several years apart, and Program staff stated that assumptions changed due to the availability of additional data regarding transit behavior. If these projects were compared, the one with the lower transit assumption might be at a disadvantage. Also, transit share assumptions for the base case are not always consistent. For three of four case study projects, cost effectiveness analyses assumed the same transit share for the base case and TOD case. For another, the transit assumptions were different.

The Program should also address consistency and accuracy of the model in three other areas:

1. The model applies a discount rate to revenue, which adjusts for the time value of money. The lower the discount rate, the higher the estimated fare box revenue. The Program has changed the discount rate it uses in the model and should use caution in comparing analyses with different discount rates.

2. Some TOD projects receive funding through loans. Management stated that short-term loans are not counted as part of project costs in the cost effectiveness analysis. The Program should determine how loans will be treated when calculating project costs, especially since some loans may not be repaid or have long repayment terms.

3. The cost effectiveness analysis for a new project is sometimes created by modifying the spreadsheet used for a previous project. In doing so, there is a chance that assumptions or errors are unintentionally transferred from one analysis to another.

In summary, Metro's cost effectiveness model for TOD projects allows it to adjust assumptions for many variables. Applying the methodology consistently will be a key to comparing results across projects. The Program should document key assumptions, including transit usage, discount rates, and how loans are treated, and continue to inform the Steering Committee and Metro Council when assumptions are changed. To prevent errors and promote consistency, the Program should consider using a template that locks the fields for assumptions that change infrequently, such as the discount rate and transit share. The Program is currently reviewing its cost effectiveness model to create procedures to improve the consistent use of key assumptions.

Transparency of funding could be improved

TOD Program documents state that the primary source of funding for the Program is federal funds distributed through the Metropolitan Transportation Improvement Program (MTIP). We reviewed the Program's funding process and found that the Program is actually funded not through federal MTIP funds but through TriMet general funds.

Metro is the lead agency responsible for the development of Portland's Regional Transportation Plan. MTIP determines which transportation projects included in the Regional Transportation Plan are given funding priority.

Metro applies for Federal Highway Administration regional flexible Surface Transportation Program funds for the TOD Program through MTIP. After these funds are awarded to the TOD Program, Metro and TriMet negotiate an agreement to exchange funds. TriMet agrees to use the federal funds for ongoing rail preventive maintenance. In return, TriMet agrees to provide Metro with an equal amount of TriMet general fund dollars for use in the TOD Program. The MTIP is amended and Metro gives funding authority for the regional federal funds to TriMet.

As a result, the federal funds that were originally requested by Metro for the TOD Program are provided to TriMet. TriMet, in turn, provides Metro with an equal amount of funds for the TOD Program. To improve the transparency of funding sources, the TOD Program should consistently report this exchange of funds and the actual source of funding.

Administrative procedures can be strengthened

Government programs and managers are required to be accountable for the use of public resources and to comply with applicable laws and regulations. The audit found weaknesses in reporting project costs, costs for services not directly related to construction, and file organization.

The Program has made improvements in the information it provides to the TOD Steering Committee and Metro Council by creating an Annual Report. This report includes information about the funding allocated to each project, but does not list actual expenditures. The Program can further improve reporting by including information about the total costs of each project in the report.

In addition to the funding the Program provides directly to developers for TOD projects, it also pays for services not related to construction. For example, the Program at times has paid to facilitate a community process or develop a community plan. The TOD Program did not report all of these costs associated with projects to the Steering Committee. Members of the Steering Committee asked to have these costs included in financial tracking sheets provided to them. An estimate of these additional costs is included in these tracking sheets as one line item, but they are not listed for each project. As a result, the Steering Committee did not get information about the total costs of individual projects.

Metro has policies and procedures in place intended to ensure public accountability regarding personal services contracts. During the course of the audit, we found it difficult at times to locate appropriate documentation to demonstrate that procedures were followed. There is generally no systematic approach to what documents are retained in contract folders. Management stated that turnover in the Planning Department had affected the quality of file management.

Oversight roles should be clarified

From our review of historical documents, we determined that additional Program oversight beyond that of the Metro Council and budgetary review was intended. In a resolution authorizing the start-up of the TOD Program, a Steering Committee was designated to provide oversight of the Program and to approve project sites and sites for implementation. The resolution also noted that approval of the Federal Transit Administration would occur which would also increase oversight. We found that oversight is not as strong as originally outlined.

Oversight that otherwise would be provided by the Federal Transit Administration did not occur because Federal Highway Administration (FHWA) funds for the Program were awarded to TriMet, who then funded the Program with TriMet resources. According to the Program, the arrangement came about because gaining approval by the FHWA was too cumbersome. However, it also effectively removed any oversight relative to federal funds, making Metro oversight more critical.

It is clear that the Steering Committee has the authority to act with the power of Metro Council to approve TOD project selection but any additional intended role is not as clear. The audit found that this oversight is limited by perceptions of the Committee's role and the quality of the information provided to it.

While most TOD projects were presented to the Steering Committee for approval, two of our case study projects were not. These projects were authorized by Metro Council as the regional transportation authority. According to the Program, these projects were placed in the Program for administrative purposes to manage the projects. The Program makes a distinction between project selection and program administration. It is staff's belief that oversight of Program administration is provided by Department management, the Chief Operating Officer, and the Metro Council, and not the Steering Committee.

We found that oversight of project selection by the Steering Committee can be strengthened. The Steering Committee's process for selecting recent TOD projects consisted of receiving information about a project to be funded about one week before meeting to discuss it, and then voting on the proposal. This is an improvement over the past practice of presenting proposals for new projects at Steering Committee meetings and having the Committee vote on them immediately but it may still not provide enough time for Committee members to consider their decisions completely.

Also, the information Committee members received did not allow them to compare the projects in terms of costs and effectiveness. The Committee was not always informed of all of the costs associated with the projects. Consulting costs are not consistently included in the accounting for project costs.

After a project is initially funded and approved, incremental changes can alter the scope. For example, The Beranger was originally designed as a 52 unit apartment building and received an original subsidy of $275,000. The size of the project was eventually reduced to 24 condominiums, while incremental funding increased the Metro investment to $687,400. As a result, Metro's cost per unit went from $5,288 to $28,542.

EXHIBIT 5
Metro's investment in The
Beranger and number of
housing units
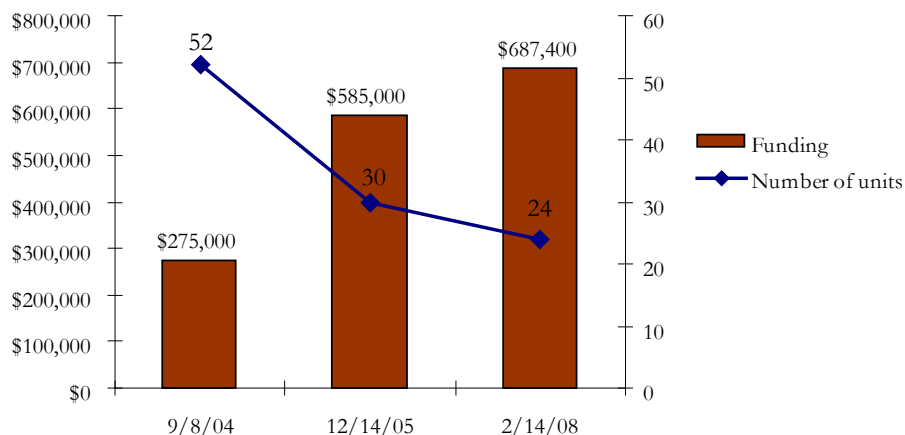
Source: Steering Committee minutes and Auditor's Office analysis of TOD expenditures

The Steering Committee was informed by Program staff as these incremental changes occurred. However, a more comprehensive look at the changes in the aggregate could provide additional information to improve future decision-making and oversight.

The Program lacked procedures for reporting on project outcomes after construction. Program staff stated they are aware how a project is completed in comparison to the proposed outcome. As the Program gains more experience, regular reviews of this type of information can strengthen its ability to meet objectives. For example, The Rocket was initially described as having retail and restaurants on the first floor, but currently has no retail component. This kind of information is important to the Steering Committee to consider in future funding decisions.

The introduction of a budget tracking sheet has improved the information provided to the Steering Committee. Some Steering Committee members we interviewed expressed an interest in getting information presented in a way that makes it easier to compare projects and make decisions.

Improve ability to demonstrate effectiveness

The 2001 audit of the Transit-oriented Development Program recommended that the Program:

- Develop a clear and cohesive framework for service efforts and accomplishments measures that demonstrate program accomplishments
- Select a limited set of the performance measures that address the program's highest priorities
- Update data used to measure performance

The TOD Program has made progress in reporting its accomplishments since the 2001 audit. Some measures of success are presented to the Steering Committee and included in the TOD annual report, including the number of housing units built, the amount of commercial space

created and increases in the number of daily transit riders. In addition, the Committee received a spreadsheet with project statistics. However, this information is not presented often enough and is difficult to interpret and analyze.

The Program had no system for regularly monitoring project results in terms of increased density, reduction in vehicle miles traveled or new private development stimulated by its efforts. Consequently, it is difficult for the Program to demonstrate its effectiveness. The Program has contracted for studies by external organizations and these have provided some information about the effectiveness of TOD projects. These studies did not consistently look at Metro's TOD projects in a comprehensive way. The projects that are reviewed vary in each study which does not allow for a complete comparison over a number of years so that trends can be noted.

There is currently data available that would add to the quality of information available. For example, we reviewed ridership data from transit stops near Metro's TOD projects and found that ridership near these projects increased faster than system-wide ridership for most projects. Exhibit 6 shows that ridership at the Gresham Transit Station that serves Central Point and The Beranger increased at a greater rate than overall ridership. Although this information is not necessarily conclusive, it is valuable to monitor.

EXHIBIT 6
Bus ridership near Beranger and Central Point compared to system-wide ridership
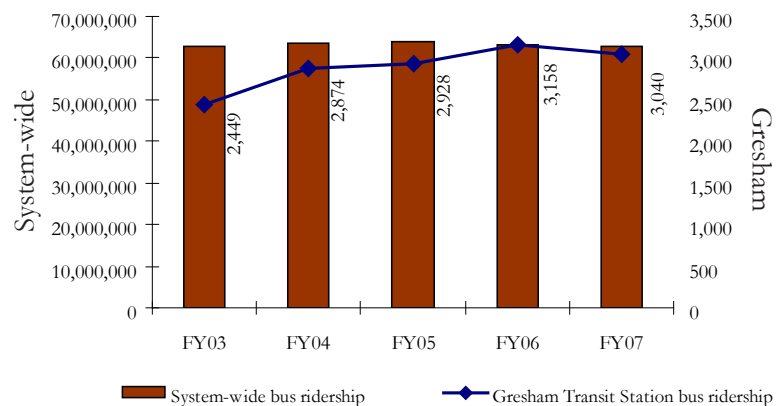
Source: TriMet

The TOD Program did not dedicate enough resources to monitor the results of its work. Without information about the results of the projects, it is difficult to know that the projects are effective in increasing density, increasing transit use, and reducing automobile use. The Program is testing theories about development, but without looking closely at the results, it will be unable to learn from the results of these tests. With fourteen completed projects, this is a good point in the Program's evolution to test whether the assumptions are valid.

RECOMMENDATIONS

Recommendations

A. **To improve project selection, the Transit-oriented Development Program should:**

1. Develop a consistent and publicized process for selecting projects for TOD funding.
2. Advertise the Program's selection process and criteria periodically.
3. Re-examine selection criteria.
4. Develop a policy to address the risk of repeat investments in projects with the same developer.
5. Document key assumptions used in cost effective analyses, including transit mode share, discount rates and how loans are treated.
6. Standardize the template used for cost effectiveness analysis.

B. **To improve transparency, the Program should:**

1. Report the actual source of program funding.

C. **To improve administrative procedures, the Program should:**

1. Work with the Procurement Office to ensure that documentation required by Metro is maintained.

D. **To improve Program oversight, the Program should:**

1. Clarify the role of the TOD Steering Committee in oversight and selection of projects.
2. Develop a regular report that shows a comparison of projects in terms of the results they achieve.
3. Develop a method for tracking and reporting complete project costs by project.
4. Develop procedures to monitor projects after they are completed.

RESPONSE TO AUDIT

Metro | *People places. Open spaces.*

August 18, 2008

The Honorable Suzanne Flynn
Metro Auditor
600 NE Grand Avenue
Portland, Oregon 97232

Dear Ms. Flynn:

Thank you for the opportunity to respond to your audit of the Transit Oriented Development (TOD) program. We appreciate the extensive amount of research undertaken for the audit, including interviews, document review, and site visits. We also appreciate the diligence and responsiveness of your office, particularly during the audit report review process, as we worked to clarify numerous issues.

Your review comes at a timely juncture in the evolution of the TOD program. Formerly a pioneering start-up program operated as an independent division for 12 years, Metro's TOD Program was recently integrated into the Regional Planning Division as part of a larger Metro strategy for place-making across the region. This change will allow for a more comprehensive understanding of real estate development and market dynamics in the Regional Planning Division, and it will allow for closer alignment of TOD Program goals and 2040 Growth Management strategies. We look forward to incorporating your recommendations into our management and budgeting practices.

As we have discussed, we have already taken steps to implement your recommendations concerning consistent and clear presentation of project cost-effectiveness analyses, costs and results. (Recommendations A5, A6, D2 and D3) For example, the program recently completed its first annual report documenting the history of the program and presented this report to both the Steering Committee and Metro Council. As you recommended, we will use this report as a basis for regular updates to the Steering Committee and Metro Council.

Other improvements that have been implemented include: the provision of regular budget updates including total project costs; staff reports with new tables to facilitate project comparison; annual updates of financial and travel behavior assumptions for use in cost-effectiveness calculations; and use of a standardized template for calculating induced transit rides and capitalized fare-box revenues. We will continue to refine and enhance information provided to Steering Committee members, the Metro Council and the public in order to ensure more effective decision-making.

It should be noted that Metro is in the process of developing performance measures agency wide. These measures will assist the TOD program in ensuring program investments are effective and will eliminate the need for duplicative studies which could reduce the amount of funds available to support projects.

We are addressing your recommendations concerning the provision of more easily accessible and understandable information about Program operations in order to ensure the development community and interested stakeholders are fully aware of program operations and funding availability. (Recommendations A1, A2, and B1) However, we believe improvements in outreach to the development community have been implemented over the last few years as evidenced by the fact that the program has partnered with ten new developers on projects initiated in the past 18 months.

When Metro began a complete redesign of its web site, the TOD Program immediately enhanced its web presence by adding narrative and images, streaming videos, slide shows, PowerPoint presentations and reports. The TOD Program web site illustrates its processes, results, innovations, and completed projects. The Program's 2007 Annual Report provides a comprehensive and data-rich history of the Program and each individual project investment. We receive numerous contacts directly through the Program's web site. Earlier this year, the Program's receipt of the American Planning Association's National Planning Excellence Award for Best Practice in the nation attracted local and national media coverage which increased awareness of the program and contacts through the Web site.

The program operates through a combination of federal grants, local funding from TriMet, interest income, Business Energy Tax Credits, and local government funding. To ensure understanding of program funding, we will add language to the Purchase and Sale Agreements for all development projects which states the various sources of program funds. We will clarify the source of funding on the web site and in the Work Plan when it is amended.

We are also implementing your recommendations to develop procedures to monitor projects after completion and address repeat investments with the same developer (Recommendations D4 and A4, respectively). Project monitoring will be undertaken more systematically on an annual basis as part of the research to prepare the TOD Program annual report. We are working with the Office of Metro Attorney to draft a policy regarding repeat investments for Metro Council consideration.

We acknowledge a need to streamline the project selection criteria. The numerous criteria reflect an incremental rather than comprehensive approach to program scope expansions. We anticipate initiating a Work Plan overhaul to address this issue. However, we would like to distinguish between selection criteria and changes to the scope of the Program. As the audit noted, the Metro Council has approved Work Plan amendments over time to include new program elements such as adding Urban Centers and Green Building. The recommendation to re-examine selection criteria (Recommendation A3) refers directly to the TOD Program's Green Building Program, which, to clarify, is not funded through TOD Program Funds as stated, but rather by Business Energy Tax Credit revenues raised through TOD projects that were supported by the program. The addition of Green Building to the TOD Program scope, approved by Metro Council, fully

supports Metro's commitment to sustainability by providing built examples of green building elements.

One of the TOD Program's Green Building projects is The Rocket on East Burnside. This award-winning project with innovative geo-thermal heating and cooling system is slated to become the first LEED Platinum building developed by a small-scale developer in Portland. We believe this type of program shows Metro Council's ability to respond to changing conditions and adapt programs to address serious issues such as climate change. The TOD Steering Committee and Metro Council reassessed the TOD Program's strategic direction and policies one year ago that led to significant changes to the TOD Work Plan. The TOD Work Plan is a dynamic document that will continue to evolve as needs and conditions change over time.

The recommendation concerning contract documentation (Recommendation C1) will be implemented in cooperation with the Metro Procurement Department. We acknowledge the challenge with consistent filing practices and will take steps to ensure documentation is located properly.

Regarding the recommendation to clarify the role of the TOD Steering Committee (Recommendation D1), we believe that the recent integration of the program into the Regional Planning Division presents a good opportunity to revisit the TOD Steering Committee role. The charter and composition of the current committee, which is comprised predominantly of state agencies with the addition of representatives from TriMet, Metro and the Portland Development Commission (PDC), was established by the Department of Environmental Quality as a predecessor to Metro's program establishment in 1996. The program was initially funded through CMAQ (Congestion Management and Air Quality) funds. The program and funding source since that time has not only changed agencies (it was initially managed through PDC), but also the program scope and Metro's regional goals have changed as well. Metro's Planning Department has developed a broader mission regarding the development of centers and is committed to ensure its resources contribute to place-making region wide. In light of this new mission, consideration will be given to determine the most appropriate committee structure and we will work to ensure roles and responsibilities of both the committee and Metro are clarified.

We appreciate the work and research that went into the audit and believe many of the actions we take to respond to the audit recommendations as the program is fully integrated with the Regional Planning Division will serve to enhance the effectiveness of the TOD Program.

Sincerely,

Andy Cotugno
Planning Department Director

Michael Jordan
Chief Operating Officer

Table of Audit Recommendations and Staff Responses

A. To improve project selection, the Transit-oriented Development Program should:

A.1.	Develop a consistent and publicized process for selecting projects for TOD funding.
Staff response:	The TOD Workplan sets forth the policies and practices of the Program, including very specific selection criteria and approval processes; it is approved by the TOD Steering Committee and formally adopted by the Metro Council. The Program has consistently followed the Workplan procedures for project selection. The Program has conducted exceptionally well publicized, open, and competitive developer selection processes for Metro-owned properties. The Program is designed to be able to respond quickly when developers with site control approach the Program for assistance; developers are working in a market environment where time is money, and opportunities are fleeting. We use a variety of strategies to publicize the TOD Program so that developers are aware of our interest in supporting TOD development in emerging markets. The Get Centered! events, brown-bags, and tours attracted more than 1,500 people and the program earned the Urban Land Institute's Oregon-Washington Chapter "Best Program" award in 2007. Groundbreakings and grand-opening ceremonies are also well advertised. Earlier this year, the Program's receipt of the American Planning Association's National Planning Excellence Award for Best Practice in the nation attracted local and national media coverage which increased awareness of the Program and contacts through the Web site. The TOD Program web site has videos and a plethora of information regarding our processes, results, innovations, and completed projects. We will add information about our selection process to the web and continue to explore a variety of methods to publicize the Program.

A.2.	**Advertise the Program's selection process and criteria periodically.**
Staff response:	Improvements in the effectiveness of our outreach to the development community over the last few years is evidenced by the fact that the Program has partnered with ten new developers on projects initiated in the past 18 months. When Metro began a complete redesign of its web site, the TOD Program immediately enhanced its web presence by adding narrative and images, streaming videos, slide shows, PowerPoint presentations and reports. The TOD Program web site illustrates its processes, results, innovations, and completed projects. We receive numerous contacts directly through the Program's web site. The Program's 2007 Annual Report is also on the web and provides a comprehensive and data-rich history of the Program and each individual project investment.

A.3.	**Re-examine selection criteria.**
Staff response:	We acknowledge a need to streamline the project selection criteria. As the audit noted, the Metro Council has approved Work Plan amendments over time to include new program elements such as adding Urban Centers and Green Building. The numerous criteria reflect an incremental rather than comprehensive approach to program scope expansions. We anticipate initiating a Work Plan overhaul to address this issue. However, we would like to distinguish between selection criteria and changes to the scope of the Program. The auditors' recommendation to re-examine selection criteria refers directly to the TOD Program's Green Building Program, which it described as inconsistent with the primary mission of the Program and its funding. To clarify, the Green Building program is not funded through TOD Program Funds as stated but rather by Business Energy Tax Credit (BETC) revenues. The BETC revenues are generated from TOD projects that were supported by the program. The addition of Green Building to the TOD Program scope was approved by Metro Council and supports Metro's commitment to sustainability by providing built examples of green building elements.

A.4.	**Develop a policy to address the risk of repeat investments in projects with the same developer.**
Staff response:	We are in the process of implementing this recommendation. We are working with the Office of Metro Attorney to draft a policy regarding repeat investments for Metro Council consideration.

A.5.	Document key assumptions used in cost effective analyses, including transit mode share, discount rates and how loans are treated.
Staff response:	This recommendation has been implemented. We instituted a practice of annual updates to each of the financial and travel behavior assumptions used in cost-effectiveness calculations. These assumptions are reviewed with the TOD Steering Committee.

A.6.	Standardize the template used for cost effective analysis.
Staff response:	This recommendation has been implemented. Staff now works with a standardized blank template, rather than modifying one recently used for a different project.

B. To improve transparency, the Program should:

B.1.	Report the actual source of Program funding.
Staff response:	The Program operates through a combination of federal grants, local funding from TriMet, interest income, Business Energy Tax Credits, and local government funding. The Program already reports the actual source of funds to pertinent local, regional, state and federal public officials and to anyone else who expresses interest in the complex details of Program operation. Formal MTIP and STIP amendments to exchange funds are first approved by IGA between Metro and TriMet, are then reviewed by Transportation Policy Advisory Committee (TPAC), FHWA and FTA, and are then approved by ODOT. However, to ensure that our development partners are aware of Program funding, we will add language to the Purchase and Sale Agreements for all development projects which states funding sources. We will also explain all the various sources of funding, rather than summarize as we have in the past, on the web site and in the Work Plan when it is amended.

C. To improve administrative procedures, the Program should:

C.1.	Work with the Procurement Office to ensure that documentation required by Metro is maintained.
Staff response:	This recommendation will be implemented in cooperation with the Metro Procurement Department. We acknowledge the challenge with consistent filing practices and will take steps to ensure documentation is located properly.

D. To improve Program oversight, we recommend that the Program:

D.1.	Clarify the role of the TOD Steering Committee in oversight and selection of projects.
Staff response:	The recent integration of the Program into the Regional Planning Division presents a good opportunity to revisit the TOD Steering Committee role. The charter and composition of the current committee, which is comprised predominantly of state agencies with the addition of representatives from TriMet, Metro and the Portland Development Commission (PDC), was established by the Department of Environmental Quality as a predecessor to Metro's Program establishment in 1996. The Program was initially funded through CMAQ (Congestion Management and Air Quality) funds. The Program and funding source since that time has not only changed agencies (it was initially managed through PDC), but also the Program scope and Metro's regional goals have changed as well. Metro's Planning Department has developed a broader mission regarding the development of centers and is committed to ensuring its resources contribute to place-making region wide. In light of this new mission, consideration will be given to determine the most appropriate committee structure and we will work to ensure roles and responsibilities of both the committee and Metro are clarified.

D.2.	Develop and report regularly a comparison of projects in terms of the results they achieve.
Staff response:	This recommendation has been implemented by providing the TOD Steering Committee with staff reports that now present data in tables to facilitate project comparisons when new projects are recommended for funding. We will continue to refine and enhance information provided to Steering Committee members, the Metro Council, and the public. In addition, we will continue to provide program results information reported in the annual report and Metro's annual program-performance budget. We will continue to contract with Portland State University for travel behavior studies specific to our completed TOD Projects. These studies are designed to isolate the travel behavior changes that result from our TOD investments. The TOD Program is just one of Metro's tools to help local jurisdictions enhance their downtowns and main streets and implement the Region 2040 Growth Concept. Metro is in the process of developing performance measures agency wide. These measures will assist the TOD Program in ensuring program investments are effective and will eliminate the need for duplicative studies which could reduce the amount of funds available to support projects.

D.3.	**Develop a method for tracking and reporting complete project costs by project.**
Staff response:	This recommendation is being implemented. We are now providing the TOD Steering Committee with regular budget updates in addition to an annual report that details the full revenue and expenditure history of the program, by project. We will continue to refine and enhance information provided to Steering Committee members, the Metro Council and the public.

D.4.	**Develop procedures to monitor projects after they are completed.**
Staff response:	We are in the process of implementing this recommendation. In addition to the project monitoring now done during construction and on an as-needed basis thereafter, follow-up monitoring will be done more systematically on an annual basis as part of the research to prepare the TOD Program annual report.

APPENDIX

APPENDIX I: Metro TOD Projects

Project Name	Jurisdiction	Developer	Status	Year Completed	Total Housing Units	Retail sq. ft.	Office sq. ft.
Buckman Terrace	Portland	Prendergast (McNamara)	complete	2000	122	2,000	-
Center Commons	Portland	Lenar Affordable Housing (Tom Kemper, Project Manager)	complete	2000	288	1,500	
Central Point	Gresham	Peak Development	complete	2004	22	3,000	-
GCN (Gresham Civic Neighborhood) SE - The Crossings I	Gresham	Peak Development	complete	2006	81	20,000	-
North Flint	Portland	Jerry Nordquist	complete	2006	5	-	2,800
North Main Village	Milwaukie	KemperCo (Kemper)	complete	2006	97	8,000	-
Pacific University	Hillsboro	Pacific University	complete	2007	-	5,500	99,500
Russellville Commons I & II	Portland	Rembold Properties	complete	2002	283	15,000	-
The Beranger	Gresham	Peak Development	complete	2007	24	6,100	-
The Merrick	Portland	Trammel Crow	complete	2005	185	15,000	-
The Rocket	Portland	Kevin Cavenaugh	complete	2007	-	7,800	8,237
The Watershed	Portland	Community Partners for Affordable Housing	complete	2007	51	2,700	-
Venetian Theater	Hillsboro		complete		-	-	-
Villa Capri	Hillsboro	Tualatin Valley Housing Partners	complete	2002	20	-	-
82nd Avenue Place	Portland	Innovative Housing Inc.	design development	2009	58	5,000	-
GCN Anchor Tenant - project	Gresham	CenterCal	design development	2009	-	60,000	-
GCN NW	Gresham	CenterCal	design development	2009	160	70,000	-
GCN SE - The Crossings II	Gresham	Peak Development	design development		-	-	-
GCN Station & Plaza	Gresham	To Be Determined	design development	2009	-		-
GCN SW - project	Gresham	Peak Development	design development	2010	150	30,000	-
Killingsworth Station	Portland	Winkler	design development	2010	50	6,000	-
NW Miller & 3rd	Gresham	Tokola Properties	design development	2008	34	5,436	-
Salvation Army Site	Gresham	400 Roberts Place LLC	design development	2008	28	9,500	-
Hillsboro Main St.	Hillsboro	To Be Determined	developer selection	2010	75	10,000	-
Milwaukie Town Center	Milwaukie	Main Street Partners (Kemper-withdrawn)	developer selection	2009	76	15,000	-
Westgate Site	Beaverton	To Be Determined	developer selection	2010	90	30,000	200,000
bside6	Portland	Marrs & Faherty	under construction	2009	-	3,800	23,200
Nexus	Hillsboro	Simpson Housing	under construction	2007	422	7,100	-
Russellville Commons III	Portland	Rembold Properties	under construction	2007	139	20,000	-
The Round	Beaverton	Dorn Platz	under construction	2009	54	80,000	450,000

SOURCE: Metro's Transit-Oriented Development Program

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