

FINAL REPORT

**FISCAL YEAR 2023
TRIENNIAL REVIEW**

of the

**City of Bangor
Bangor, Maine
ID: 7140**

Performed for:

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

Prepared By:

Qi Tech, LLC

**Scoping Meeting Date: February 27, 2023
Virtual Site Visit Entrance Conference Date: March 28, 2023
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I. Executive Summary

This report documents the Federal Transit Administration's (FTA) Triennial Review of the City of Bangor, Maine. 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 Qi Tech, LLC. 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 the City'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 the City's 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 the City'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 2 repeat deficiencies from the FY 2019 Triennial Review in the following areas: Disadvantaged Business Enterprise, and Equal Employment Opportunity.

Deficiencies were found in the areas listed below.

Review Area	Deficiencies	
	Code	Description
Financial Management and Capacity	F6-3	Single Audit submission deficient, including late submission
Technical Capacity – Award Management	TC-AM3-1	MPRs lack required information
Maintenance	M1-2	No written facility/equipment maintenance plan
Procurement	P4-1	Responsibility determination deficiencies
	P-11	Missing FTA clauses
	P12-2	Lobbying certifications not included in procurement solicitations or signed by bidders
	P20-2	Pre-award and/or post-delivery audits not performed
	P20-3	Pre-award and/or post-delivery certifications lacking

Review Area	Deficiencies	
	Code	Description
Disadvantaged Business Enterprise (DBE)	DBE2-2	Insufficient resources to administer the DBE program
	DBE3-1	DBE goal submitted late
	DBE5-1*	DBE uniform reports contain inaccuracies and/or are missing required information
	DBE6-1	DBE goal achievement analysis and corrective plan not completed
	DBE12-5	Recipient does not implement DBE termination/substitution provisions
Equal Employment Opportunity (EEO)	EEO4-2*	Employment practices analyses deficiencies
	EEO4-3	EEO reporting and/or monitoring system deficiencies

* Denotes repeat deficiency

II. Review Background and Process

1. Background

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 1 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. Due to the COVID-19 Public Health Emergency, a virtual site visit was conducted of each recipient. In addition, the review was expanded to address the recipient's compliance with the administrative relief and flexibilities FTA granted and the requirements of the COVID-19 relief funds received through the CARES Act, CRRSAA of 2021, and the ARP Act of 2021. 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 November 23, 2022, indicating a review would be conducted. While the recipient prepared its response to the RIR, the regional office and review team conducted the scoping meeting on February 24 and 27, 2023. Regional office staff provided electronic files as necessary to the reviewers 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 to the recipient on August 8, 2023, an agenda package indicating the issues that would be discussed, records to be reviewed, and interviews to be conducted.

The virtual site visit portion of the review began with an entrance conference on March 28, 2023, at which the reviewers and regional staff discussed the purpose of the Triennial Review and the review process. The reviewers conducted additional interviews and reviewed documentation to evidence the recipient's compliance with FTA requirements. The reviewers also examined a sample of procurement files during this review.

Upon completion of the virtual site visit, the Reviewers and the FTA regional office staff provided a summary of preliminary findings to the recipient at the exit conference on October 17, 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*: 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*: An area is considered deficient if any of the requirements within the area reviewed were not met.
- *Not Applicable*: 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

The City of Bangor established transit services in 1972. Prior to 2013, the City received FTA Section 5311 funds through the State of Maine. In 2013, the City became a direct FTA recipient of Section 5307 funds after the 2010 census determined the City's population exceeded 50,000.

The City of Bangor's transit services are known as the "Community Connector," a fixed-route public transit system operated by the City of Bangor for the communities of the Greater Bangor Urbanized Area and its six member communities: Bangor, Brewer, Hampden, Old Town, Orono, and Veazie. The City provides service to these communities on a contractual basis. The Community Connector also provides service to Husson University, NESCOM (New England School of Communications), Eastern Maine Community College, and the University of Maine. The City's service area population is approximately 55,500.

The City has a fleet of 22 buses serving 14 fixed routes and 6 ADA paratransit vans. There is FTA interest in all the vehicles. Weekday service is provided from 5:45 a.m. to 7:00 p.m., while Saturday service is offered from 6:15 a.m. to 7:00 p.m. There is no Sunday service. ADA complementary paratransit is offered the same days and hours of fixed-route service.

The regular adult cash fare on fixed-route service is \$1.50. The half-fare of \$0.75 is offered during all hours of operation to seniors aged 60 and older, Medicare cardholders, and disabled individuals. The paratransit fare is \$3.00 per trip.

In December 2022, the City opened a new federally funded Transit Center at 25 Water Street in Bangor. The Community Connector staff immediately moved their offices from a building owned by the City to the new Transit Center. The City also owns a Warm Bus Barn and a Cold Bus Barn at 530 Maine Avenue in Bangor, and both bus barns have FTA interest.

2. Award and Project Activity

Below is a list of the City of Bangor's open awards at the time of the review.

Award Number	Award Amount	Year Executed	Description
ME-2021-009	\$3,103,122	2021	Community Connector CARES ACT FUNDS for Operating and Capital FY20-FY21-FY22
ME-2021-010	\$2,890,000	2021	FY 18 - 5339(b) 7 Bus Purchase
ME-2022-017	\$238,405	2022	Community Connector Bus Technologies
ME-2022-018	\$3,076,800	2022	Bangor Area Transit Center Construction Grant
ME-2023-011	\$56,632	2023	5307 American Rescue Plan Funds
ME-2023-033	\$396,800	2023	Bus Stops and Bus Shelters Grant

The City received Supplemental Funds for operating assistance in award numbers ME-2020-018, ME-2021-009, and ME-2023-011. This is not the City’s first time receiving operating assistance from the FTA.

Projects Completed

In the past few years, the City completed the following noteworthy projects:

- Purchased 6 ADA paratransit vans, 5 fixed-route buses, and 2 service vehicles
- Constructed a new Transit Center.

Ongoing Projects

The City is currently implementing the following noteworthy projects:

- Purchasing 2 fixed-route buses
- Incorporating several forms of “smart technology” onto the revenue vehicles, such as advance vehicle locators, automated passenger counters, automated annunciators, mobile fares, etc.

Future Projects

The City plans to pursue the following noteworthy projects in the next three to five years:

- Install bus stop signs
- Incorporate additional forms of “smart technology”
- Renovate the Cold Bus Barn.

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 the City of Bangor, 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 the City of Bangor, a deficiency was found with the FTA requirements for Financial Management and Capacity.

Deficiency Description:

Single Audit submission deficient, including late submission (F6-3)

As dictated by the Uniform Guidance at 2 CFR 200 Subpart F, all non-federal entities that expend \$750,000 or more in federal awards in a year are required to conduct an independent Single Audit. Single Audit reports must be completed and data collection form and reporting package (financial statements, summary schedule of prior audit findings, auditor's report, and corrective action plan) must be submitted to the Federal Audit Clearinghouse (FAC) within the earlier of 30 calendar days after receipt of the auditor's report or nine months after the end of the audit period.

During the review period, the City submitted the FY 2021 Single Audit nearly two months late into the FAC, and the City's FY 2022 Single Audit was submitted nearly four months late.

Corrective Action and Schedule: For the deficiency *Single Audit submission deficient, including late submission (F6-3)*, by April 1, 2024, the City of Bangor must submit to the FTA regional office procedures to ensure that the Single Audit report, data collection form, and reporting package are submitted to the FAC on time, as well as evidence that the FY 2023 Single Audit report and package were submitted on time.

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 the City of Bangor, a deficiency was found with the FTA requirements for Technical Capacity – Award Management.

Deficiency Description:

MPRs lack required information (TC-AM3-1)

As explained in the Uniform Guidance at 2 CFR Part 200 Subpart D and FTA Circular 5010.1D, Chapter III, Section 3, Milestone Progress Reports (MPRs) are the primary written communication between recipients and FTA on the progress of the projects in an award. These Circulars require that basic information is provided in each MPR narrative, as applicable. The City's MPR narratives during the review period did not address any of the required elements and were often blank.

Corrective Action and Schedule: For the deficiency *MPRs lack required information (TC-AM3-1)*, by February 1, 2024, the City of Bangor must submit to the FTA regional office procedures for ensuring all required information is included in future MPRs.

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.

This section only applies to recipients that have subrecipients; therefore, the related requirements are not applicable to the Triennial Review of the City of Bangor.

5. Technical Capacity – Project Management

Basic Requirement: The recipient must be able to 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 the City of Bangor, 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 the City of Bangor, 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 to be used for its originally authorized purpose throughout its useful life until disposition.

Finding: During this Triennial Review of the City of Bangor, 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 the City of Bangor, a deficiency was found with the FTA requirements for Maintenance.

Deficiency Description:

No written facility/equipment maintenance plan (M1-2)

FTA Circular 5010.1D, FTA Circular 9030.1E, and the Uniform Guidance at 2 CFR 200.313 require recipients of federally funded facilities and equipment to have written procedures for maintaining those assets according to manufacturers' recommendations. A recipient's maintenance plan must describe a system of periodic inspections and preventive maintenance to be performed at certain defined intervals, as specified by the manufacturers of the facility components and equipment, and it should also identify the goals and objectives of a maintenance program and establish how the recipient will meet such goals and objectives.

While the City has a facility maintenance plan that includes both the Cold and Warm Bus Barns, it has not yet updated the plan to include its new Transit Center, which opened in December 2022.

Corrective Action and Schedule: For the deficiency *No written facility/equipment maintenance plan (M1-2)*, by July 1, 2024, the City of Bangor must submit to the FTA regional office a written maintenance plan for FTA-funded facilities and equipment that identifies a system of periodic inspections and preventive maintenance performed at certain defined intervals and includes the new Transit Center.

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 the City of Bangor, deficiencies were found with the FTA requirements for Procurement.

Deficiency Description:

Responsibility determination deficiencies (P4-1)

Per 49 U.S.C. Section 5325(j), recipients are required to make FTA-assisted contract awards only to "responsible" contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement. Before making an award to a contractor, a recipient shall consider the integrity of the contractor; the contractor's compliance with public policy; the contractor's past performance; and the contractor's financial and technical resources. Responsibility is determined by the recipient after receiving bids or proposals and before making the contract award.

For two of the reviewed procurements, the ADA vans and the fixed-route buses, there was no documentation that the responsibility determination was made prior to awarding the contracts.

Corrective Actions and Schedule: For the deficiency *Responsibility determination deficiencies (P4-1)*, by February 1, 2024, for the ADA vans and bus procurements, the City of Bangor must verify the responsibility of contractors that were awarded the contracts.

By May 1, 2024, for its next applicable procurement, the City must submit to the FTA regional office documentation that a responsibility determination was completed prior to awarding the contract.

Deficiency Description:

Missing FTA clauses (P11-1)

The Uniform Guidance at 2 CFR 200.324 and Appendix II, FTA Circular 4220.1F, and the FTA Master Agreement require recipients to include specific clauses in FTA-funded procurements. Not all clauses apply to every contract. The applicability of clauses depends on the size and type of contract, but contracts must include all applicable clauses.

Federal clauses were not included in the procurement for the ADA vans, and one required clause, the "Prohibition on certain telecommunications and video surveillance services or equipment," was missing from the Request for Proposals for the Transit Center.

Corrective Actions and Schedule: For the deficiency *Missing FTA clauses (P11-1)*, by March 1, 2024, the City of Bangor must submit to the FTA regional office revised procurement procedures that address inclusion of all FTA-required third-party contract clauses through use of a clause checklist or other mechanism.

By May 1, 2024, for its next procurement, the City must submit to the FTA regional office documentation that the required process was implemented.

Deficiency Description:

Lobbying certifications not included in procurement solicitations or signed by bidders (P12-2)

As required by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352), recipients must require contractors to sign a lobbying certification for all procurement awards with a value of \$100,000 or greater. Contractors must certify that they will not and have not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352.

There was no lobbying certification signed by the vendor from whom the ADA vans were purchased, but the procurement had a value of \$148,000.

Corrective Actions and Schedule: For the deficiency *Lobbying certifications not included in procurement solicitations or signed by bidders (P12-2)*, by March 1, 2024, the City of Bangor must submit to the FTA regional office procedures for obtaining signed lobbying certifications.

By May 1, 2024, for its next applicable procurement, the City must submit to the FTA regional office a copy of the signed lobbying certification.

Deficiency Description:

Pre-award and/or post-delivery audits not performed (P20-2)

Per 49 CFR 663, recipient purchasing revenue service rolling stock with federal funds must conduct pre-award and post-delivery audits verifying compliance with Buy America provisions, purchaser's requirements, resident inspector requirements, and Federal Motor Vehicle Safety Standards (FMVSS). Although procurements of rolling stock of \$150,000 or less are not subject to Buy America requirements, these contracts still must comply with the pre-award and post-delivery purchaser's requirements and FMVSS audits required by 49 CFR Part 663.

The City was not able to provide documentation that demonstrated the pre-award and post-delivery audits were completed on the ADA vans. It is noted that the ADA van procurement did not meet the Buy America threshold.

Corrective Actions and Schedule: For the deficiency *Pre-award and/or post-delivery audits not performed (P20-2)*, by April 1, 2024, the City of Bangor must submit to the FTA regional office procedures for conducting pre-award and post-delivery review and inspection of revenue service rolling stock.

By August 1, 2024, for its next revenue service rolling stock procurement, the City must submit to the FTA regional office documentation that the required process was implemented.

Deficiency Description:

Pre-award and/or post-delivery certifications lacking (P20-3)

As described in 49 CFR 663, recipients are required to certify that revenue service rolling stock complied with certain provisions, including the purchaser's specifications, Buy America, and Federal Motor Vehicle Safety Standards (FMVSS). The recipient must sign certifications as documentation verifies the manufacturer's compliance with those provisions.

The City was not able to provide the pre-award or post-delivery certifications for the ADA vans. It is noted the ADA van procurement did not meet the Buy America threshold.

Corrective Action and Schedule: For the deficiency *Pre-award and/or post-delivery audits not performed (P20-2)*, by May 1, 2024, the City of Bangor must submit to the FTA regional office the pre-award and post-delivery certifications for the ADA vans, as well as procedures for completing the applicable pre-award and post-delivery certifications for future revenue rolling stock procurements.

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 the City of Bangor, deficiencies were found with the US DOT requirements for DBE.

Deficiency Description:

Insufficient resources to administer the DBE Program (DBE 2-2)

Per 49 CFR 26.25, the recipient must have a DBE liaison officer (DBELO), who shall have direct, independent access to the Chief Executive Officer concerning DBE program matters. The DBELO shall be responsible for implementing all aspects of the DBE program. The DBE Program must also have adequate staff to administer the program in compliance with Part 26.

For this review, it was determined that the DBELO does not have sufficient resources to implement the DBE program. The assessment is supported by the number and nature of the DBE deficiencies identified during the review. The FTA Office of Civil Rights (TCR) concurred with the assessment.

Corrective Action and Schedule: For the deficiency *Insufficient resources to administer the DBE Program (DBE 2-2)*, by December 29, 2023, the City of Bangor must submit to the FTA Office of Civil Rights (TCR) evidence of corrective actions implemented to designate sufficient resources to the DBE program. This corrective action must be signed by the City Manager.

Deficiency Description:

Revisions to DBE goal submitted late (DBE3-1)

As prescribed in 49 CFR 26.45(f)(i), if recipients set their DBE goal on a fiscal year basis, then they must submit it to FTA by August 1 at three-year intervals, based upon the schedule established by FTA.

During this review, it was noted that the FY 2022-2024 DBE goal and methodology was due to be submitted in TrAMS by August 1, 2021. However, the FY 2022-2024 DBE goal and methodology was uploaded to TrAMS on July 27, 2022, nearly one year late.

Corrective Action and Schedule: For the deficiency *Revisions to DBE goal submitted late (DBE3-1)*, by July 1, 2024, the City of Bangor must implement a procedure and revise its DBE program to ensure that future DBE goal submissions will be submitted by August 1 of the applicable year. The City of Bangor must upload the revised program to TrAMS and notify FTA TCR when completed.

Deficiency Description:

DBE uniform reports contain inaccuracies and/or are missing required information (DBE5-1)

As explained in 49 CFR Part 26, Appendix B, recipients of Department of Transportation (DOT) funds are expected to keep accurate data regarding the contracting opportunities available to firms paid with DOT dollars. Failure to submit contracting data relative to the DBE program will result in noncompliance with Part 26.

For this review, the December 2022 and June 2023 semi-annual reports, as found in TrAMS, were examined to assess the accuracy of the data entries. The December 2022 and June 2023 semi-annual reports identified greater subcontract dollar awards than the prime contract dollar awarded.

In addition, in late FY 2021, the City of Bangor awarded an FTA-funded contract for construction of the new transit center, in the amount of \$3,846,000. This particular contract was not included in the December 2021 semi-annual report.

This is a repeat deficiency from the City's FY 2019 Triennial Review.

Corrective Actions and Schedule: For the deficiency *DBE uniform reports contain inaccuracies and/or are missing required information (DBE5-1)*, by July 1, 2024, the City of Bangor must submit corrected reports for December 2021, December 2022, and June 2023 to FTA TCR, along with implemented procedures for correctly completing Uniform Reports of DBE Awards or Commitments and Payments.

By July 1, 2024, the City of Bangor must submit a revised DBE Program plan to FTA TCR to describe how it will implement accurate reporting.

Deficiency Description:

DBE goal achievement analysis and corrective plan not completed (DBE6-1)

Per 49 CFR 26.47(c), if the awards and commitments shown on recipient's DBE Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the recipient must complete the following in order to be regarded by the Department as implementing your DBE program in good faith: (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year; and (2) Establish specific steps and milestones to correct the problems identified in the analysis to help meet the DBE goal for the new fiscal year.

The DBE semi-annual reports in TrAMS indicate that the City's DBE goal of 2.8% for FY 2022 was not met. During this Triennial Review, the City of Bangor did not provide their FY 2022 DBE shortfall analysis or corrective action plan.

Corrective Action and Schedule: For the deficiency *DBE goal achievement analysis and corrective plan not completed (DBE6-1)*, by July 1, 2024, the City of Bangor must submit to FTA TCR the required shortfall analysis and corrective action plan for FY 2022, along with a written process to ensure future shortfall analyses and corrective action plans are completed timely.

Deficiency Description:

Recipient does not implement DBE termination/substitution provisions (12-5)

The regulations at 49 CFR 26.53(f) state:

- (1) You must require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without your prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.
- (2) You may provide such written consent only if you agree, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm.
- (4) Before transmitting to you its request to terminate and/or substitute a DBE, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to you, of its intent to request to terminate and/or substitute, and the reason for the request.
- (5) The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise you and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why you should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), you may provide a response period shorter than five days.
- (6) In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

During this review, the DBELO indicated there was a DBE substitution on the Transit Center contract. The City of Bangor did not provide documentation of receiving and approving the contractor's written request to substitute the originally listed DBE.

Corrective Action and Schedule: For the deficiency *Recipient does not implement DBE termination/substitution provisions (12-5)*, by July 1, 2024, the City of Bangor must submit to FTA TCR its procedures for ensuring good cause and due process provisions for termination or substitution of DBEs.

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 the City of Bangor, no deficiencies were found with the FTA requirements for Title VI.

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 the City of Bangor, no deficiencies were found with the US DOT 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 the City of Bangor, no deficiencies were found with US DOT 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: During this Triennial Review of the City of Bangor, deficiencies were found with the FTA requirements for Equal Employment Opportunity.

Deficiency Description:

Employment practices analyses deficiencies (EEO4-2)

FTA Circular 4704.1A Ch. 2.2.6 requires recipients to provide statistical data that show any potential impact of employment practices on minorities and women since the last EEO program submission. This assessment must include: the number of applicants for employment in each job category and the number hired, cross-referenced by sex and race; the number of employees in each job category who applied for promotion or transfer and the number in each job category promoted or transferred, cross-referenced by sex and race; the number and types of disciplinary actions (e.g., indefinite suspension, loss of pay, demotion), tailored to the language used in union contracts and agency policies and procedures; the number of voluntary/involuntary terminations, cross-referenced by sex and race; and job category training that fosters promotion potential, cross-referenced by sex and race.

During this review, the City of Bangor acknowledged their employment practices charts for 2020, 2021, and 2022 were not complete. The City of Bangor does not track employment hires by race, gender, ethnicity, disability, or veteran status. Additionally, while the City of Bangor tracks promotions, training, and terminations/disciplinary actions by race and gender, it does not track them by the other required elements.

This is a repeat deficiency from the City's FY 2019 Triennial Review.

Corrective Actions and Schedule: For the deficiency *Employment practices analyses deficiencies (EEO4-2)*, by July 1, 2024, the City of Bangor must submit to FTA TCR a revised EEO plan with a detailed narrative and complete statistical assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization and an employment practices charts that provides all the statistical data noted in FTA Circular 4704.1A, Attachment 4.

By July 1, 2024, the City of Bangor must submit to FTA TCR a plan that defines how often it will conduct this assessment and how it will utilize the results of the assessment.

Deficiency Description:

EEO reporting and/or monitoring system deficiencies (EEO4-3)

FTA Circular 4704.1A Ch. 2.2.7 states, in part, "... An important part of any successful EEO program is establishing an effective and workable internal monitoring and reporting system to: Assess the results of action plans taken since the last program submission; Enable agencies to evaluate their EEO program during the year and to take any necessary corrective action regarding the development and execution of programs, goals, and timetables. FTA requires agencies to conduct such evaluations semiannually, at a minimum; produce documentation that supports actions to implement the plan for minority and female job applicants or employees and informs management of the program's effectiveness."

During this review, the City of Bangor did not provide documentation in support of monitoring its EEO plan's effectiveness and the employment practices statistical data for potential employment disparate impact.

Corrective Action and Schedule: For the deficiency *Employment practices analyses deficiencies (EEO4-2)*, by July 1, 2024, the City of Bangor must develop and submit to FTA TCR a detailed monitoring and reporting system to include collecting statistical data and evaluating employment practices for disparate impact.

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 the City of Bangor, 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. Recipient may operate charter only when the service meets a specified exception defined in rule.

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

19. Section 5307 Program Requirements

Basic Requirement: The recipient 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 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 the City of Bangor, 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 title to the leased vehicles.

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

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 the City of Bangor.

21. 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 the City of Bangor, no deficiencies were found with the FTA requirements for PTASP Requirements.

22. 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).

This section only applies to recipients that operate rail fixed guideway public transportation systems; therefore, the related requirements are not applicable to the Triennial Review of the City of Bangor.

V. Summary of Findings

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
1. Legal	ND				
2. Financial Management and Capacity	D	F6-3: Single Audit submission deficient, including late submission	The City of Bangor must submit to the FTA regional office procedures to ensure that the Single Audit report, data collection form, and reporting package are submitted to the FAC on time, as well as evidence that the FY 2023 Single Audit report and package were submitted on time.	April 1, 2024	
3. Technical Capacity – Award Management	D	TC-AM3-1: MPRs lack required information	the City of Bangor must submit to the FTA regional office procedures for ensuring all required information is included in future MPRs.	February 1, 2024	
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	M1-2: No written facility/ equipment maintenance plan	The City of Bangor must submit to the FTA regional office a written maintenance plan for FTA-funded facilities and equipment that identifies a system of periodic inspections and preventive maintenance performed at certain defined intervals and includes the new Transit Center.	July 1, 2024	
9. Procurement	D	P4-1: Responsibility determination deficiencies	For the ADA vans and bus procurements, the City of Bangor must verify the responsibility of contractors that were awarded the contracts. For its next applicable procurement, the City must submit to the FTA regional office documentation that a responsibility determination was completed prior to awarding the contract.	February 1, 2024 May 1, 2024	

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
		P11-1: Missing FTA clauses	The City of Bangor must submit to the FTA regional office revised procurement procedures that address inclusion of all FTA-required third-party contract clauses through use of a clause checklist or other mechanism. For its next procurement, the City must submit to the FTA regional office documentation that the required process was implemented.	March 1, 2024 May 1, 2024	
		P12-2: Lobbying certifications not included in procurement solicitations or signed by bidders	The City of Bangor must submit to the FTA regional office procedures for obtaining signed lobbying certifications. For its next applicable procurement, the City must submit to the FTA regional office a copy of the signed lobbying certification.	March 1, 2024 May 1, 2024	
		P20-2: Pre-award and/or post-delivery audits not performed	The City of Bangor must submit to the FTA regional office procedures for conducting pre-award and post-delivery review and inspection of revenue service rolling stock. For its next revenue service rolling stock procurement, the City must submit to the FTA regional office documentation that the required process was implemented.	April 1, 2024 August 1, 2024	
		P20-3: Pre-award and/or post-delivery certifications lacking	the City of Bangor must submit to the FTA regional office the pre-award and post-delivery certifications for the ADA vans, as well as procedures for completing the applicable pre-award and post-delivery certifications for future revenue rolling stock procurements.	May 1, 2024	
10. Disadvantaged Business Enterprise	D	DBE2-2: Insufficient resources to administer the DBE program	The City of Bangor must submit to the FTA Office of Civil Rights (TCR) evidence of corrective actions implemented to designate sufficient resources to the DBE program. This corrective action must be signed by the City Manager.	December 29, 2023	

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
		DBE3-1: DBE goal submitted late	The City of Bangor must implement a procedure and revise its DBE program to ensure that future DBE goal submissions will be submitted by August 1 of the applicable year. The City of Bangor must upload the revised program to TrAMS and notify FTA TCR when completed.	July 1, 2024	
		DBE5-1*: DBE uniform reports contain inaccuracies and/or are missing required information	The City of Bangor must submit corrected reports for December 2021, December 2022, and June 2023 to FTA TCR, along with implemented procedures for correctly completing Uniform Reports of DBE Awards or Commitments and Payments. The City of Bangor must submit a revised DBE Program plan to FTA TCR to describe how it will implement accurate reporting.	July 1, 2024 July 1, 2024	
		DBE6-1: DBE goal achievement analysis and corrective plan not completed	The City of Bangor must submit to FTA TCR the required shortfall analysis and corrective action plan for FY 2022, along with a written process to ensure future shortfall analyses and corrective action plans are completed timely.	July 1, 2024	
		DBE12-5: Recipient does not implement DBE termination/substitution provisions	The City of Bangor must submit to FTA TCR its procedures for ensuring good cause and due process provisions for termination or substitution of DBEs.	July 1, 2024	
11. Title VI	ND				
12. Americans with Disabilities Act (ADA) - General	ND				
13. ADA – Complementary Paratransit	ND				
14. Equal Employment Opportunity	D	EEO4-2*: Employment practices analyses deficiencies	The City of Bangor must submit to FTA TCR a revised EEO plan with a detailed narrative and complete statistical assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to under-utilization and an employment practices charts that provides all the statistical data noted in FTA Circular 4704.1A, Attachment 4.	July 1, 2024	

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
			The City of Bangor must submit to FTA TCR a plan that defines how often it will conduct this assessment and how it will utilize the results of the assessment.	July 1, 2024	
		EEO4-3: EEO reporting and/or monitoring system deficiencies	The City of Bangor must develop and submit to FTA TCR a detailed monitoring and reporting system to include collecting statistical data and evaluating employment practices for disparate impact.	July 1, 2024	
15. School Bus	D				
16. Charter Bus	ND				
17. Drug Free Workplace Act	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 Bangor</i>			
Debbie Laurie	City Manager	207-992-4201	debbie.laurie@bangormaine.gov
Courtney O'Donnell	Assistant City Manager	207-992-4202	courtney.odonnell@bangormaine.gov
Laurie Linscott	Bus Superintendent	207-992-4672	laurie.linscott@bangormaine.gov
Sherri Clark	Operations Officer	207-992-4676	sherri.clark@bangormaine.gov
Dave Little	Finance Director	207-992-4289	david.little@bangormaine.gov
Aimee Huotari	Deputy Finance Director	207-992-4253	aimee.huotari@bangormaine.gob
Laurie Bagley	Human Resources Officer	207-992-4265	lori.bagley@bangormaine.gov
<i>FTA</i>			
Peter Butler	Regional Administrator	617-494-2729	peter.butler@dot.gov
Michelle Muhlander	Deputy Regional Administrator	617-494-2630	michelle.muhlander@dot.gov
Matt Keamy	Program Management and Oversight Director	617-494-3038	matthew.keamy@dot.gov
Alex Hammond	General Engineer	617-494-2304	alexander.hammond@dot.gov
Bert Pechhold	General Engineer	617-494-4914	bert.pechhold@dot.gov
Nathaniel Fowler	Program Analyst	202-366-3232	nathaniel.fowler@dot.gov
<i>Qi Tech, LLC</i>			
Gwen Larson	Reviewer	920-746-4595	gwen_larson@qitechllc.com
Olivia Fonseca	Reviewer	916-261-2246	olivia_fonseca@qitechllc.com

VII. Appendices

Civil Rights Corrective Action Procedures:

Please submit corrective actions for all Civil Rights deficiencies to the following email address and copy your FTA Region I Program Manager:

FTACivilRightsSupport@dot.gov

1. A separate email should be sent to address each deficiency separately with attached supporting documentation.
2. Email Subject Line: FY 23 CORTAP Review Corrective Actions – Findings Code – Recipient Name + TrAMS ID

Example: FY23 CORTAP Review Corrective Actions – DBE5-1 – City of Bangor #7140

3. The body of the email should contain a short summary of the corrective action.
4. Supporting documents should be sent as PDF files. Do not send MS Word or Excel spreadsheets.