



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

REGION III
Delaware, District of
Columbia, Maryland,
Pennsylvania, Virginia,
West Virginia

1835 Market Street
Suite 1910
Philadelphia, PA 19103-2932
215-656-7100

September 5, 2023

Mr. David Horton
Mayor
City of Radford
10 Robertson Street
Radford, VA, 24141

Re: Fiscal Year 2023 Triennial Review – Final Report

Dear Mr. Horton:

I am pleased to provide you with a copy of this Federal Transit Administration (FTA) report as required by 49 U.S.C. Chapter 53 and other Federal requirements. The enclosed final report documents the FTA's Fiscal Year (FY) 2023 Triennial Review of the City of Radford (Radford Transit) in Radford, VA. Although not an audit, the Triennial Review is the FTA's assessment of Radford Transit's compliance with Federal requirements, determined by examining a sample of award management and program implementation practices. As such, the Triennial Review is not intended as, nor does it constitute, a comprehensive and final review of compliance with award requirements.

Due to the Coronavirus 2019 (COVID-19) Public Health Emergency, a virtual site visit was conducted for this Triennial Review. In addition, the review was expanded to address Radford Transit's compliance with the administrative relief and flexibilities FTA granted and the requirements of the COVID-19 Relief funds received through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) of 2021, and the American Rescue Plan (ARP) Act of 2021.

The Triennial Review focused on Radford Transit's compliance in 23 areas. Deficiencies were found in four (4) areas: Maintenance, Procurement, Disadvantaged Business Enterprise (DBE), and Title VI. Radford Transit had three (3) repeat deficiencies from the Fiscal Year 2019 Triennial Review.

Thank you for your cooperation and assistance during this Triennial Review. If you need any technical assistance or have any questions, please do not hesitate to contact Mr. Anthony Matthews, Transportation Program Specialist by email at anthony.matthews@dot.gov.

Sincerely,

Anthony Tarone
Deputy Regional Administrator

FINAL REPORT

**FISCAL YEAR 2023
TRIENNIAL REVIEW**

of

**City of Radford
RADFORD TRANSIT
Radford, VA
ID: 7261**

Performed for:

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
REGION 3**

Prepared By:

Calyptus Consulting Group, Inc

**Desk Review/Scoping Meeting Date: March 1-2, 2023
Virtual Site Visit Entrance Conference Date: July 10, 2023
Virtual Site Visit Exit Conference Date: July 13, 2023
Draft Report Date: August 11, 2023
Final Report Date: September 5, 2023**

Table of Contents

I. Executive Summary	1
II. Review Background and Process	4
1. Background	4
2. Process	4
3. Metrics	5
III. Recipient Description	6
1. Organization	6
2. Award and Project Activity	6
IV. Results of the Review	8
1. Legal	8
2. Financial Management and Capacity	8
3. Technical Capacity – Award Management	8
4. Technical Capacity – Program Management & Subrecipient Oversight	8
5. Technical Capacity – Project Management	9
6. Transit Asset Management	9
7. Satisfactory Continuing Control	9
8. Maintenance	9
9. Procurement	11
10. Disadvantaged Business Enterprise (DBE)	31
11. Title VI	32
12. Americans with Disabilities Act (ADA) – General	33
13. ADA – Complementary Paratransit	33
14. Equal Employment Opportunity	34
15. School Bus	34
16. Charter Bus	34
17. Drug Free Workplace Act	34
18. Drug and Alcohol Program	35
19. Section 5307 Program Requirements	35
20. Section 5310 Program Requirements	35
21. Section 5311 Program Requirements	35
22. Public Transportation Agency Safety Plan (PTASP)	36
23. Cybersecurity	36
V. Summary of Findings	37
VI. Attendees	40

VII.	Appendices.....	42
------	-----------------	----

I. Executive Summary

This report documents the Federal Transit Administration's (FTA) Triennial Review of the City of Radford (Radford Transit) of Radford, VA. The FTA wants to ensure that awards are administered in accordance with the requirements of Federal public transportation law 49 U.S.C. Chapter 53. The review was performed by Calyptus Consulting Group, Inc. (Reviewer). During the virtual site visit, the Reviewer discussed the administrative and statutory requirements and reviewed Recipient documents.

Due to the Coronavirus 2019 (COVID-19) Public Health Emergency, the FTA conducted a virtual site visit for this Triennial Review. In addition, the FTA expanded the review to address Radford Transit's compliance with the administrative relief and flexibilities that the FTA granted, and the requirements of the COVID-19 Relief funds received through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) of 2021, and the American Rescue Plan (ARP) Act of 2021. The FTA also requested Radford Transit share if and/or how it suspended, deviated from, or significantly updated or altered its transit program due to the public health emergency.

The FY2023 Triennial Review focused on Radford Transit's compliance in 23 areas. Deficiencies related to the COVID-19 Relief funds have been clearly identified as part of the deficiency description in the respective review area. There were three (3) repeat deficiencies from the FY 2019 Triennial Review as noted below. Deficiencies were found in the areas listed below.

Review Area	Deficiency Codes		Corrective Action(s)	Response Due Date(s)
	Code	Rationale		
Maintenance	M5-1: Inadequate oversight of subrecipient, contractor, or lessee maintenance activities	Contractor's written maintenance plan does not meet FTA requirements; no inspection cycles for preventive maintenance are included	The recipient must submit to the Region 3 office oversight procedures that include the requirement for review of contractor's written maintenance plan that includes maintenance standards compatible with FTA requirements, performance measures for timely preventive maintenance and procedures for pursuing warranty claims. These procedures should also include regular receipt and review of all contractor preventive maintenance activities.	11/20/2023
Procurement	P1-4: Procurement policies and procedures not followed	The procurement for Spare parts was designated and completed by Radford as a single procurement. Per Radford's procurement policies and procedures, this should have been broken into separate procurements: one for each P.O. issued. Radford did not follow its written procurement policies and procedures.	The recipient must provide to the Region 3 office revised procurement policies and procedures that clearly outline the processes to be followed when conducting an FTA funded procurement. The recipient must consult with the Region 3 office to complete specified procurement training.	11/20/2023

Review Area	Deficiency Codes		Corrective Action(s)	Response Due Date(s)
	Code	Rationale		
	P4-1: Responsibility determination deficiencies	Responsibility determinations were not present in the procurement files for New Flyers and Spare parts	<p>For any contracts where the recipient was found to have failed to verify that the contractor was responsible, the recipient must verify the responsibility of contractors and provide evidence of verification to the Region 3 office.</p> <p>The recipient must submit to the Region 3 office documentation of an updated process/procedure, such as an updated checklist or other mechanism to make adequate responsibility determinations prior to award of a contract.</p> <p>The recipient must consult with the Region 3 office to complete specified procurement training.</p>	11/20/2023
	P10-1: Lacking independent cost estimate*	The independent cost estimate contained in the procurement files for Contracted Operations and Maintenance was completed after proposals were received.	<p>The recipient must submit to the FTA regional office documentation that it has updated its procurement procedures to include development of independent cost estimates prior to receipt of bids or proposals.</p> <p>The recipient must consult with the Region 3 office to complete specified procurement training.</p>	11/20/2023
	P11-1: Missing FTA clauses*	Required FTA clauses were missing from the procurements for Contracted Operations and Maintenance, New Flyers, and Spare parts	<p>The recipient must submit to the FTA regional office revised procurement procedures that include a process for annually searching for and including all FTA-required third-party contract clauses through use of a clause checklist or other mechanism.</p> <p>The recipient must consult with the Region 3 office to complete specified procurement training.</p>	11/20/2023

Review Area	Deficiency Codes		Corrective Action(s)	Response Due Date(s)
	Code	Rationale		
Disadvantaged Business Enterprise (DBE)	DBE3-2: DBE goal not submitted*	Radford completed and uploaded a DBE threshold questionnaire indicating it had no DBE contracting opportunities in 2020. In 2021, Radford was notified by the incumbent Operations and Maintenance contractor that it did not wish to exercise either of the 2 one-year options remaining on the contract. Radford then procured a new contract for Operations and Maintenance of its services in 2022 and should have submitted a DBE goal for this opportunity at that time.	The recipient must develop a goal, upload it to TrAMS, and notify the FTA Office of Civil Rights via FTACivilRightsSupport@dot.gov once completed.	10/1/2023
Title VI	TVI1-2: Revisions to Title VI program not made	Radford made revisions to its Title VI program per FTA comments. The revisions made do not meet the intent of FTA's comments. Further revision and submittal of revised program in TrAMS for FTA review is required.	The recipient must revise and submit its Title VI program in TrAMS and notify the FTA Office of Civil Rights via FTACivilRightsSupport@dot.gov once completed.	10/1/2023

The metrics used to evaluate whether a recipient is meeting the requirements for each of the areas reviewed are: Deficient (D)/Not Deficient (ND)/Not Applicable (NA)

*Denotes a repeat finding

II. Review Background and Process

1. Background

The United States Code, Chapter 53 of Title 49 (49 U.S.C. 5307(f)(2)) requires that “At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient’s program, specifically referring to compliance with statutory and administrative requirements...” The FTA performs this Triennial Review in accordance with its procedures (published in FTA Order 9010.1B, April 5, 1993).

The Triennial Review includes a review of the recipient’s compliance in 23 areas. The basic requirements for each of these areas are summarized in Section IV. The FTA contracts with experienced Reviewers to lead and conduct the Triennial Reviews, in partnership with the staff of the regional office.

This report presents the findings from the Triennial Review of the recipient. The review concentrated on procedures and practices employed since the recipient’s previous Triennial Review in 2019; however, coverage was extended to earlier periods as needed to assess the policies in place and the management of award funds. The specific documents reviewed and referenced in this report are available at the FTA’s Region 3 office or the recipient’s office.

2. Process

The Triennial Review includes a pre-review assessment, a desk review and scoping meeting with the FTA regional office, and a site visit to the recipient’s location. The FTA also requested that the recipient share if and/or how it suspended, deviated from, or significantly updated or altered its transit program due to the public health emergency.

The fiscal year (FY) 2023 process began with the regional office transmitting a notification of the review and a Recipient Information Request (RIR) to the recipient on December 1, 2022, indicating a review would be conducted. While the recipient prepared its response to the RIR, the regional office and review team conducted a desk review and scoping meeting which was held on March 1-2, 2023. Regional office staff provided electronic files as necessary to the Reviewer who also accessed recipient information in the FTA electronic award management (TrAMS) and oversight (OTrak) systems. Following the desk review and scoping meeting, the Reviewer and the recipient corresponded and exchanged information and documentation in preparation for the virtual site visit. Prior to the virtual site visit, the Reviewer sent an agenda package to the recipient on March 7, 2023, indicating the issues that would be discussed, records to be reviewed, and interviews to be conducted. The virtual site visit to Radford Transit occurred from July 10, 2023 (entrance conference) to July 13, 2023 (exit conference).

The virtual site visit portion of the review began with an entrance conference, at which the Reviewer and regional staff discussed the purpose of the Triennial Review and the review process. The Reviewer conducted additional interviews and reviewed documentation to evidence the recipient’s compliance with FTA requirements.

Upon completion of the virtual site visit, the Reviewer and the FTA regional office staff provided a summary of preliminary findings to the recipient at the exit conference on July 13, 2023. Section VI of this report lists the individuals participating in the site visit.

3. Metrics

The metrics used to evaluate whether a recipient is meeting the requirements for each of the areas reviewed are:

- Not Deficient (ND): An area is considered not deficient if, during the review, nothing came to light that would indicate the requirements within the area reviewed were not met.
- Deficient (D): An area is considered deficient if any of the requirements within the area reviewed were not met.
- Not Applicable (NA): An area can be deemed not applicable if, after an initial assessment, the recipient does not conduct activities for which the requirements of the respective area would be applicable.

III. Recipient Description

1. Organization

Radford Transit was established in August 2011 through a joint partnership between the City of Radford and Radford University. The City of Radford oversees and administers the FTA Section 5307 grants and contracts for transit services with RTW Management for all aspects of maintenance and operations of the system. The City of Radford is governed by a five-member City Council that includes the Mayor and Vice Mayor. The City Manager reports to the City Council and is responsible for overseeing and managing Radford Transit and the RTW contract.

A Stakeholder Committee composed of City of Radford and Radford University representatives acts as the advisory board for Radford Transit. The committee meets quarterly, in addition to the Stakeholder Committee, Radford Transit has a subcommittee that meets monthly to develop and work on projects to present to the Stakeholder Committee for approval. This subcommittee comprises additional personnel from the City of Radford, Radford University, and Radford Transit contractor.

Services

Radford Transit provides fixed-route transit service to a ten square-mile area within the New River Valley region. Radford Transit operates services within the City of Radford and into the neighboring jurisdictions of Pulaski County, Montgomery County, the Town of Blacksburg, and the Town of Christiansburg. Radford Transit operates a total of 12 fixed routes. Radford Transit provides services year-round, but service is reduced during the months when Radford University is not in session. The reduced service, referred to as a “City Only Route,” occurs from May through August and during Radford University’s winter break.

Radford Transit suspended fare payments on all routes in response to the Covid-19 pandemic. As of Spring 2023, fare payments remained suspended, and Radford Transit plans on making fare free service permanent. Before the suspension of fares, the general public fare was \$1.00 while adults 65 years and older, persons with disabilities, Medicare card holders, children 12 years and younger, and Radford University students, faculty, and staff all could ride Radford Transit for free.

RTW Management operates from a privately funded facility located at 1422 West Main Street in Radford. Radford Transit’s fleet is comprised of 16 FTA-funded body-on-chassis vehicles and four New Flyer 35-foot transit buses.

2. Award and Project Activity

Below is a list of Radford Transit’s open awards at the time of the review.

Award Number	Award Amount	Year Executed	Description
VA-2022-034-00	\$91,690	2022	City of Radford FFY 2021 Section 5339 Purchase of Buses and Radios
VA-2020-045-00	\$40,000	2020	Radford Transit FFY 2020 Surface Transportation Program (STP) Associated Capital Maintenance (ACM)
VA-2023-004-00	\$1,402,910	2022	City of Radford FFY 2020, FFY 2021 and FFY 2022 Section 5307 Operating Assistance
VA-2021-018-00	\$408,000	2021	Radford Transit FFY 2020 Section 5339 Bus and Bus Facility - Bus Purchase

Radford Transit received Supplemental Funds for operating assistance in award numbers VA-2020-032-00, VA-2021-021-00, and VA-2022-002-00.

Projects Completed

In the past few years, Radford Transit completed the following noteworthy projects using FTA funds:

- Purchase of two new 35-foot New Flyer buses
- Secured an Operations and Maintenance contract for all Radford Transit services with RTW

Ongoing Projects

Radford Transit is currently implementing the following noteworthy project using FTA funds:

- Continued streamlining of Radford Transit services to best meet the needs of the communities and riders it serves

Future Projects

Radford Transit has been redesignated as a rural area in the most recent census. As a result, the Authority will no longer receive 5307 funds as a designated recipient until or unless its designation changes as the result of a future census.

IV. Results of the Review

1. Legal

Basic Requirement: The recipient must promptly notify the FTA of legal matters and additionally notify the USDOT Office of Inspector General (OIG) of any instances relating to false claims under the False Claims Act or fraud. Recipients must comply with restrictions on lobbying requirements.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Legal.

2. Financial Management and Capacity

Basic Requirement: The recipient must have financial policies and procedures; an organizational structure that defines, assigns and delegates fiduciary authority; and financial management systems in place to manage, match, and charge only allowable costs to the award. The recipient must conduct required Single Audits, as required by 2 CFR part 200, and provide financial oversight of subrecipients.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Financial Management and Capacity.

3. Technical Capacity – Award Management

Basic Requirement: The recipient must report progress of projects in awards to the Federal Transit Administration (FTA) and close awards timely.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Technical Capacity – Award Management.

4. Technical Capacity – Program Management & Subrecipient Oversight

Basic Requirement: States must document and follow a public involvement process for the development of the long-range statewide transportation plan and State Transportation Improvement Program (STIP). Designated recipients of Sections 5310, 5311, and 5339 funds must develop and submit a State Management/Program Management Plan to the FTA for approval. Recipients must enter into an agreement with each subrecipient, obtain required certifications from subrecipients, report in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) on subawards, and ensure subrecipients comply with the terms of the award.

Finding: During this Triennial Review of Radford Transit, the FTA requirements for Technical Capacity – Program Management & Subrecipient Oversight were not applicable.

5. Technical Capacity – Project Management

Basic Requirement: The recipient must implement the FTA-funded projects in accordance with the award application, the FTA Master Agreement, and applicable laws and regulations using sound management practices.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Technical Capacity – Project Management.

6. Transit Asset Management

Basic Requirement: Recipients must comply with 49 CFR part 625 to ensure public transportation providers develop and implement transit asset management (TAM) plans.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Transit Asset Management.

7. Satisfactory Continuing Control

Basic Requirement: The recipient must ensure that FTA-funded property will remain available and used for its originally authorized purpose throughout its useful life until disposition.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Satisfactory and Continuing Control.

8. Maintenance

Basic Requirement: Recipients must keep federally-funded vehicles, equipment, and facilities in good operating condition. Recipients must keep Americans with Disabilities Act (ADA) accessibility features on all vehicles, equipment, and facilities in good operating order.

Finding: During this Triennial Review of Radford Transit, one (1) deficiency was found with the FTA requirements for Maintenance.

Deficiency Description: Inadequate oversight of subrecipient, contractor, or lessee maintenance activities (M5-1)

Review of Radford Transit's contractor supplied maintenance plan found that the plan did not meet FTA requirements. The plan did not include inspection cycles for preventive maintenance or procedures for pursuit of warranty claims. Radford Transit's contract with RTW clearly states what is required in the contractor's maintenance plan. However, Radford Transit did not review the plan to ensure it met FTA requirements. Additionally, Radford Transit does not receive regular reports on the contractor's maintenance activities and has not been monitoring these activities for compliance.

2 CFR 200.313, Equipment

(b) General. A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements...(4) Adequate maintenance procedures must be developed to keep the property in good condition.

2 CFR 200.318(b)

Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

2 CFR 200.332 Requirement for pass-through entities

All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward. (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 .

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters;

(2) Performing on-site reviews of the subrecipient's program operations; and

(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

FTA Circular 5010.1E, Ch. IV (4)(n)(4), Maintenance and Warranty

- (a) Recipients must maintain federally-assisted property in good operating order and in compliance with any applicable Federal regulations that may be issued and follow applicable guidance that may be issued, except to the extent that FTA determines otherwise in writing*
- (b) Recipients must keep satisfactory records pertaining to the use of federally-assisted property, and submit to FTA upon request such information as may be required to assure compliance with Federal requirements*

Corrective Action(s) and Schedule: By November 20, 2023, Radford Transit must submit to the Region 3 office oversight procedures that include the requirement for review of contractor's written maintenance plan that includes maintenance standards compatible with FTA requirements, performance measures for timely preventive maintenance and procedures for pursuing warranty claims. These procedures should also include regular receipt and review of all completed contractor preventive maintenance activities.

9. Procurement

Basic Requirement: The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, and conform to applicable Federal law and the standards identified in 2 CFR Part 200. State recipients can use the state's overall policies and procedures. When applied to Federal procurements, those policies and procedures must still be compliant with all Federal requirements as applied to non-state recipients. The flexibility afforded by 2 CFR Part 200 should not be misconstrued as absolving a state from Federal requirements. For example, the FTA does not require each State DOT to have policies and procedures separate from the state education department.

Finding: During this Triennial Review of Radford Transit, four (4) deficiencies were found with the FTA requirements for Procurement.

Deficiency Description #1: Procurement policies and procedures not followed (P1-4)

Review of the procurement file for Spare Parts provided by Radford Transit indicated that the agency did not follow its own procurement policies and procedures in conducting this procurement. Specifically, the procurement policies and procedures provided clearly define micro and small purchase thresholds and the requirements for conducting each of these methods of procurement. Radford Transit instead included three separate procurement actions in a single procurement that it determined to be available from a sole source. The file contents show that these were three distinctly separate purchases; two (2) micro purchases and one (1) small purchase that were completed with two different vendors. The file contents also show that quotes were received from two vendors for each of these purchases, clearly indicating that these purchases were not sole source procurements.

2 CFR 200.317 Procurements by states

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§ 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by § 200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§ 200.318 through 200.327.

2 CFR 200.318 General procurement standards

(a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c) (1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is

encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also § 200.214.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

2 CFR 200.319 Competition

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and § 200.320.

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with § 200.320(c).

2 CFR 200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) Informal procurement methods. When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in § 200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) Micro-purchases -

(i) Distribution. The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of micro-purchase in § 200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) Micro-purchase awards. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) Micro-purchase thresholds. The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) Non-Federal entity increase to the micro-purchase threshold up to \$50,000. Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a

threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

(A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

(C) For public institutions, a higher threshold consistent with State law.

(v) Non-Federal entity increase to the micro-purchase threshold over \$50,000. Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) Small purchases -(i) Small purchase procedures. The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) Simplified acquisition thresholds. The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) Formal procurement methods. When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with § 200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) Sealed bids. A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(2) Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and

(iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.

(c) Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The item is available only from a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(5) After solicitation of a number of sources, competition is determined inadequate.

2 CFR 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

2 CFR 200.323 Procurement of recovered materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

2 CFR 200.324 Contract cost and price

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 CFR 200.325 Federal awarding agency or pass-through entity review

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

2 CFR 200.326 Bonding requirements

For construction or facility improvement contracts or sub contracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

2 CFR 200.327 Contract provisions

The non-Federal entity's contracts must contain the applicable provisions described in appendix II to this part.

Corrective Action(s) and Schedule: By November 20, 2023, Radford Transit must provide to the Region 3 office revised procurement policies and procedures that clearly outline the processes to be followed when conducting an FTA funded procurement. Radford Transit must consult with the Region 3 office to complete specified procurement training.

Deficiency Description #2: Responsibility determination deficiencies (P4-1)

A written responsibility determination was not present in the procurement files for New Flyers and Spare parts as required.

49 U.S.C 5325(j) AWARDS TO RESPONSIBLE CONTRACTORS

(1) IN GENERAL. Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

(2) CRITERIA. Before making an award to a contractor under paragraph (1), a recipient shall consider:

- A. the integrity of the contractor;*
- B. the contractor's compliance with public policy;*
- C. the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(l)(2); and*
- D. the contractor's financial and technical resources.*

2 CFR 180.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You

do this by: (a) Checking SAM Exclusions; or (b) Collecting a certification from that person; or (c) Adding a clause or condition to the covered transaction with that person.

2 CFR 180.310 What must I do if a Federal agency excludes a person with whom I am already doing business in a covered transaction?

(a) You as a participant may continue covered transactions with an excluded person if the transactions were in existence when the agency excluded the person. However, you are not required to continue the transactions, and you may consider termination. You should make a decision about whether to terminate and the type of termination action, if any, only after a thorough review to ensure that the action is proper and appropriate. (b) You may not renew or extend covered transactions (other than no-cost time extensions) with any excluded person, unless the Federal agency responsible for the transaction grants an exception under §180.135.

2 CFR 1200.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b) of the OMB guidance, this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by the Department of Transportation under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the Department of Transportation nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower-tier coverage in the figure in the appendix to 2 CFR part 180).

Frequently Asked Questions (FAQ) Regarding Coronavirus Disease 2019 (COVID-19), CE2

Under the authority of the Emergency Relief program to set the necessary terms and conditions of a grant (49 USC 5324 (d)(1), FTA will permit funds to be used for operations and maintenance expenses incurred after January 20, 2020, even if the original contract did not meet all Federal requirements. Any new contracts would need to follow all federal requirements.

Corrective Action(s) and Schedule: By November 2023, Radford Transit, for any contracts where it was found to have failed to verify that the contractor was responsible, must verify the responsibility of contractors. Radford Transit must provide to the Region 3 office evidence of completion. Radford Transit must submit to the Region 3 office documentation of an implemented process to make adequate responsibility determinations prior to award of a contract. Radford Transit must consult with the Region 3 office to complete specified procurement training.

Deficiency Description #3: Lacking independent cost estimate (P10-1)

The independent cost estimate present in the procurement files for Contracted Operations and Maintenance was not completed prior to proposals being received as is required. This is a repeat deficiency from the 2019 Triennial Review.

2 CFR 200.324 Contract cost and price

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.*
- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.*
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.*
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.*

FTA Circular 4220.1F Chapter VI 6. a. Cost Analysis

The recipient must obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost. The recipient must obtain a cost analysis when the offeror submits elements (that is, labor hours, overhead, materials, and so forth) of the estimated cost, (such as professional consulting and A&E contracts, and so forth). The recipient is also expected to obtain a cost analysis when price competition is inadequate, when only a sole source is available, even if the procurement is a contract modification, or in the event of a change order. The recipient, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.

FTA Circular 4220.1F Chapter VI 6. b. Price Analysis

If the recipient determines that competition was adequate, a price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price.

Corrective Action(s) and Schedule: By November 20, 2023, Radford Transit must submit to the FTA regional office documentation that it has updated its procurement procedures to include development of independent cost estimates prior to receipt of bids or proposals. Radford Transit must consult with the Region 3 office to complete specified procurement training.

Deficiency Description #4: Missing FTA clauses (P11-1)

Required FTA clauses were missing from the procurement files for Contracted Operations and Maintenance, New Flyers, and Spare parts. This is a repeat deficiency from the 2019 Triennial Review.

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for

compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and

Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) See §200.322 Procurement of recovered materials—A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

FTA Master Agreement (28), Section 16.d.

Required Clauses in Third Party Contracts. In addition to other applicable provisions of federal law, regulations, requirements, and guidance, all third party contracts made by the Recipient under the Federal award must contain provisions covering the following, as applicable:

(1) Simplified Acquisition Threshold. Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America’s eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)

(2) Termination. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be effected and the basis for settlement.

(3) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order No. 11246, “Equal Employment Opportunity,” 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935, 3 C.F.R. 1964–1965 Comp., p. 339), as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” (32 Fed. Reg. 14,303) and implementing regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(4) Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 – 3144, and 3146 – 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

(5) Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 – 3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(6) Rights to Inventions Made Under a Contract or Agreement. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(7) Clean Air Act (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1388), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1388). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(8) Debarment and Suspension (Executive Orders 12549 and 12689). A covered transaction (see 2 C.F.R. §§ 180.220 and 1200.220) must not be entered into with any party listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (31 U.S.C. § 6101 note, 51 Fed. Reg. 6370,) and 12689 (31 U.S.C. § 6101 note, 54 Fed. Reg. 34131), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Recipient agrees to include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

(i) Complies with federal debarment and suspension requirements; and

(ii) Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200.

(10) Solid Wastes. A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

FTA Master Agreement (25) Section 34. Safe Operation of Motor Vehicles.

(a) *Seat Belt Use.* The Recipient agrees to implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by: 90 (1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and (2) Including a “Seat Belt Use” provision in each third party agreement related to the Award.

FTA Master Agreement (25) Section 34. Safe Operation of Motor Vehicles. (b) Distracted Driving, Including Text Messaging While Driving.

The Recipient agrees to comply with: (1) Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225); (2) U.S. DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009; and (3) The following U.S. DOT Special Provision pertaining to Distracted Driving: (i) *Safety.* The Recipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic

device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award; (ii) Recipient Size. The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and (iii) Extension of Provision. The Recipient agrees to include the preceding Special Provision of section 34(b)(3)(i) – (ii) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

FTA Master Agreement (28) Section 39(b).

Notification to FTA; Flow Down Requirement. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.

(3) Additional Notice to U.S. DOT Inspector General. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this

paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.

Corrective Action(s) and Schedule: By November 20, 2023, Radford Transit must submit to the Region 3 office revised procurement procedures that include a process for annually searching for and including all FTA-required third-party contract clauses through use of a clause checklist or other mechanism. This mechanism should be updated immediately to include all current applicable FTA required clauses and annually thereafter. Radford Transit must consult with the Region 3 office to complete specified procurement training.

10. Disadvantaged Business Enterprise (DBE)

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

Finding: During this Triennial Review of Radford Transit, one (1) deficiency was found with the USDOT requirements for DBE.

Deficiency Description: DBE goal not submitted (DBE3-2)

Radford Transit completed and submitted in TrAMS a DBE threshold questionnaire on June 19, 2020, indicating it had no DBE contracting opportunities during the upcoming three-year period. In 2021, Radford Transit was notified by its incumbent Operations and Maintenance contractor that they did not wish to exercise either of the two one-year options remaining on the contract. Radford Transit advertised a new RFP and secured a contract for Operation and Maintenance of its services in July 2022. Radford Transit should have prepared and submitted an appropriate DBE goal when it realized it would have this contracting opportunity.

49 CFR 26.45(f)(1)(i)

If you set your overall goal on a fiscal year basis, you must submit it to the applicable DOT operating administration by August 1 at three-year intervals, based on a schedule established by the FHWA, FTA, or FAA, as applicable.

49 CFR 26.45(a)

(1) Except as provided in paragraph (a)(2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts.

(2) If you are a FTA or FAA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or less in FTA or FAA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA respectively for that fiscal year.

49 CFR 26.45(f)

(4) You are not required to obtain prior operating administration concurrence with your overall goal. However, if the operating administration's review suggests that your overall goal has not been correctly calculated or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the operating administration will be guided by goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

Frequently Asked Questions (FAQ) Regarding Coronavirus Disease 2019 (COVID-19), CR11

For those recipients with DBE goals due August 1, 2020, FTA is extending the due date to October 1, 2020, and will update TrAMS to reflect the extension. This extension is consistent with a DOT guidance memorandum issued April 1, 2020.

Corrective Action and Schedule: By October 1, 2023, Radford Transit must develop a goal, upload it to TrAMS, and notify the FTA Office of Civil Rights via FTACivilRightsSupport@dot.gov once completed.

11. Title VI

Basic Requirement: The recipient must ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance without regard to whether specific projects or services are federally funded. The recipient must ensure that all transit services and related benefits are distributed in an equitable manner.

Finding: During this Triennial Review of Radford Transit, one (1) deficiency was found with the FTA requirements for Title VI.

Deficiency Description: Revisions to Title VI Program not made (TVI1-2)

Radford Transit submitted its Title VI Program in TrAMS on September 24, 2019. On October 16, 2019, FTA returned the program for corrections. At the time of the review, Radford Transit provided an updated Title VI program to the Reviewer. A review of the revised program indicated that the revisions made did not fully meet the intent of FTA's comments and the revised program had not been uploaded in TrAMS as required.

FTA Circular 4702.1B Chapter II 5. Reporting Requirements

Title 49 CFR Section 21.9(b) requires recipients to 'keep such records and submit to the Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this [rule].' FTA requires that all direct and primary recipients document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. The Title VI Program must be approved by the

direct or primary recipient's board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA.

FTA Circular 4702.1B Chapter III 4.b. Upload Title VI Program to TEAM [currently TrAMS]

Direct and primary recipients must upload their Title VI Program into FTA's Transportation Electronic Award Management (TEAM) system, or other tracking system as directed by FTA. The Title VI Program shall be attached via the paper clip function on the Civil Rights screen, and not attached to a particular award. Recipients must also notify their FTA Regional Civil Rights Officer via email that they have uploaded their Title VI Program to TEAM. The Title VI Program must be uploaded to TEAM no fewer than sixty calendar days prior to the date of expiration of the Title VI Program.

FTA Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19), CR10

FTA is postponing the submission of all Title VI Programs with current or upcoming due dates until October 1, 2020. Recipients may use their current on-file Title VI Programs through November 30, 2020, unless a recipient voluntarily updates its program with a submission before that date. FTA is making adjustments in TrAMS to ensure no outstanding civil rights program requirements will hold up the awarding of grants.

Corrective Action and Schedule: By October 1, 2023, Radford Transit must revise and upload its Title VI program in TrAMS and notify the FTA Office of Civil Rights via FTACivilRightsSupport@dot.gov once completed.

12. Americans with Disabilities Act (ADA) – General

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

Finding: During this Triennial Review of RADFORD TRANSIT, no deficiencies were found with the USDOT requirements for ADA – General.

13. ADA – Complementary Paratransit

Basic Requirement: Under 49 CFR 37.121(a), each public entity operating a fixed-route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed-route system. “Comparability” is determined by 49 CFR 37.123-37.133. Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with USDOT requirements for ADA – Complementary Paratransit.

14. Equal Employment Opportunity

Basic Requirement: The recipient must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age or disability be excluded from participating in, or denied the benefits of, or be subject to discrimination in employment under any project, program or activity receiving Federal financial assistance under the Federal transit laws.

Finding: The FTA requirements for Equal Employment Opportunity were not applicable to Radford Transit during this Triennial Review.

15. School Bus

Basic Requirement: Recipients are prohibited from providing school bus service in competition with private school bus operators unless the service qualifies and is approved by the FTA Administrator under an allowable exemption. Federally-funded equipment or facilities cannot be used to provide exclusive school bus service.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for School Bus.

16. Charter Bus

Basic Requirement: Recipients are prohibited from using the FTA-funded equipment and facilities to provide charter service that unfairly competes with private charter operators. Recipients may operate charter only when the service meets a specified exception defined in rule.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Charter Bus.

17. Drug Free Workplace Act

Basic Requirement: Recipients are required to maintain a drug free workplace for all award-related employees; report any convictions occurring in the workplace timely; and have an ongoing drug free awareness program.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Drug-Free Workplace Act.

18. Drug and Alcohol Program

Basic Requirement: Recipients receiving Section 5307, 5309, 5311, or 5339 funds that have safety-sensitive employees must have a drug and alcohol testing program in place for such employees.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Drug and Alcohol Program.

19. Section 5307 Program Requirements

Basic Requirement: Recipients must participate in the transportation planning process in accordance with FTA requirements and the metropolitan and statewide planning regulations.

Recipients shall develop, publish, afford an opportunity for a public hearing on, and submit for approval, a program of projects (POP).

Recipients are expected to have a written, locally developed process for soliciting and considering public comment before raising a fare or carrying out a major transportation service reduction.

For fixed-route service supported with Section 5307 assistance, fares charged to seniors, persons with disabilities or an individual presenting a Medicare card during off peak hours will not be more than one half the peak hour fares.

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for Section 5307 Program Requirements.

20. Section 5310 Program Requirements

Basic Requirement: Recipients must expend Section 5310 funds on eligible projects that meet the specific needs of seniors and individuals with disabilities. Projects selected for funding must be included in a locally developed, coordinated public transit-human services transportation plan. Recipients must approve all subrecipient leases of Section 5310-funded vehicles. Leases of Section 5310-funded vehicles must include required terms and conditions. Either the recipient or subrecipient must hold the title to the leased vehicles.

This section only applies to recipients that receive Section 5310 funds directly from the FTA; therefore, the related requirements are not applicable to the Triennial Review of Radford Transit.

21. Section 5311 Program Requirements

Basic Requirement: States must expend Section 5311 funds on eligible projects to support rural public transportation services and intercity bus transportation.

This section only applies to recipients that receive Section 5311 funds directly from FTA; therefore, the related requirements are not applicable to the Triennial Review of Radford Transit.

22. Public Transportation Agency Safety Plan (PTASP)

Basic Requirement: Recipients must comply with the Public Transportation Agency Safety Plan (PTASP) regulation (49 CFR Part 673) to ensure public transportation providers develop and implement an Agency Safety Plan (ASP).

Finding: During this Triennial Review of Radford Transit, no deficiencies were found with the FTA requirements for PTASP Requirements.

23. Cybersecurity

Basic Requirement: Recipients that operate rail fixed guideway public transportation systems must certify compliance with the requirements for establishing a cybersecurity process under 49 U.S.C. § 5323(v), a new subsection added by the National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, § 7613 (Dec. 20, 2019).

Finding: During this Triennial Review of Radford Transit, the FTA requirements for Cybersecurity Requirements were not applicable.

V. Summary of Findings

Review Area	Finding	Deficiency Code(s)		Corrective Action(s)	Response Due Date(s)	Date Closed
		Code	Description			
1. Legal	ND					
2. Financial Management and Capacity	ND					
3. Technical Capacity – Award Management	ND					
4. Technical Capacity – Program Management and Subrecipient Oversight	NA					
5. Technical Capacity – Project Management	ND					
6. Transit Asset Management	ND					
7. Satisfactory Continuing Control	ND					
8. Maintenance	D	M5-1	Inadequate oversight of subrecipient, contractor, or lessee maintenance activities	The recipient must submit to the Region 3 office oversight procedures that include the requirement for review of contractor's written maintenance plan that includes maintenance standards compatible with FTA requirements, performance measures for timely maintenance and procedures for pursuing warranty claims. These procedures should also include regular receipt and review of all completed contractor preventative maintenance activities.	November 20, 2023	
9. Procurement	D	P1-4	Procurement policies and procedures not followed	The recipient must provide to the Region 3 office revised procurement policies and procedures that clearly outline the processes to be followed when conducting an FTA funded procurement. The recipient must consult with the Region 3 office to complete specified procurement training.	November 20, 2023	

Review Area	Finding	Deficiency Code(s)		Corrective Action(s)	Response Due Date(s)	Date Closed
		Code	Description			
		P4-1	Responsibility determination deficiencies	<p>For any contracts where the recipient was found to have failed to verify that the contractor was responsible, the recipient must verify the responsibility of contractors. The recipient must provide the Region 3 office evidence of completion.</p> <p>The recipient must submit to the Region 3 office documentation of an implemented process to make adequate responsibility determinations prior to award of a contract.</p> <p>The recipient must consult with the Region 3 office to complete specified procurement training.</p>	November 20, 2023	
		P10-1	Lacking independent cost estimate*	<p>The recipient must submit to the FTA regional office documentation that it has updated its procurement procedures to include development of independent cost estimates prior to receipt of bids or proposals.</p> <p>The recipient must consult with the Region 3 office to complete specified procurement training.</p>	November 20, 2023	
		P11-1	Missing FTA clauses*	<p>The recipient must submit to the Region 3 office revised procurement procedures that include a process for annually searching for and including all FTA-required third-party contract clauses through use of a clause checklist or other mechanism. This mechanism should be updated immediately to include all current applicable FTA required clauses and annually thereafter.</p> <p>The recipient must consult with the Region 3 office to completed specified procurement training.</p>	November 20, 2023	
10. Disadvantaged Business Enterprise	D	DBE3-2	DBE goal not submitted*	The recipient must develop a goal, upload it to TrAMS, and notify the FTA Office of Civil Rights via FTACivilRightsSupport@dot.gov once completed.	October 1, 2023	
11. Title VI	D	TVI1-2	Revisions to Title VI program not made	The recipient must revise and submit its Title VI program in TrAMS and notify the FTA Office of Civil Rights via FTACivilRightsSupport@dot.gov once completed.	October 1, 2023	
12. Americans with Disabilities Act (ADA) – General	ND					
13. ADA – Complementary Paratransit	ND					
14. Equal Employment Opportunity	NA					
15. School Bus	ND					
16. Charter Bus	ND					

Review Area	Finding	Deficiency Code(s)		Corrective Action(s)	Response Due Date(s)	Date Closed
		Code	Description			
17. Drug-Free Workplace	ND					
18. Drug and Alcohol Program	ND					
19. Section 5307 Program Requirements	ND					
20. Section 5310 Program Requirements	NA					
21. Section 5311 Program Requirements	NA					
22. Public Transportation Agency Safety Plan	ND					
23. Cybersecurity	NA					

The metrics used to evaluate whether a recipient is meeting the requirements for each of the areas reviewed are: Deficient (D)/Not Deficient (ND)/Not Applicable (NA)

**Denotes repeat deficiency*

VI. Attendees

Name	Title	Phone Number	E-mail Address
<i>City of Radford (Radford Transit)</i>			
David Ridpath	City Manager	540.731.3603	David.Ridpath@radfordva.gov
Melissa Skelton	Director of Community Development/Transit Coordinator	540.267.3188	Melissa.Skelton@radfordva.gov
Chelista Linkous	Finance Director	540.731.3603	Chelista.Linkous@radfordva.gov
Jonathan Owens	Radford Transit General Manager	540.831.5911	jowens@rtwmanagement.com
Jasmine Dudding	Radford Transit Assistant General Manager	540.731.3603	jdudding@rtwmanagement.com
George Goates	President, RTW	801.918.3691	ggoates@rtwmanagement.com
Sean Zabinsky	Controller, RTW	801.918.3691	szabinsky@rtwmanagement.com
<i>FTA</i>			
Tony Cho	Director, Office of Program Management and Project Oversight	215-656-7100	Tony.Cho@dot.gov
Anthony Matthews	Transportation Program Specialist	215-391-7657	Anthony.Matthews@dot.gov
Anthony Romero	Procurement Specialist (Contractor)	215-656-7100	Anthony.Romero.CTR@dot.gov
<i>Contractor</i>			
Sherry Snyder	Lead Reviewer	617-577-0042	ssnyderconsulting@outlook.com
Trysh Strayhand	Associate Reviewer	617-577-0042	Tstrayhand@calyptusgroup.com

VII. Appendices

Civil Rights Corrective Action Submission

All Civil Rights corrective actions should be submitted to FTACivilRightsSupport@dot.gov in the following format:

- A separate email should be sent to address **each deficiency separately** with attached supporting documentation.

Do not submit MS Word or Excel spreadsheets.

- Supporting documents should be sent as searchable **.pdf files** in the following format:

Region Number-Grantee Name-TrAMSRecipID-Finding Code.pdf

For example, **Region3-Radford Transit-7261-DBE-DBE3-2.pdf**

- **Email Subject Line:** FY 23 CORTAP Review Corrective Actions – [Findings Code(s)] – [Recipient Name/Acronym + TrAMS ID]

For example, **FY23 CORTAP Review Corrective Actions – DBE-DBE3-2–Radford Transit #7261**

The body of the email should contain a short summary of the corrective action.