

**MEMORANDUM OF AGREEMENT
BETWEEN PIERCE COUNTY AND PIERCE TRANSIT
REGARDING
TRANSPORTATION DEMAND MANAGEMENT**

THIS MEMORANDUM OF AGREEMENT is entered into this day by and between **Pierce County** (hereinafter referred to as the COUNTY) and **Pierce Transit**, Public Transportation Benefit Area Corporation (hereinafter referred to as TRANSIT).

WITNESSETH

WHEREAS, RCW 70.94.527, (Commute Trip Reduction Efficiency Act "ACT") requires counties containing urban growth areas and cities and towns with "major employers," that are located within urban growth areas with a state highway segment exceeding the threshold of one hundred person hours of delay or jurisdictions that are located in contiguous urban growth areas, or are within an urban growth area with a population greater than seventy thousand people that adopted an ordinance before the year 2000 or jurisdictions that are located in contiguous urban growth areas, or contain a major employment installation in an affected county to develop ordinances, plans and programs to reduce Vehicle Miles Traveled (VMT) and drive alone commute trips, and thereby reduce vehicle-related air pollution, traffic congestion and energy use, and

WHEREAS, RCW 70.94.541 (2) provides for technical assistance to counties, cities, and towns in developing and implementing Commute Trip Reduction ("CTR") plans and programs, and

WHEREAS, RCW 70.94.521 through RCW 70.94.555 establishes the State's leadership role, and the requirements and parameters to reduce traffic congestion, fuel use, and air pollution through the Commute Trip Reduction programs, including the Growth and Transportation Efficiency Centers in Washington State; and

WHEREAS, RCW 47.06.050 requires that when planning capacity and operational improvements, the State's first priority is to assess strategies to enhance the operational efficiency of the existing system, and states that strategies to enhance the operational efficiencies include, but are not limited to, access management, transportation system management, and demand management ("Strategies"); and

WHEREAS, RCW 47.01.078 directs the State to develop strategies to reduce the per capita vehicle miles traveled, to consider efficiency tools including commute trip reduction and other demand management tools, and to promote the integration of multimodal planning in support of the transportation system policy goals described in RCW 47.04.280; and

WHEREAS, the Legislature has directed the State to increase the integration of public transportation and the highway system, to facilitate coordination of transit services and planning, and to maximize opportunities to use public transportation to improve the efficiency of transportation corridors (RCW 47.01.330); and

WHEREAS, RCW 47.80.010 encourages the State and local jurisdictions to identify opportunities for cooperation to achieve statewide and local transportation goals; and

WHEREAS, the State of Washington in its Sessions Laws of 2013, chapter 306, Section 220(6), (7) and (8), authorizes funding for Public Transportation and Commute Trip Reduction programs and other special proviso funding through the multi-modal transportation account as identified in the budget through its 2013-2015 biennial appropriations to WSDOT; and

WHEREAS the WSDOT Public Transportation Division is responsible for administering funds on behalf of the Washington State Legislature;

WHEREAS, pursuant to the Commute Trip Reduction Efficiency Act, the COUNTY can allocate to TRANSIT a share of the funds that Washington State is distributing to the COUNTY; and

NOW, THEREFORE, in consideration of covenants, conditions, performances, and promises hereinafter contained, the parties hereto agree as follows:

SECTION 1.0 PURPOSE

The purposes of this AGREEMENT are: (1) to allocate to TRANSIT its proportionate share of State funds for implementing and administrating a CTR plan support programs and services, and (2) to continue a cooperative approach among TRANSIT, the COUNTY, and other jurisdictions in Pierce County required to plan and administer programs under the ACT in order to address interjurisdictional issues and to meet the statutory requirements of coordination and consistency among the jurisdictions' respective CTR plans.

SECTION 2.0 FUNDING

The sole funding source for this AGREEMENT is funds obtained by COUNTY from WSDOT. Distribution of WSDOT funds to TRANSIT shall be based on the formula set forth in "Attachment A," Fund Allocation Methodology for Washington State Department of Transportation Commute Trip Reduction Funds, attached hereto and incorporated herein by this reference. Funding under this AGREEMENT is dependent upon the COUNTY'S receipt of funds from WSDOT in accordance with the provisions of Agreement Number GCB1567.

SECTION 3.0 SERVICE PROVISIONS

Funds provided to TRANSIT under this AGREEMENT shall be used solely for activities undertaken to fulfill the requirements of "Attachment B," Pierce Transit Statement of Work for Commute Trip Reduction, attached hereto and incorporated herein by this reference.

SECTION 4.0 AGREEMENT PERIOD

Regardless of the execution date, the effective date of this AGREEMENT shall be July 1, 2013. The expiration date shall be June 30, 2015.

SECTION 5.0 REIMBURSEMENT PROVISION

Payment requests by TRANSIT must be made before July 8, 2015 or within eight (8) days of the termination of this AGREEMENT, whichever occurs sooner. Untimely payment requests need not be honored by the COUNTY.

All invoices and warrants shall be based on and paid on eligible work performed and eligible costs incurred up to the maximum amount identified in Attachment A. Upon the COUNTY'S receipt of funds from WSDOT, the COUNTY will remit a warrant for payment of these funds to TRANSIT by using the formula set forth in Attachment A.

SECTION 6.0 PROJECT RECORDS

TRANSIT agrees to establish and maintain for the project either a separate set of accounts or accounts within the framework of an established accounting system, in order to sufficiently and properly reflect all eligible direct and related indirect project costs claimed to have been incurred in the performance of this AGREEMENT. Such accounts are referred to herein collectively as the "Project Account." All costs claimed against the Project Account must be supported by properly executed payrolls, time records, invoices, contracts, and payment vouchers evidencing in sufficient detail the nature and propriety of the costs claimed.

SECTION 7.0 AUDITS, INSPECTIONS AND RECORDS RETENTION

TRANSIT shall cooperate with and freely participate in any monitoring or evaluation activities conducted by WSDOT that are pertinent to the intent of this AGREEMENT.

WSDOT, the State Auditor, and any of their representatives shall have full access and the right to examine during normal business hours and as often as deemed necessary all the records of TRANSIT with respect to matters covered in this AGREEMENT. Such representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls, and records of matters covered by the AGREEMENT. In order to facilitate any audits and inspections, all documents, papers, accounting records, and other materials pertaining to this AGREEMENT shall be retained by TRANSIT for six (6) years from the date of

completion of the project or the project final payment date; or, in case of litigation, TRANSIT must retain all records until litigation is completed. TRANSIT shall be responsible to assure that it, WSDOT, the State Auditor, and any of their representatives, retain comparable audit rights with respect to subcontractors to the TRANSIT within the scope of this Agreement.

SECTION 8.0 PROGRESS REPORTS

TRANSIT shall submit to the COUNTY quarterly progress reports so that the COUNTY and WSDOT may adequately and accurately assess the progress made under the terms of this AGREEMENT. The progress reports shall be prepared as prescribed by WSDOT on the forms provided in Attachment C, "Project Progress Report" and/or as provided and modified by WSDOT staff. TRANSIT shall provide a final progress report, as prescribed in Attachment D, "Final Project Progress Report" and/or as provided and modified by WSDOT staff. Project Progress Reports for the first seven (7) quarters are to be submitted to the COUNTY no later than thirty-five (35) days from the end of each calendar quarter. The Final Project Progress Report for the eighth quarter is due to the COUNTY no later than July 8, 2015 or eight (8) days past termination of the contract, whichever is applicable.

SECTION 9.0 COMPLIANCE WITH LAWS AND REGULATIONS

In carrying out the terms of this agreement, TRANSIT agrees to abide by all applicable state and federal laws and regulations, including but not limited to those concerning employment, equal opportunity employment, nondiscrimination assurances, project record keeping necessary to evidence agreement compliance, and retention of all such records. In carrying out the terms of this agreement, TRANSIT will adhere to all of the nondiscrimination provisions in Chapter 49.60 RCW and will also comply with the Americans with Disabilities Act, Public Law 101-336, which provides comprehensive civil rights protections to individuals with disabilities in the areas of employment public accommodations, state and local government services and telecommunication. In carrying out the terms of this agreement, TRANSIT will adhere to RCW 73.16.010 which provides employment preference in every public department and upon all public works of the state for certain veterans.

SECTION 10.0 AGREEMENT MODIFICATIONS

Either party may request changes to this agreement, including changes in the Statement of Work. Such changes, which are mutually agreed upon, shall be incorporated as written amendments to the AGREEMENT. No variation or alteration of the terms of this AGREEMENT shall be valid unless made in writing and signed by authorized representatives of the parties hereto.

SECTION 11.0 TERMINATION OF AGREEMENT

This agreement may be terminated immediately upon provision of written notice by one party in the event the other fails to perform its obligations as described in this AGREEMENT.

Any party may also terminate this AGREEMENT for convenience and without cause by providing the other party with written notice not less the sixty (60) days in advance.

This AGREEMENT may be terminated upon provision of written notice not less than (14) fourteen days prior to the effective date of termination, if the requisite state funding is reduced or becomes unavailable through failure of appropriation or otherwise.

This AGREEMENT may be terminated immediately upon provision of written notice should WSDOT determine that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds.

If this AGREEMENT is terminated prior to fulfillment of the terms stated herein, TRANSIT shall be reimbursed only for actual and eligible expenses incurred under this AGREEMENT prior to the date of termination and only to the extent of appropriated funds available at the time of termination.

SECTION 12.0 SPECIAL PROVISION

The COUNTY'S or TRANSIT'S failure to insist upon the strict performance of any provision of this AGREEMENT or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this AGREEMENT.

SECTION 13.0 DEFENSE AND INDEMNITY

The parties agree to defend, indemnify and save harmless each other, and each party's appointed and elected officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims or demands for damages because of the indemnifying party's acts or omissions giving rise to claims or demands for personal or bodily injury, including death at any time resulting from, sustained by any person or persons and for damages to property including loss of use thereof, but in the event of alleged concurrent negligence of the parties, this provision applies only to the extent of the indemnifying party's proportionate share of any such negligence. This defense, indemnity, and hold harmless provision does not apply in instances in which such injury or damage as shall have been occasioned by the sole negligence of a party or, its appointed or elected officials or employees.

The preceding paragraph is valid and enforceable only to the extent that damages arise out of services or work in connection with or collateral to, a contract or agreement relative to construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, a contract or agreement for architectural, landscape architectural, engineering, or land surveying services, or a motor carrier transportation contract. The indemnification provided herein shall apply to and require each party to defend, indemnify and hold harmless the other party for claims brought by an employee of one party against the other party if said claims are alleged to have arisen from the alleged negligent actions or omissions of the employee's employer, and in such case, the parties, with respect to each other only, waive and will not assert against each other, any immunity under the Washington State Industrial Insurance Act (RCW Title 51). This waiver is limited to actions by and between parties only and does not extend to the employees of either party. The parties expressly do not waive their immunity against claims brought by their own employees.

SECTION 14.0 GOVERNING LAW AND VENUE

This AGREEMENT shall be construed and enforced in accordance with and the validity and performance hereof shall be governed by the laws of the State of Washington. Venue of any suit between the parties arising out of this AGREEMENT shall be the Superior Court of Pierce County, Washington.

SECTION 15.0 SEVERABILITY

In the event any term or condition of this AGREEMENT or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, of this AGREEMENT that can be given effect without the invalid term, condition. To this end, the terms and conditions of this AGREEMENT are declared severable.

SECTION 16.0 RECAPTURE PROVISION

If the State determines that Commute Trip Reduction funds that have been allocated and distributed to TRANSIT have not been expended in accordance with State law and requests the COUNTY'S assistance in resolving the matter, the COUNTY may withhold further disbursements to TRANSIT until the State notifies the COUNTY that disbursements may be resumed.

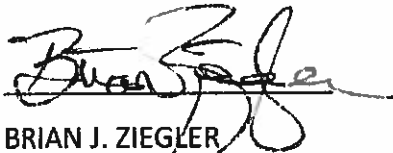
If, the State demands that the COUNTY repay to the State funds that have been allocated and distributed by the County to TRANSIT pursuant to Attachment "A", then TRANSIT shall, within 30 days of written demand, repay the equivalent amount to the COUNTY. Such right to demand repayment shall exist for a period not to exceed three (3) years following the termination of this AGREEMENT. In the event that the COUNTY is required to institute legal proceedings to enforce this repayment provision, the COUNTY shall be entitled to its costs thereof including reasonable attorney's fees and court costs.

SECTION 17.0 REDUCTION IN FUNDS

The COUNTY may unilaterally reduce the Statement of Work or budget under this AGREEMENT, if there is a reduction of funds by the source of those funds.

IN WITNESS WHEREOF, the COUNTY and TRANSIT have executed this AGREEMENT as of the date and year written below.

PIERCE COUNTY



BRIAN J. ZIEGLER
Public Works & Utilities Director

4/30/14
Date

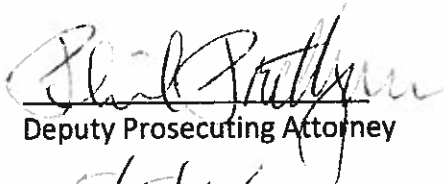
PIERCE TRANSIT



LYNNE GRIFFITH
Chief Executive Officer

4/22/14
Date

APPROVED AS TO FORM:



Deputy Prosecuting Attorney

5/5/14
Date



WAYNE FANSHIER
Chief Financial Officer

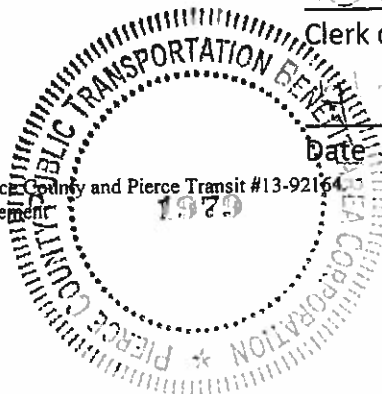
4/22/14
Date

ATTEST:



Clerk of the Board

5/23/14
Date



Attachment A
FUND ALLOCATION METHODOLOGY FOR
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
COMMUTE TRIP REDUCTION (CTR) FUNDS

Funding allocated by WSDOT for local implementation of CTR activities is based on the following formula:

1. Fifty percent of the WSDOT allocation to Pierce County shall be allocated to Pierce Transit.
2. The remaining state funding for local CTR implementation will be allocated to the affected jurisdictions based on the number of affected worksites in each jurisdiction.
3. At the end of the final quarter any unclaimed state funds shall be allocated to the entities which have reported expenses beyond their allocations. The allocation of unclaimed amounts shall follow steps 1 and 2 as stated above. Over expenditures will be determined by the amounts reported in the final progress reports.

July 1, 2013 – June 30, 2015 Allocation
Based on numbers as of April 15, 2013

	Number of Worksites	Total Allocation
Pierce Transit	n/a	\$64,437
Pierce County	10	\$17,898
City of DuPont	3	\$5,370
City of Fife	3	\$5,370
City of Gig Harbor	2	\$3,580
City of Lakewood	8	\$14,319
City of Puyallup	5	\$8,949
City of Sumner	3	\$5,370
City of University Place	2	\$3,580
TOTAL	36	\$128,873

**ATTACHMENT B
PIERCE TRANSIT STATEMENT OF WORK
FOR COMMUTE TRIP REDUCTION**

OBJECTIVES

The COUNTY will coordinate and administer the distribution of funds described in RCW 70.94.521-551. WSDOT will provide funds to the COUNTY to assist in the COUNTY'S implementation of Commute Trip Reduction programs. The COUNTY will provide funds to TRANSIT and to the cities with affected employers within the COUNTY that are implementing and administrating Commute Trip Reduction plans. Funds provided to the parties of this AGREEMENT are to be used solely for activities undertaken to fulfill the requirements of the ACT. The COUNTY will serve as a liaison between the WSDOT and the parties to this AGREEMENT.

1. ROLE DEFINITION

The affected jurisdiction is primarily responsible for assisting employers with program development, program review and approval, program modifications, and penalties. The affected jurisdiction is responsible for overall monitoring of CTR activities within its jurisdiction. The affected jurisdiction is responsible for identifying affected employers, reviewing appeals, and communicating changes in the law. The affected jurisdiction may transfer primary responsibility of any particular item in this agreement to Pierce Transit upon satisfactory settlement, which may or may not result in additional funding between the two parties.

TRANSIT is primarily responsible for employer training regarding the law; transportation services including bus, train/light rail, carpool, vanpool, bicycle, walk, compressed work week schedules, telework, and other program support elements; program implementation assistance; ongoing contact with employers to assist with program elements; and marketing efforts.

2. ADMINISTRATIVE WORK PLAN

TRANSIT agrees to assist the COUNTY with the development of WSDOT required an administrative work plan by the end of the first quarter.

- A. The work plan shall identify the deliverables, schedule, expected outcomes, performance measures and the budget specific to implementation strategies for the CTR Efficiency Act and other strategies as defined in approved and locally adopted CTR or GTEC plans. These may include, but are not limited to, recruiting new employer worksites, reviewing employer programs, administering surveys, reviewing program exemption requests, providing employer training, providing incentives,

performing promotion and marketing, and providing emergency ride home and other commuter services.

- B. The administrative work plan budget shall identify how TRANSIT will use the state funds provided in this AGREEMENT to complete work plan tasks associated with TRANSIT responsibilities. The work plan shall also provide an estimate of the other financial resources not provided in this AGREEMENT will be used to complete work plan tasks.

3. EMPLOYER DATABASE MAINTENANCE

TRANSIT will maintain a database of contact information for all CTR participating employers and employee transportation coordinators in Pierce County. The main purpose of this database will be for distributing materials and countywide communication pieces.

4. AFFECTED EMPLOYER CTR PROGRAM DEVELOPMENT

The affected jurisdiction will be primarily responsible for all affected employer CTR program development activities. Program development activities include, but are not limited to: (1) leading the effort to meet with employers prior to the CTR program submittals by employers, (2) working collaboratively with employers in accordance with the CTR Guidelines when making recommendations to employers regarding the best mix of site-specific CTR strategies, (3) reviewing employer CTR programs, (4) making a determination of employer program acceptability, and assisting employers with required reporting and surveying .

From a coordination standpoint, TRANSIT will notify the affected jurisdiction of all meetings to be held with employers and about any issues that arose during those meetings. The affected jurisdiction will decide whether or not to attend those meetings. The affected jurisdiction will follow the same procedure and TRANSIT will decide whether or not to attend meetings set up by the affected jurisdiction.

The affected jurisdiction will request TRANSIT's comments on affected employer CTR programs as needed. TRANSIT's comments will focus on the relevance of specific CTR strategies cited in the employer CTR programs in terms of the ability of the affected employer to meet its CTR goals.

5. ONGOING SUPPORT, WORKSHOPS, AND TRAINING

TRANSIT will meet regularly with the Employee Transportation Coordinators (ETCs) to review the experiences of their specific programs. TRANSIT will establish the format, structure, overall responsibilities, and logistics of this effort. TRANSIT effort will include, but will not be limited to, training/workshops in specific areas (such as carpooling, vanpooling, teleworking, etc.), problem solving, conflict resolution, and general idea sharing. The affected jurisdiction will assist TRANSIT in establishing a

procedure and forum for ongoing ETC support for affected employers within its jurisdiction.

Newly affected employers will be provided with the opportunity to attend training sessions that are provided by TRANSIT in association with affected jurisdictions. TRANSIT will develop and maintain a training program including appropriate training materials that can be used to train new ETCs and employer representatives. The training program will be modified by TRANSIT based on the feedback received by the participants of previous sessions and by the affected jurisdictions. Training will occur (1) on an ad-hoc basis upon an employer's designation as affected, (2) on an individual basis as new ETCs are designated, and (3) in group settings when a need is demonstrated.

During TRANSIT's ongoing employer contacts for program implementation assistance, ETCs and employer representatives will be directed to contact the affected jurisdiction for information regarding program modification, program review, the law, reporting, surveying and penalties.

6. PROGRAM IMPLEMENTATION

The affected jurisdiction and TRANSIT will continue to meet with employers to provide ongoing support and to assist in the implementation of the services provided for in their approved CTR programs. Employer meetings will be attended by both the affected jurisdiction and TRANSIT whenever possible.

TRANSIT will take the lead maintaining coordination with the affected jurisdiction in assisting employers in such CTR Program implementation services as:

- Ridematch services for carpools and vanpools.
- Carpool and vanpool formation and operation.
- Commuter information centers or assistance with custom orders.
- Bus/train/light rail information and trip planning.
- Support services such as transportation events and marketing materials.
- Marketing material development
- Emergency Ride Home administration

The affected jurisdiction will take the lead maintaining coordination with TRANSIT in assisting employers in such CTR Program implementation services as:

- Reporting requirements
- Employer surveys and other survey instruments useful to employers.
- Parking management programs specific to individual employer site needs.

7. INTERAGENCY COORDINATION

The affected jurisdictions and TRANSIT will participate in all meetings of the Pierce County TDM/CTR Technical Work Group.

The affected jurisdictions and TRANSIT will notify each other at least monthly of all contacts with employers.

Affected jurisdictions will provide TRANSIT with copies of employer reports and survey results.

8. MARKETING

TRANSIT will provide the following marketing activities:

- Assist with transportation events at employment sites to encourage employee participation in high-occupancy vehicle (HOV) alternatives and to assist in the promotion of employer offered HOV services and incentives.
- Maintain a commute options website for commuters and employers located in Pierce County.
- Prepare marketing brochures or other informational pieces on all various program elements and services as needed, and distribute them to affected CTR employers and other interested employers within the affected jurisdiction.
- Assist employers with their marketing efforts.
- Ensure adequate supplies of materials are provided for commuter information centers at affected employer locations.
- Respond to transit requests made directly by CTR-affected employers.

The affected jurisdiction anticipates that additional CTR marketing may be required over and above the dollars proposed under this agreement. Where there is a clear need for additional marketing services including CTR literature, posters, advertisements, brochures, and incentive programs, the affected jurisdiction at its discretion will develop a supplement to this agreement. Pierce Transit, through its continual work with employers, will assist the affected jurisdiction in identifying those needs.

9. PROJECT PROGRESS REPORTING

TRANSIT will provide quarterly progress reports to the COUNTY using Attachment C and Attachment D regarding its activities that directly relate to the CTR program within the geographical limits of all affected jurisdictions. The reports will contain a minimum of the following elements:

- A summary of the employer contacts that were made during the quarter.
- A copy of the updated phone/fax/e-mail employer list.
- Expenditures by budget categories outlined in Attachment C for funds expended by TRANSIT during the previous quarter for the purpose of CTR implementation.

- A summary of CTR events, projects, training, and employer assistance for the quarter.
- Any other key deliverables outlined in the WSDOT approved work plan.

ATTACHMENT C

Project Progress Report

Commute Trip Reduction (CTR) Quarterly Project Report

Reporting quarter:		Date:	
Organization:		Agreement number:	GCB 1567
Biennial targets	Estimate of drive-alone trips to reduce to meet goal:		
Key deliverables: <i>(from work plan)</i>	•		
Completed activities this quarter			
•			
Planned activities for next quarter			
•			
Describe issues, risks or challenges and resolutions			
•			
Estimated expenditures of state funds for this quarter			
•			

ATTACHMENT D
Final Project Progress Report

Commute Trip Reduction (CTR) Final Project Report

Biennium:	2013-2015	Date:	
Organization:		Agreement number:	GCB 1567
Biennial targets	Estimate of drive-alone trips to reduce to meet goal:		
	•		
Deliverables: <i>(from work plan)</i>	•		
Describe your progress on each of your deliverables this biennium.			
•			
Did you meet your targets for this biennium? Why or why not?			
What were your major successes this biennium? How did they help you make progress toward the goals in your jurisdiction's CTR plan(s)?			
•			
What were your major challenges this biennium? How did they hinder your progress toward the goals in your jurisdiction's CTR plan(s)?			
•			
How do you measure the performance of your strategies?			
•			
What did you learn this biennium?			
•			
What would help you be more successful in the future? Please be specific (If it's more resources, how much and what would they be for, etc.).			
•			

For each of the strategies in your administrative work plan, describe your expected outcomes, whether you met those outcomes, and why or why not.

Strategy	Expected outcomes	Performance measures	Outcomes met?	Why or why not?

If your organization used other financial resources besides state CTR funds to implement the activities in your administrative work plan for this agreement, please provide the information below.

Source of local funds	Total spent this agreement	How the funds were used
Total local funds:		

If your organization disbursed any state CTR funds to other organizations to implement the activities in your administrative work plan for this agreement, please list the total amount disbursed for the biennium below.

Organization	Total disbursed this agreement	Purpose of disbursal
Total disbursement:		