



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 12, 2023

Mr. Larry Wynne  
Chairman, Scranton  
County of Lackawanna Transit System (COLTS)  
800 North South Road  
Scranton, PA 18504

**Re: Fiscal Year 2023 Triennial Review – Final Report**

Dear Mr. Wynne:

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 County of Lackawanna Transit System (COLTS) in Scranton, PA. Although not an audit, the Triennial Review is the FTA's assessment of COLTS' 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 COLTS'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 COLTS's compliance in 23 areas. Deficiencies were found in eight (8) areas: Technical Capacity – Project Management, Satisfactory Continuing Control, Maintenance, Procurement, Disadvantaged Business Enterprise (DBE), Americans with Disabilities Act (ADA)-Complementary Paratransit, Equal Employment Opportunity (EEO), and Drug Free Workplace Act (DFWA). COLTS had two (2) repeat deficiencies from the Fiscal Year 2019 Triennial Review in the areas of Satisfactory Continuing Control and Procurement.

---

Mr. Wynne

Page 2

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. Ben Stoltenberg, Transportation Program Specialist at [Benjamin.Stoltenber@dot.gov](mailto:Benjamin.Stoltenber@dot.gov) or Mr. Ebenezer Affainie Financial Analyst at [Ebenezer.Affainie@dot.gov](mailto:Ebenezer.Affainie@dot.gov).

Sincerely,

Terry Garcia Crews  
Regional Administrator

Enclosure

cc: Mr. Tim McGrath, Executive Director COLTS

---

**FINAL REPORT**

**FISCAL YEAR 2023  
TRIENNIAL REVIEW**

**of**

**County of Lackawanna Transit System  
COLTS  
Scranton, PA  
ID: 1443**

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 17, 2023  
Virtual Site Visit Exit Conference Date: July 20, 2023  
Draft Report Date: August 18, 2023  
Final Report Date: September 12, 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 .....	10
9.	Procurement.....	11
10.	Disadvantaged Business Enterprise (DBE) .....	21
11.	Title VI.....	26
12.	Americans with Disabilities Act (ADA) – General.....	26
13.	ADA – Complementary Paratransit.....	26
14.	Equal Employment Opportunity .....	27
15.	School Bus.....	29
16.	Charter Bus .....	29
17.	Drug Free Workplace Act.....	29
18.	Drug and Alcohol Program .....	31
19.	Section 5307 Program Requirements.....	31
20.	Section 5310 Program Requirements.....	31
21.	Section 5311 Program Requirements.....	32
22.	Public Transportation Agency Safety Plan (PTASP).....	32
23.	Cybersecurity.....	32
V.	Summary of Findings .....	33
VI.	Attendees .....	36
	Appendices.....	37

## I. Executive Summary

This report documents the Federal Transit Administration's (FTA) Triennial Review of the County of Lackawanna Transit System (COLTS) of Scranton, PA. 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 COLTS' 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 COLTS 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 COLTS' 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 two (2) repeat deficiencies from the FY 2019 Triennial Review in the following area(s): Satisfactory Continuing Control and Procurement. Deficiencies were found in the areas listed below.

Review Area	Deficiency Codes		Corrective Action(s)	Response Due Date(s)
	Code	Rationale		
Technical Capacity – Project Management	TC-PjM3-1: Inadequate oversight of transit management contractor(s)/ lessee(s)	COLTS does not have an established monitoring program for NET including operations, ADA provisions, safety, or capacity constraints	The recipient must submit to the FTA regional office procedures for ensuring that transit management contractors comply with Federal requirements, along with evidence of implementation.	11/21/23
Satisfactory Continuing Control	SCC8-4: No evidence of physical inventory or reconciliation*	COLTS does not conduct a full physical inventory using the Fixed Asset Detail listing in order to complete the reconciliation	The recipient must submit to the FTA regional office: <ul style="list-style-type: none"><li>procedures for completing the physical inventory and reconciling them to records.</li><li>evidence that it has performed the physical inventory of FTA-funded equipment and has reconciled them to records.</li></ul>	11/21/23 2/8/24
Maintenance	M5-1: Inadequate oversight of subrecipient, contractor or lessee maintenance activities	COLTS has not established oversight of Transit Center maintenance by MARTZ	The recipient must submit to the FTA regional office procedures to oversee maintenance of the Transit Center.  Evidence of procedure implementation such as an amended lease or supplemental agreement incorporating the requirement for a written maintenance plan that includes (a) maintenance standards compatible with FTA requirements, (b) performance measures for timely maintenance, and (c) procedures for pursuing warranty claims.	11/21/23 2/8/24

Review Area	Deficiency Codes		Corrective Action(s)	Response Due Date(s)
	Code	Rationale		
9. Procurement	P4-1: Responsibility determination deficiencies	COLTS does not conduct responsibility determination	<ul style="list-style-type: none"> <li>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.</li> <li>The recipient must submit to the FTA regional office documentation of an implemented process to make adequate responsibility determinations prior to award of a contract.</li> <li>For the next procurement, submit to the FTA regional office documentation that the required process was implemented.</li> </ul>	11/21/23  2/8/24
	P8-5: Lacking required justification(s) and documentation for sole-source award(s)	VOIP and Copier procurement did not include memo justifying need for sole source award	<ul style="list-style-type: none"> <li>The recipient must submit to the FTA regional office: <ul style="list-style-type: none"> <li>The draft Procurement Manual policy to ensure that future sole source procurements are properly conducted and documented.</li> <li>Board approved revised Procurement Manual</li> </ul> </li> <li>For the next procurement, submit to the FTA regional office documentation that the required process was implemented.</li> </ul>	11/21/23  2/8/24
	P11-1: Missing FTA Clauses*	COLTS does not include (1) the Notice to FTA and DOT OIG, (2) Telecommunications, (3) Seat Belt, or (4) Distracted Driving clauses	<ul style="list-style-type: none"> <li>The recipient must submit to the FTA regional office: <ul style="list-style-type: none"> <li>The draft Procurement Manual that includes all FTA-required third party contract clauses through use of a clause checklist or other mechanism as well as a process for updating annually.</li> <li>Board approved revised Procurement Manual</li> </ul> </li> <li>For the next procurement, submit to the FTA regional office documentation that the required process was implemented.</li> </ul>	11/21/23  2/8/24
Disadvantaged Business Enterprise	DBE5-1: DBE uniform reports contain inaccuracies and/or are missing required information	Tracking total dollars, not DOT; only counting awards over a dollar threshold	<p>The recipient must:</p> <ul style="list-style-type: none"> <li>Review DBE reports from 2020 and inform the Office of Civil Rights which reports need revisions</li> <li>Submit corrected reports in TrAMS</li> <li>Submit a revised DBE Program that includes procedures for correctly completing Uniform Reports of DBE Awards or Commitments and Payments.</li> </ul>	2/8/24
Americans with Disabilities Act – Complementary Paratransit	ADA-CPT2-3: Eligibility appeals process not properly implemented	Need to clarify that that presumptive eligibility is granted after 30 days; this change will require Board approval	The recipient must submit to the Office of Civil Rights the Board approved eligibility appeals process that provides the applicant with paratransit service when the appeal decision is not made within 30 days of completing the appeal process until and unless a decision to deny the appeal is issued.	12/22/23

Review Area	Deficiency Codes		Corrective Action(s)	Response Due Date(s)
	Code	Rationale		
Equal Employment Opportunity	EEO3-2: Recipient personnel not performing required EEO responsibilities	Currently going through a restructuring and the individual taking on these roles will be the listed EEO Officer in the 2024 update; this change is ongoing	The recipient must submit to the FTA Office of Civil Rights evidence that: <ul style="list-style-type: none"> <li>the EEO Officer is correctly identified in the draft EEO Program,</li> <li>the EEO Officer reports and is directly responsible to the Executive Director,</li> <li>and that contact information for the EEO Officer is included in internal and external information, as described in the recipient's EEO program.</li> </ul>	12/22/23
Drug-Free Workplace Act	DFWA1-2: DFWA policy lacking required elements	Substance Abuse Program includes elements in various places; applies to safety sensitive employees only	The recipient must submit to the FTA regional office: <ul style="list-style-type: none"> <li>The Board approved amended DFWA policy that includes all required elements</li> <li>Documentation that the revised policy has been distributed to all award-related employees.</li> </ul>	12/22/23

\*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. Due to the [COVID-19 relief funds](#) received through the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES), Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA), and American Rescue Plan Act of 2021(ARP). 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 2, 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 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 COLTS occurred from July 17, 2023 (entrance conference) to July 20, 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 20, 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**

COLTS, an independent municipal authority operating in Lackawanna County, Pennsylvania, operates under policies set by its six (6) member Board of Directors. COLTS board members are appointed by the county commissioners to serve five-year terms.

The service area population of COLTS is 366,713. COLTS runs 22 daily fixed routes and specialized transportation services that meet the requirements of the Americans with Disabilities Act (ADA). Those services include SEATS, Persons with Disabilities, Medical Assistance Transportation Program, and Senior Shared Ride Program. COLTS contracts with Northeast Transit (NET) to run three (3) routes to provide ADA paratransit service on Saturday and to operate a few select fixed routes.

COLTS's current fleet is composed of 33 FTA-funded fixed-route vehicles, two (2) trolley buses, and 29 paratransit vehicles. COLTS' total fleet includes full-size transit buses, cutaway vans, and sedans. Thirteen of the full-size buses and six cutaways are compressed natural gas (CNG) vehicles.

Fares for COLTS' service for single-ride fares are \$1.75 and \$0.75 for transfers. COLTS offers several fare pass programs from as little as a four (4) day unlimited fare pass to a 31-consecutive day unlimited fare pass. Reduced fares starting at \$0.85 are offered to customers with certain disabilities. Adults over the age of 65 and children under 45 inches ride the bus for free. COLTS buses run from 5:15 a.m. to 7:30 p.m. Monday through Friday, and from 6:45 a.m. to 7:30 p.m. on Saturday.

COLTS operates from an FTA-funded bus operations and maintenance facility at 800 North South Road, Scranton, PA. and has an FTA-funded transit center at 30 Lackawanna Avenue, Scranton, PA.

#### **2. Award and Project Activity**

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

<b>Award Number</b>	<b>Award Amount</b>	<b>Year Executed</b>	<b>Description</b>
PA-2022-053	\$6,136,000	2022	ARPA 5307 COLTS Operating Assistance
PA-2022-047	\$1,458,450	2022	COLTS Section 5307 FFYs 2017, 2018 & 2019; Preventative Maintenance, Service Truck; Section 5339 FFYs 2019 & 2020; Office Furniture & Equipment, IT Equipment Purchase, & Bus & Facility Maintenance Equipment
PA-37-X045	\$1,946,346	2014	Access to Jobs

COLTS received Supplemental Funds for operating assistance in award numbers PA-2020-020 and PA-2022-016. This is not COLTS' first time receiving operating assistance from the FTA.

### **Projects Completed**

In the past few years, COLTS completed the following noteworthy project:

- COLTS has completed the Fixed Route Intelligent Transportation System (FRITS) project. The FRITS project is a statewide technology product. This project improves data collection, reporting and communications. It also monitors the condition of vehicles and has automatic passenger counts.

### **Ongoing Projects**

Due to the COVID-19 pandemic, COLTS has not taken part in noteworthy projects that are on-going.

### **Future Projects**

COLTS plans to pursue the following noteworthy project in the next three to five years:

- COLTS will be engaged in the construction of a new Administration & Maintenance facility. The building will be constructed over the course of 2.5 years and will be primarily funded through the PA Department of Transportation. The estimated cost is 55 million dollars. Procurement will be managed by a project management team at Gannett Fleming. COLTS will also be purchasing approximately 12-13 fixed route buses over the next five years. The vehicles will run on compressed natural gas and the total project costs are expected to exceed 9 million dollars. COLTS has piggy-backed off a state-sponsored contract for the purchase of these vehicles. A review of the contract has been done to ensure compliance with federal procurement standards.

## **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 COLTS, 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 COLTS, 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 COLTS, 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 COLTS, 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 COLTS, one (1) deficiency was found with the FTA requirements for Technical Capacity – Project Management.

Deficiency Description: Inadequate oversight of transit management contractor(s)/ lessee(s) (TC-PjM3-1)

Northeastern Transit (NET) operates three (3) fixed bus routes as well as Saturday shared ride services on behalf of COLTS using their own non-Federally funded vehicles. COLTS has access to operational data through the AVAIL and TSI systems installed on the buses and shared ride reports from the operators. COLTS has drafted checklists for ADA equipment maintenance and accessibility oversight but these are not yet in use. COLTS does not conduct comprehensive oversight of NET, including regular monitoring intervals or stated performance goals and expectations.

Corrective Action(s) and Schedule: By November 21, 2023, COLTS must submit to the Region 3 office procedures for ensuring that transit management contractors comply with Federal requirements, along with evidence of implementation.

## 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 COLTS, 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 COLTS, one (1) deficiency was found with the FTA requirements for Satisfactory and Continuing Control.

Deficiency Description: No evidence of physical inventory or reconciliation (SCC8-4)

COLTS does not conduct a full physical inventory in order to complete the reconciliation with the property records.

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:*

*(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.*

*(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.*

*(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.*

Corrective Action(s) and Schedule: By November 21, 2023, COLTS must submit to the Region 3 office procedures for completing the physical inventory and reconciling them to records.

By February 8, 2023, COLTS must submit to the Region 3 office evidence that it has performed the physical inventory of FTA-funded equipment and has reconciled them to records.

## **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 COLTS, one (1) deficiency was found with the FTA requirements for Maintenance.

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

The COLTS Transit Center lessee, MARTZ, holds responsibility for maintenance of the facility. COLTS does not require MARTZ to provide a facility maintenance plan including intervals or documentation evidencing on-time performance.

### 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.*

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 21, 2023, COLTS must submit to the Region 3 office procedures to oversee maintenance of the Transit Center.

By February 8, 2024, COLTS must submit to the Region 3 office evidence of procedure implementation such as an amended lease or supplemental agreement incorporating the requirement for a written maintenance plan that includes (a) maintenance standards compatible with FTA requirements, (b) performance measures for timely maintenance, and (c) procedures for pursuing warranty claims. COLTS must also submit documentation of preventive maintenance documentation from the lessee in accordance with the maintenance plan.

## **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 COLTS, three (3) deficiencies were found with the FTA requirements for Procurement.

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

COLTS does not have a process for conducting and documenting responsibility.

### 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 21, 2023, COLTS must submit to the Region 3 office:

- Documentation verifying the responsibility of contractors for any contracts where the recipient was found to have failed to verify that the contractor was responsible
- Documentation of an implemented process to make adequate responsibility determinations prior to award of a contract.

By February 8, 2024, COLTS must submit to the Region 3 office documentation that the required process was implemented with the next procurement.

Deficiency Description #2: Lacking required justification(s) and documentation for sole-source award(s) (P8-5)

COLTS had two (2) sole source procurements during the review period for VOIP and copier services. The procurement files did not include internal justifications for sole source awards as required.

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.*

*(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.*

FTA Circular 4220.1F Chapter VI 3. i. (1) (b) 2. Single Bid or Single Proposal

*Upon receiving a single bid or single proposal in response to a solicitation, the recipient should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal. a. Adequate Competition. FTA acknowledges competition to be adequate when*

*the reasons for few responses were caused by conditions beyond the recipient's control. Many unrelated factors beyond the recipient's control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, FTA's competition requirements will be fulfilled, and the procurement will qualify as a valid competitive award. b. Inadequate Competition. FTA acknowledges competition to be inadequate when, caused by conditions within the recipient's control. For example, if the specifications used were within the recipient's control and those specifications were unduly restrictive, competition will be inadequate.*

Corrective Action(s) and Schedule: By November 21, 2023, COLTS must submit to the Region 3 office:

- The revised Procurement Manual policy to ensure that future sole source procurements are properly conducted and documented.
- Board approved revised Procurement Manual.

By February 8, 2024, COLTS must submit to the Region 3 office documentation that the required process was implemented with the next procurement.

Deficiency Description #3: Missing FTA Clauses (P11-1)

COLTS procurement files do not include the (1) Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse, or other legal matters, (2) Prohibition on certain telecommunications and video surveillance services or equipment, (3) seatbelt use per FTA Master Agreement Section 34(a), or (4) distracted driving per FTA Master Agreement Section 34(a).

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 21, 2023, COLTS must submit to the Region 3 office:

- The draft Procurement Manual that includes all FTA-required third party contract clauses through use of a clause checklist or other mechanism as well as a process for updating annually.
- Board approved revised Procurement Manual.

By February 8, 2024, COLTS must submit to the Region 3 office documentation that the required process was implemented with the next procurement.

## **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 COLTS, one (1) deficiency was found with the USDOT requirements for DBE.

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

The COLTS Fixed Asset Purchases worksheet tracks all elements of the DBE uniform reports. Total dollars for Section A track to total dollars awarded rather than FTA funds only. The total number of awards under Section A does not include all awards for the reporting period.

### 49 CFR 26.37(c)

*This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In your reports of DBE participation to the Department, you must display both commitments and attainments.*

49 CFR Part 26 Appendix B “INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS/COMMITMENTS AND PAYMENTS”

*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. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or Federal Transit Administration (FTA) to which this report will be submitted.*

- 1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.*
- 2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than, ten vendors attach a separate sheet.*
- 3. Specify the Federal fiscal year (i.e., October 1 - September 30) in which the covered reporting period falls.*
- 4. State the date of submission of this report.*
- 5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1 - March 31. If this report is due December 1, data should cover April 1 - September 30. If the report is due to the FAA, data should cover the entire year.*
- 6. Provide the name and address of the recipient.*

FY2023 Comprehensive Review Contractors Manual – Disadvantaged Business Enterprise 10-12

*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. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or Federal Transit Administration (FTA) to which this report will be submitted.*

- 1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.*
- 2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than, ten vendors attach a separate sheet.*

3. Specify the Federal fiscal year (i.e., October 1 - September 30) in which the covered reporting period falls.

4. State the date of submission of this report.

5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1 - March 31. If this report is due December 1, data should cover April 1 - September 30. If the report is due to the FAA, data should cover the entire year.

6. Provide the name and address of the recipient.

7. State your overall DBE goal(s) established for the Federal fiscal year of the report being submitted to and approved by the relevant OA. Your overall goal is to be reported as well as the breakdown for specific race-conscious and race-neutral projections (both of which include gender-conscious/neutral projections). The race-conscious projection should be based on measures that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a race-conscious measure. The race-neutral projection should include measures that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.

#### Section A: Awards and Commitments Made During This Period

The amounts in items 8(A)-10(I) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

Line 8: Prime contracts awarded during this period: The items on this line should correspond to the contracts directly between the recipient and a supply or service contractor, with no intermediaries between the two.

8(A). Provide the total dollar amount for all prime contracts assisted with DOT funds and awarded during this reporting period. This value should include the entire Federal share of the contracts without removing any amounts associated with resulting subcontracts.

8(B). Provide the total number of all prime contracts assisted with DOT funds and awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the dollar amount awarded in prime contracts to certified DBE firms during this reporting period. This amount should not include the amounts sub contracted to other firms.

8(D). From the total number of prime contracts awarded in item 8(B), specify the number of prime contracts awarded to certified DBE firms during this reporting period.

8(E&F). This field is closed for data entry. Except for the very rare case of DBE-set asides permitted under 49 CFR Part 26, all prime contracts awarded to DBEs are regarded as race-neutral.

8(G). From the total dollar amount awarded in item 8(C), provide the dollar amount awarded to certified DBEs through the use of race-neutral methods. See the definition of race-neutral in item 7 and the EXPLANATION FOR THE RECIPIENT in item 8 of project types to include.

8(H). From the total number of prime contracts awarded in 8(D), specify the number awarded to DBEs through race-neutral methods.

8(I). Of all prime contracts awarded this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Line 9: Subcontracts awarded/committed this period: Items 9(A)-9(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

9(A). If filling out the form for general reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded in prime contracts in 8(A), and therefore should never be greater than the amount awarded in prime contracts. If filling out the form for project reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded or previously in prime contracts in 8(A). The sum of all subcontract amounts in consecutive periods should never exceed the sum of all prime contract amounts awarded in those periods.

9(B). Provide the total number of all subcontracts assisted with DOT funds that were awarded or committed during this reporting period.

9(C). From the total dollar amount of subcontracts awarded/committed this period in item 9(A), provide the total dollar amount awarded in subcontracts to DBEs.

9(D). From the total number of subcontracts awarded or committed in item 9(B), specify the number of subcontracts awarded or committed to DBEs.

9(E). From the total dollar amount of subcontracts awarded or committed to DBEs this period, provide the amount in dollars to DBEs using race-conscious measures.

9(F). From the total number of subcontracts awarded or committed to DBEs this period, provide the number of subcontracts awarded or committed to DBEs using race-conscious measures.

9(G). From the total dollar amount of subcontracts awarded/committed to DBEs this period, provide the amount in dollars to DBEs using race-neutral measures.

9(H). From the total number of subcontracts awarded/committed to DBEs this period, provide the number of subcontracts awarded to DBEs using race-neutral measures.

9(I). Of all subcontracts awarded this reporting period, calculate the percentage going to DBEs.

Divide the dollar amount in item 9(C) by the dollar amount in item 9(A) to derive this percentage. Round percentage to the nearest tenth.

Line 10: Total contracts awarded or committed this period. These fields should be used to show the total dollar value and number of contracts awarded to DBEs and to calculate the overall percentage of dollars awarded to DBEs.

10(A)-10(B). These fields are unavailable for data entry.

10(C-H). Combine the total values listed on the prime contracts line (Line 8) with the corresponding values on the subcontracts line (Line 9).

10(I). Of all contracts awarded this reporting period, calculate the percentage going to DBEs. Divide the total dollars awarded to DBEs in item 10(C) by the dollar amount in item

8(A) to derive this percentage. Round percentage to the nearest tenth.

#### Frequently Asked Questions (FAQ) Regarding Coronavirus Disease 2019 (COVID-19), CR16

The DOT DBE regulations at 49 CFR § 26.21 require FTA recipients to have a DBE program when receiving planning, capital, and/or operating assistance and will award more than \$250,000 in FTA-funded contracts (excluding transit vehicle purchases) in a federal fiscal year. A new or updated DBE program or goal is not required if CARES Act funds represent a temporary increase in the Federal share of already contracted operations expenses for the purposes of responding to COVID-19. Similarly, if CARES Act funds represent temporary adjustments to, or continuations of, existing operations contracts to respond to COVID-19, a new DBE program or goal is not required. A recipient with an existing DBE program should count CARES Act funds towards the DBE goal as it would all FTA funds.

For those recipients that do not already have a DBE program or goal, DOT envisions no added burden to increase the federal share of existing contracts and operating expenses. A recipient is encouraged to consult with FTA if it has specific questions regarding whether CARES Act funding is applicable to existing or new DBE programs or goal submissions. If a recipient needs to develop a new DBE program, it must be submitted to FTA by October 1, 2020. Please remember that, as a condition of receiving financial assistance, all FTA recipients ensure DBE compliance with Federal requirements by self-certification through the FTA Master Agreement. The most recent Master Agreement is dated February 9, 2021. See Section 12 for DBE requirements.

Corrective Action(s) and Schedule: By February 8, 2024, COLTS must submit to the RCRO via [FTACivilRightsSupport@dot.gov](mailto:FTACivilRightsSupport@dot.gov) (per instructions in Section VII of this report):

- Review DBE reports from 2020 and inform the Office of Civil Rights which reports need revisions
- Submit corrected reports in TrAMS
- Submit a revised DBE Program that includes procedures for correctly completing Uniform Reports of DBE Awards or Commitments and Payments.

## 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 COLTS 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 COLTS, 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 COLTS one (1) deficiency was found with USDOT requirements for ADA – Complementary Paratransit.

Deficiency Description: Eligibility appeals process not properly implemented (ADA-CPT2-3)

The appeals process did not specify that if a decision is not made within 30 days of completing the appeal process, paratransit service is provided until and unless a decision to deny the appeal is issued. The Paratransit Rider Guide was updated during the review and requires Board approval.

#### 49 CFR 37.125 ADA paratransit eligibility: Process

*Each public entity required to provide complementary paratransit service by §37.121 of this part shall establish a process for determining ADA paratransit eligibility...*

*(c) If, by a date 21 days following the submission of a complete application, the entity has not made a determination of eligibility, the applicant shall be treated as eligible and provided service until and unless the entity denies the application.*

*(d) The entity's determination concerning eligibility shall be in writing. If the determination is that the individual is ineligible, the determination shall state the reasons for the finding.*

*(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.*

*(1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application.*

*(2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.*

*(3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.*

*(i) In applications for ADA paratransit eligibility, the entity may require the applicant to indicate whether or not he or she travels with a personal care attendant.*

Corrective Action(s) and Schedule: By December 22, 2023, COLTS must submit to the RCRO via [FTACivilRightsSupport@dot.gov](mailto:FTACivilRightsSupport@dot.gov) (per instructions in Section VII of this report) the Board approved eligibility appeals process that provides the applicant with paratransit service when the appeal decision is not made within 30 days of completing the appeal process until and unless a decision to deny the appeal is issued.

## **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 COLTS one (1) deficiency was found with the FTA requirements for Equal Employment Opportunity.



Deficiency Description: Recipient personnel not performing required EEO responsibilities (EEO3-2)

The current EEO Program lists the Executive Director as the EEO Officer; the Executive Director was not responsible for investigating complaints of EEO discrimination or providing EEO training for employees and managers during the review period. Through the ongoing restructuring the Director of Human Resources has taken on EEO Officer responsibilities. This restructuring is ongoing and the role/responsibility changes must be noted in the FY24 EEO Program update.

FTA Circular 4704.1A Ch. 2.2.3 Designation of Personnel Responsibility

*The designation of an agency's EEO Officer responsible for EEO program management and oversight reflects the agency's EEO commitment. As such, FTA requires agencies to designate an executive as EEO Officer who will report to and is directly responsible to the agency's CEO/GM. FTA requires agencies to name the EEO Officer and publicize the individual's contact information in all internal and external communications regarding the agency's EEO program. This will include publishing the EEO Officer's contact information prominently in both print and electronic communications, such as the agency's website.*

*FTA requires the EEO Officer's program responsibilities to include...Concurring in the hiring and promotion process; ... Investigating complaints of EEO discrimination; Providing EEO training for employees and managers;*

*Although the EEO Officer is primarily responsible for implementing an agency's EEO program, all officials, managers, and supervisors are responsible for ensuring EEO and must not discriminate based on a protected class. All managers—from the supervisor of the smallest unit to the Board Chair or CEO/GM—bear responsibility for ensuring that agency EEO program policies and programs are carried out. EEO responsibilities for agency officials, supervisors and managers include: Participating actively in periodic audits of all aspects of employment to identify and remove barriers obstructing the achievement of specified goals and objectives; Holding regular discussions with other managers, supervisors, employees, and affinity groups to ensure agency policies and procedures are being followed. Affinity groups are those formed around a shared interest or common goal, to which individuals formally or informally belong.*

Corrective Action(s) and Schedule: By December 22, 2023, COLTS must submit evidence to the RCRO via [FTACivilRightsSupport@dot.gov](mailto:FTACivilRightsSupport@dot.gov) (per instructions in Section VII of this report) that:

- the EEO Officer is correctly identified in the draft EEO Program update,
- the EEO Officer reports and is directly responsible to the Executive Director,
- and that contact information for the EEO Officer is included in internal and external information, as described in the recipient's EEO program.



## 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 COLTS, 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 COLTS, 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 COLTS, one (1) deficiency was found with the FTA requirements for Drug-Free Workplace Act.

Deficiency Description: DFWA policy lacking required elements (DFWA1-2)

COLTS has a Substance Abuse Program that only applies to safety-sensitive employees, not all award-related employees. The Program does not include all three (3) required elements in a distinct section.

41 U.S.C. 8103. Drug free workplace requirements for Federal grant recipients

*(a) In General.—*

*(1) Persons other than individuals.—A person other than an individual shall not receive a grant from a Federal agency unless the person agrees to provide a drug-free workplace by—*

*(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of the prohibition;*

*(B) establishing a drug-free awareness program to inform employees about—*

*(i) the dangers of drug abuse in the workplace;*

*(ii) the grantee's policy of maintaining a drug-free workplace;*

*(iii) available drug counseling, rehabilitation, and employee assistance programs; and*

*(iv) the penalties that may be imposed on employees for drug abuse violations;*

*(C) making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by subparagraph (A);*

*(D) notifying the employee in the statement required by subparagraph (A) that as a condition of employment in the grant the employee will—*

*FY2023 Comprehensive Review Contractors Manual – Drug Free Workplace Act 17-4*

*(i) abide by the terms of the statement; and*

*(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;*

*(E) notifying the granting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of a conviction;*

*(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by section 8104 of this title; and*

*(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A) to (F).*

*49 CFR 32.205 What must I include in my drug free workplace statement?*

*You must publish a statement that—*

*(a) Tells your employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in your workplace;*

*(b) Specifies the actions that you will take against employees for violating that prohibition; and*

*(c) Lets each employee know that, as a condition of employment under any award, he or she:*

*(1) Will abide by the terms of the statement; and*

*(2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction.*

Corrective Action(s) and Schedule: By December 22, 2023, COLTS must submit to the Region 3 office:

- The Board approved amended DFWA policy that includes all required elements.
- Documentation that the revised policy has been distributed to all award-related employees.

## **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 COLTS, 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 COLTS, 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 COLTS.

## **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 COLTS.

## **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 COLTS, 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).

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 COLTS.

## 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	D	TC-PjM3-1	Inadequate oversight of transit management contractor(s)/ lessee(s)	The recipient must submit to the FTA regional office procedures for ensuring that transit management contractors comply with Federal requirements, along with evidence of implementation.	11/21/23	
6. Transit Asset Management	ND					
7. Satisfactory Continuing Control	D	SCC8-4	No evidence of physical inventory or reconciliation*	The recipient must submit to the FTA regional office: <ul style="list-style-type: none"> <li>procedures for completing the physical inventory and reconciling them to records.</li> <li>evidence that it has performed the physical inventory of FTA-funded equipment and has reconciled them to records.</li> </ul>	11/21/23 2/8/24	
8. Maintenance	D	M5-1	Inadequate oversight of subrecipient, contractor or lessee maintenance activities	The recipient must submit to the FTA regional office procedures to oversee maintenance of the Transit Center. The recipient must submit to the FTA regional office evidence of procedure implementation such as an amended lease or supplemental agreement incorporating the requirement for a written maintenance plan that includes (a) maintenance standards compatible with FTA requirements, (b) performance measures for timely maintenance, and (c) procedures for pursuing warranty claims.	11/21/23 2/8/24	

Review Area	Finding	Deficiency Code(s)		Corrective Action(s)	Response Due Date(s)	Date Closed
		Code	Description			
9. Procurement	D	P4-1	Responsibility determination deficiencies	<ul style="list-style-type: none"> <li>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.</li> <li>The recipient must submit to the FTA regional office documentation of an implemented process to make adequate responsibility determinations prior to award of a contract.</li> <li>For the next procurement, submit to the FTA regional office documentation that the required process was implemented.</li> </ul>	11/21/23  2/8/24	
		P8-5	Lacking required justification(s) and documentation for sole-source award(s)	<ul style="list-style-type: none"> <li>The recipient must submit to the FTA regional office: <ul style="list-style-type: none"> <li>The draft Procurement Manual policy to ensure that future sole source procurements are properly conducted and documented.</li> <li>Board approved revised Procurement Manual</li> </ul> </li> <li>For the next procurement, submit to the FTA regional office documentation that the required process was implemented.</li> </ul>	11/21/23  2/8/24	
		P11-1	Missing FTA Clauses*	<ul style="list-style-type: none"> <li>The recipient must submit to the FTA regional office: <ul style="list-style-type: none"> <li>The draft Procurement Manual that includes all FTA-required third party contract clauses through use of a clause checklist or other mechanism as well as a process for updating annually.</li> <li>Board approved revised Procurement Manual</li> </ul> </li> <li>For the next procurement, submit to the FTA regional office documentation that the required process was implemented.</li> </ul>	11/21/23  2/8/24	
10. Disadvantaged Business Enterprise	D	DBE5-1	DBE uniform reports contain inaccuracies and/or are missing required information	<p>The recipient must:</p> <ul style="list-style-type: none"> <li>Review DBE reports from 2020 and inform the Office of Civil Rights which reports need revisions</li> <li>Submit corrected reports in TrAMS</li> <li>Submit a revised DBE Program that includes procedures for correctly completing Uniform Reports of DBE Awards or Commitments and Payments.</li> </ul>	2/8/24	
11. Title VI	ND					
12. Americans with Disabilities Act (ADA) – General	ND					

Review Area	Finding	Deficiency Code(s)		Corrective Action(s)	Response Due Date(s)	Date Closed
		Code	Description			
13. ADA – Complementary Paratransit	D	ADA-CPT2-3	Eligibility appeals process not properly implemented	The recipient must submit to the Office of Civil Rights the Board approved eligibility appeals process that provides the applicant with paratransit service when the appeal decision is not made within 30 days of completing the appeal process until and unless a decision to deny the appeal is issued.	12/22/23	
14. Equal Employment Opportunity	D	EEO3-2	Recipient personnel not performing required EEO responsibilities	The recipient must submit to the FTA Office of Civil Rights evidence that: <ul style="list-style-type: none"> <li>the EEO Officer is correctly identified in the draft EEO Program,</li> <li>the EEO Officer reports and is directly responsible to the Executive Director,</li> <li>and that contact information for the EEO Officer is included in internal and external information, as described in the recipient's EEO program.</li> </ul>	12/22/23	
15. School Bus	ND					
16. Charter Bus	ND					
17. Drug-Free Workplace	D	DFWA1-2	DFWA policy lacking required elements	The recipient must submit to the FTA regional office: <ul style="list-style-type: none"> <li>The Board approved amended DFWA policy that includes all required elements</li> <li>Documentation that the revised policy has been distributed to all award-related employees.</li> </ul>	12/22/23	
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 a repeat finding

## VI. Attendees

Name	Title	Phone Number	E-mail Address
<b>County Lackawanna Transit System (COLTS)</b>			
Tim McGrath	Executive Director	570-212-0785	<a href="mailto:tmcgrath@coltsbus.com">tmcgrath@coltsbus.com</a>
Greg Czyzyk	Special Projects Manager	570-905-7563	<a href="mailto:gczyzyk@coltsbus.com">gczyzyk@coltsbus.com</a>
Michael Danchak	Director of Finance	570-614-8078	<a href="mailto:mdanchak@coltsbus.com">mdanchak@coltsbus.com</a>
Katie McAndrew	Administrative Assistant	570-241-7609	<a href="mailto:kmcandrew@coltsbus.com">kmcandrew@coltsbus.com</a>
Keri Savage	Director of Human Resources	570-780-9927	<a href="mailto:ksavage@coltsbus.com">ksavage@coltsbus.com</a>
Kelly Matone	Manager of Shared Ride	570-499-5044	<a href="mailto:kmalone@coltsbus.com">kmatone@coltsbus.com</a>
Bill Kuehner	Interim Director of Safety and Security	570-575-3398	<a href="mailto:wkuehner@coltsbus.com">wkuehner@coltsbus.com</a>
Zain Rabbani	Director of Fixed Route	570-468-0095	<a href="mailto:zrabbani@coltsbus.com">zrabbani@coltsbus.com</a>
Dave Sklapeski	Director of Maintenance	570-840-3619	<a href="mailto:dsklapeski@coltsbus.com">dsklapeski@coltsbus.com</a>
Wayne Williams	Director of Shared Ride	570-240-0231	<a href="mailto:wwilliams@coltsbus.com">wwilliams@coltsbus.com</a>
<b>FTA</b>			
Tony Tarone	Deputy Regional Administrator	215-656-7100	<a href="mailto:tony.tarone@dot.gov">tony.tarone@dot.gov</a>
Tony Cho	Director, Office of Program Management	215-656-7250	<a href="mailto:tony.cho@dot.gov">tony.cho@dot.gov</a>
Ebenezer Affainie	Financial Analyst	215-656-7960	<a href="mailto:ebenezer.affainie@dot.gov">ebenezer.affainie@dot.gov</a>
Ben Stoltenberg	Transportation Program Specialist	215-656-7247	<a href="mailto:benjamin.stoltenberg@dot.gov">benjamin.stoltenberg@dot.gov</a>
Anthony Romero	Procurement Specialist (Contractor)	215-656-7100	<a href="mailto:anthony.romero.ctr@dot.gov">anthony.romero.ctr@dot.gov</a>
<b>Contractor</b>			
Ellen Harvey	Lead Reviewer	617-577-0042	<a href="mailto:eharvey@calyptusgroup.com">eharvey@calyptusgroup.com</a>
Trysh Strayhand	Associate Reviewer	617-577-0042	<a href="mailto:tstrayhand@calyptusgroup.com">tstrayhand@calyptusgroup.com</a>



## VII. Appendices

### Civil Rights Corrective Action Submission

All Civil Rights corrective actions should be submitted to [FTACivilRightsSupport@dot.gov](mailto: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 *.pdf files* in the following format:

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

For example, **Region3- COLTS -1419-DBE6-1.pdf**

- **Email Subject Line:** TR FY23 Corrective Action: Grantee Name-Recipient ID, Deficiency Code, and Deficiency Title

For example, **Triennial Review FY23 Corrective Action: COLTS -1419, DBE6-1 DBE Shortfall Analyses**

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