

CTA Governance Dilemma

Background:

Before the creation of the Cowlitz Transit Authority (CTA), the City of Longview was the public transportation provider for Longview, Kelso, and some unincorporated portions of Cowlitz County. As the public transportation provider, Longview was also the designated recipient of Federal Transit funds. The costs to operate the service were shared between Longview, Kelso, and Cowlitz County. As the Cities and County saw their funding decrease, they began to looking for other options to fund transit service in the area. A Public Transportation Benefit Area (PTBA) was created in 1987, and adopted the name of Cowlitz Transit Authority. The purpose of the PTBA was to create a revenue source to fund public transportation in the area. A number of cities were invited to be a part of the new PTBA, but ultimately included only Longview and Kelso, as Woodland, Kalama, and Castle Rock chose not to participate. The voters passed a sales tax initiative of 0.1% to fund public transportation.

At that time CTA's formation, it should have become the designated recipient of Federal Transit funds. Unfortunately, the records do not show this topic was discussed at that time. Instead, CTA left Longview as the Federal Recipient, and entered into an interlocal agreement with Longview to provide transportation services.

Problem:

This convoluted governance model created a number of issues. The CTA Board members do not fully understand their role as it relates to governing public transportation within our PTBA. Longview City Council members do not understand the role of Longview as the contractor to CTA. Each year auditors have great difficulty understanding the relationship of Longview and CTA, which is further complicated by Longview doing the accounting for CTA. Staff continually struggles with items that have governance implications, even though it deals with the convoluted governance model on a daily basis.

Projects that are approved by the CTA Board also have to be passed by the Longview City Council. This is necessary because CTA does not have the accounting system in place to manage large projects. In addition, any project that uses Federal funds must be approved by Longview, who is the Designated Federal Recipient. Longview City Council has recently show reluctance to pass CTA approved projects because of the lack of clarity that has arisen from the convoluted governance model.

Staff recently contacted the Federal Transit Administration (FTA) about the process of making CTA the Designated Federal Recipient. From the conversation, we learned that if CTA were to become the Designated Federal Recipient, the FTA would likely not allow CTA continue an interlocal agreement with Longview. Instead, CTA would be required to bring everything in-house or require CTA to open the transportation services contract to an open bid. Staff then submitted a series of questions to FTA, seeking clarification on a number of items. The responses from FTA further complicate the matter, and bring into question what authority CTA has to without becoming the Designated Federal Recipient. *(See "Q&A's - FTA about CTA-Longview Relationship (2-13-13)")*

The Washington State RCW's grant a Public Transportation Benefit Area the authority to govern all public transportation activities within the PTBA. Every PTBA in the state, including CTA, follow the guidance provided in the RCW's. All PTBA's in the state are also the Designated Federal Recipient, with the exception of CTA. The FTA Master Agreement, which defines the role of a Designated Federal Recipient, states that all federal requirements supersede state or local requirements. The FTA Master Agreement states, "the Recipient agrees to preserve the Federal interest in and maintain satisfactory continuing control of its Project property [and] it will not execute any documents if doing so would either adversely affect the Federal interest in or impair its continuing of the use of its Project property, including: (a) Transfer of title, (b) Lease". According to the FTA Master Agreement, all Federally funded property (buses and Transit Center) purchased using federal funds are owned by Longview, regardless of the language in the Interlocal Agreement.

Since the creation of the PTBA in 1987, CTA has acted as the governing authority of public transportation services within the PTBA, and Longview has operated as the contractor to CTA. After speaking with FTA, it is the opinion of Staff that FTA views Longview as the governing authority of transportation services, and sees CTA simply a body that provides a source of local matching funds.

Staff has come up with possible options for CTA, although more options may exist:

1. **Become Designated Federal Recipient and Gradually Bring All Services In-House** - From the responses on the Q&A, FTA will only allow CTA to become the Designated Federal Recipient if it acquires staff to manage the Federal funds, grants, and projects. It would also need to acquire facilities for its assets. If CTA were to become the Designated Federal Recipient, then all Federally fund property would transfer to CTA. If CTA were to choose this option, the process would need to be done in phases over a minimum of five (5) years. In addition, it is unclear if CTA would be required hire current Longview Transit staff, as outlined in RCW 36.57A.120.
2. **Become Designated Federal Recipient and Contract for Transportation Services** - From the responses on the Q&A, FTA will only allow CTA to become the Designated Federal Recipient if it acquires staff to manage the federal funds and facilities for its assets. If CTA were to become the Designated Federal Recipient, then all Federal funded property would transfer to CTA. If CTA were to choose this option, it would need to hire some staff to manage the Federal funds, projects, grants, and contractor. FTA will likely require CTA to open the delivery of transportation services to a competitive bid, instead of continuing an Interlocal Agreement with Longview. In addition, it is unclear if CTA would be required hire current Longview Transit staff, as outlined in RCW 36.57A.120.
3. **Have Longview Designate CTA as a Sub-Recipient** – From the responses on the Q&A, FTA might allow CTA to contract out the management of federal funds and projects. It appears that Longview City Council would still dictate the amount awarded to CTA, and how the funds would be spent. Longview would continue to own all property.
4. **Function as a "Committee" Under the Authority of Longview City Council** – Staff is uncertain if this would be possible according to RCW's that are not superseded by Federal rules. This may also be unfavorable to the City of Kelso and Cowlitz County, as it could have inequitable implications.