



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

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Pennsylvania, Virginia,
West Virginia

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August 30, 2023

Ms. Cherelle L. Parker
Board Chair
Delaware River Port Authority
One Port Center, 2 Riverside Drive
Camden, NJ 08101

Re: Fiscal Year 2023 Triennial Review – Final Report

Dear Ms. Parker:

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 Delaware River Port Authority (DRPA) in Camden, NJ. Although not an audit, the Triennial Review is the FTA's assessment of DRPA's compliance with Federal requirements, determined by examining a sample of award management and program implementation practices. As such, the Triennial Review is not intended as, nor does it constitute, a comprehensive and final review of compliance with award requirements.

Due to the Coronavirus 2019 (COVID-19) Public Health Emergency, a virtual site visit was conducted for this Triennial Review. In addition, the review was expanded to address DRPA'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 DRPA's compliance in 23 areas. Deficiencies were found in four (4) areas: Technical Capacity – Award Management, Satisfactory Continuing Control, Procurement, and Title VI. DRPA had no repeat deficiencies from the Fiscal Year 2019 Triennial Review.

Subsequent to the site visit, DRPA provided corrective action responses to address and close the deficiencies noted in the Technical Capacity – Award Management, Satisfactory Continuing Control, Procurement, and Title VI areas of the report that follows. **All deficiencies from this review have been resolved and the review is closed.**

Ms. Parker

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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.Stoltenberg@dot.gov.

Sincerely,

Terry Garcia Crews
Regional Administrator

FINAL REPORT

FISCAL YEAR 2023 TRIENNIAL REVIEW

of

**Delaware River Port Authority
DRPA
Camden, NJ
ID: 1413**

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: June 20, 2023
Virtual Site Visit Exit Conference Date: June 28, 2023
Draft Report Date: July 28, 2023
Final Report Date: August 30, 2023**

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I. Executive Summary

This report documents the Federal Transit Administration's (FTA) Triennial Review of the Delaware River Port Authority (DRPA) of Camden, NJ. 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 DRPA's compliance with the administrative relief and flexibilities that the FTA granted, and the requirements of the COVID-19 Relief funds received through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) of 2021, and the American Rescue Plan (ARP) Act of 2021. The FTA also requested DRPA 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 DRPA's compliance in 23 areas. Deficiencies related to the COVID-19 Relief funds have been clearly identified as part of the deficiency description in the respective review area. There were no repeat deficiencies from the FY 2019 Triennial Review. Deficiencies were found in the areas listed below.

Review Area	Deficiency Codes		Corrective Action(s)	Response Due Date(s)
	Code	Rationale		
Technical Capacity – Award Management	TC-AM5-1: Inactive award/ untimely closeouts	Award closeout retainage; 11 inactive grants, 5 on the closeout list	1. The recipient must submit to the FTA regional office more effective procedures for award management to enable it to close awards. 2. The recipient must submit to the FTA regional office an award closeout plan for all awards.	10/30/23 <i>Closed 8/23/23</i>
Satisfactory Continuing Control	SCC8-4: No evidence of physical inventory or reconciliation	No documentation of a reconciliation between the list of assets in SAP and the physical assets	1. The recipient must submit to the FTA regional office written inventory control procedures defining roles and responsibilities for tracking FTA-funded assets and reconciling physical inventories to its equipment records. 2. The recipient must submit a timeline for performing the physical inventory and reconciliation of FTA-funded equipment.	10/30/23 <i>Closed 8/7/23</i>

Review Area	Deficiency Codes		Corrective Action(s)	Response Due Date(s)
	Code	Rationale		
Procurement	P11-1: Missing FTA Clauses	Recipient did not include all required clauses in all applicable procurements	<p>The recipient must submit to the FTA regional office:</p> <ul style="list-style-type: none"> Revised procurement procedures that address inclusion of all FTA-required third-party contract clauses through use of a clause checklist or other mechanism. A procedure for updating the required contract clauses on an annual basis. Evidence of implementation with the next applicable procurement 	10/30/23 12/11/23 <i>Closed 8/7/23</i>
Title VI	TVI2-1: Language Assistance Plan implementation deficiencies	Title VI Training not conducted with new hire orientation or on language line per Title VI Program LAP	The recipient must prepare and submit to the FTA RCRO documentation of implementing its LAP.	10/30/23 <i>Closed 8/22/23</i>

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)

Subsequent to the site visit, DRPA provided corrective action responses to address and close the deficiencies noted in the Technical Capacity – Award Management, Satisfactory Continuing Control, Procurement, and Title VI areas of the report that follows. **All deficiencies from this review have been resolved and are closed.**

II. Review Background and Process

1. Background

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

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

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

2. Process

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

The fiscal year (FY) 2023 process began with the regional office transmitting, a notification of the review and a Recipient Information Request (RIR) to the recipient on December 2, 2022 indicating a review would be conducted. While the recipient prepared its response to the RIR, the regional office and Reviewer 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 6, 2023 indicating the issues that would be discussed, records to be reviewed, and interviews to be conducted. The virtual site visit to DRPA occurred from June 20, 2023 (entrance conference) to June 28, 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 June 28, 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

The Delaware River Port Authority (DRPA) provides transit service through its subsidiary, the Port Authority Transit Corporation (PATCO). DRPA is a bi-state federally chartered agency. Its governing body consists of a 16-member Board of Commissioners, eight (8) each from the State of New Jersey and the Commonwealth of Pennsylvania.

Since 1969, PATCO has operated a single high-speed rail line along a 14.2-mile right-of-way from Lindenwold, New Jersey to Philadelphia, Pennsylvania using 120 rail cars. PATCO's service area population is approximately 702,414 persons.

PATCO provides rail service 24 hours a day, seven (7) days a week. On weekdays, train headways range from five (5) minutes during peak periods to 45 minutes during the overnight period. Headways on Saturday and Sunday range from 12 to 45 minutes, depending on time of day.

PATCO uses a zone fare structure with one-way fares ranging from \$1.40 to \$3.00 depending on the number of zones traveled. A reduced fare of \$0.70 is offered to the elderly, persons with disabilities, and Medicare Card holders between any two (2) stations during off-peak hours.

PATCO operates from a single maintenance and administration facility in Lindenwold, New Jersey. Its service is oriented around four (4) transit centers. Three (3) transit centers are located in New Jersey at the Lindenwold, Woodcrest and Broadway stations. One (1) transit center is located in Philadelphia at the 8th and Market Street station. PATCO has 13 stations, nine (9) in New Jersey and four in Philadelphia.

PATCO recently completed a transit car overhaul project that resulted in the refurbishment of all 120 transit cars on its high-speed rail line. The scope of the project included stripping the cars to bare car shells; abatement of asbestos and other hazardous materials; repair of car shells as required; installation of new and rehabilitated car systems; installation of new flooring, interiors, and seating; installation of enclosed operator cabs and Americans with Disabilities Act (ADA)-compliant accommodations; reassembly of the cars; commissioning and testing; obtaining manuals and providing training; and obtaining safety certifications and other required documentation. The FTA share of this project was \$69 million. All cars have now been accepted for service.

2. Award and Project Activity

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

Award Number	Award Amount	Year Executed	Description
NJ-2021-009	\$26,212,384	2022	DRPA/PATCO FFY 2019 BUILD Discretionary Grant - Franklin Square Station Reopening Project
NJ-2021-024	\$12,607,790	2021	DRPA/PATCO FFY 2021 - Section 5337 - PATCO HSL Improvements
NJ-2021-023	\$6,111,792	2021	DRPA/PATCO FFY 2021 - Section 5307/5340 - PATCO HSL Improvements
NJ-2021-012	\$5,213,417	2021	DRPA/PATCO - FFY 2019 / FFY 2020 Section 5337 - Franklin Square Station Reopening Project
NJ-2021-011	\$10,954,336	2021	DRPA/PATCO FFY 2019 / FFY 2020 - Section 5337 - PATCO HSL Improvements
NJ-2021-007	\$5,920,843	2021	DRPA FFY 2020 - Section 5307/5340 - PATCO HSL Improvements
NJ-2020-025	\$16,800,807	2020	FFY 2017/FFY 2018/ FFY 2019 - Section 5307/5340 - PATCO HSL Improvements
NJ-2020-017	\$33,868,605	2020	FFY 2017/FFY 2018/FFY 2019 - Section 5337 - PATCO HSL Improvements
NJ-2020-022	\$3,490,576	2020	FY2016 - Section 5307 - PATCO HSL Improvements
NJ-2019-007	\$3,773,088	2019	FY 2016 Section 5337 - PATCO HSL Improvements
NJ-2018-008	\$24,478,942	2018	Section 5307/5340 for FY14, FY15 and FY16, and Section 5337 for FY15, FY16
NJ-2017-014	\$15,649,872	2017	FY 2014 Section 5307 Urbanized Area Formula Funds and FY 2014 Section 5337 State of Good Repair Formula Funds
NJ-54-0004	\$9,965,074	2015	FY 13 State of Good Repair
NJ-05-0032	\$9,205,687	2015	FY 12 Fixed Guideway Application
NJ-90-X099	\$10,713,403	2015	FY 2012/FY 2013 Program of Projects
NJ-05-0030	\$9,191,976	2014	FY 11 Fixed Guideway Application
NJ-05-0026	\$9,132,972	2010	FY 10 Fixed Guideway Application
NJ-03-0157	\$7,793,304	2005	FY05 Fixed Guideway Application

DRPA received supplemental funds for operating assistance in award numbers NJ-2020-025, NJ-2021-025, and NJ-2021-008. This is the DRPA's first time receiving operating assistance from the FTA.

Projects Completed

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

- PATCO Train Car Fleet Rehabilitation
- Lindenwold Yard Track Rehabilitation & Lindenwold Viaduct
- Upgrade Center Tower SCADA Software

Ongoing Projects

DRPA is currently implementing the following noteworthy projects:

- Install Elevators in Remaining Stations
- Re-opening Franklin Square
- PATCO Rail Replacement – Ferry to Broadway
- Westmont Platform Headhouses
- Center Tower/Command & Control Center Relocation
- Woodcrest Station Platform Rehabilitation
- Philadelphia Subway Signal Cable
- Viaduct Substructure Preservation (Collingswood & Westmont)
- Embankment Restoration, Drainage Improvements, & Retaining Walls Rehabilitation – Phase 5
- Negative Feed Power Replacement - Lindenwold Yard
- Replace Electrical Cables in Subways
- Subway Structure Renovation
- PATCO Interlocking and Track Rehabilitation Phase II
- Track Drainage Improvements - Cuthbert & Osage

Future Projects

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

- Replacement of Track Ties
- Smoke & Fire Control, Forced Air Ventilation
- PATCO Bridges Rehabilitation
- PATCO Track Resurfacing & Profiling
- PATCO Station Modernizations
- Exterior Platform Preservation

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 DRPA, 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 DRPA, 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 DRPA, one (1) deficiency was found with the FTA requirements for Technical Capacity – Award Management.

Deficiency Description: Inactive award/ untimely closeouts (TC-AM5-1)

At the time of the review, DRPA had five (5) awards on the closeout list. As noted in the Milestone Progress Reports, awards may be inactive for years pending retainage for the overall project. DRPA does not initiate closeout within 120 days once activity is completed as required.

2 CFR 200.344 Closeout

The Federal awarding agency or pass-through entity will close out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the non-Federal entity. If the non-Federal entity fails to complete the requirements, the Federal awarding agency or pass-through entity will proceed to close out the Federal award with the information available. This section specifies the actions the non-Federal

entity and Federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance.

(a) The recipient must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. A subrecipient must submit to the pass-through entity, no later than 90 calendar days (or an earlier date as agreed upon by the pass-through entity and subrecipient) after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested and justified by the non-Federal entity, as applicable.

(b) Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all financial obligations incurred under the Federal award no later than 120 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.

(c) The Federal awarding agency or pass-through entity must make prompt payments to the non-Federal entity for costs meeting the requirements in Subpart E of this part under the Federal award being closed out.

(d) The non-Federal entity must promptly refund any balances of unobligated cash that the Federal awarding agency or pass-through entity paid in advance or paid and that are not authorized to be retained by the non-Federal entity for use in other projects. See OMB Circular A-129 and see §200.346, for requirements regarding unreturned amounts that become delinquent debts.

(e) Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The non-Federal entity must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§200.310 through 200.316 and 200.330.

(g) When a recipient or subrecipient completes all closeout requirements, the Federal awarding agency or pass-through entity must promptly complete all closeout actions for Federal awards. The Federal awarding agency must make every effort to complete closeout actions no later than one year after the end of the period of performance unless otherwise directed by authorizing statutes. Closeout actions include Federal awarding agency actions in the grants management and payment systems.

(h) If the non-Federal entity does not submit all reports in accordance with this section and the terms and conditions of the Federal Award, the Federal awarding agency must proceed to close out with the information available within one year of the period of performance end date.

(i) If the non-Federal entity does not submit all reports in accordance with this section within one year of the period of performance end date, the Federal awarding agency must report the

non-Federal entity's material failure to comply with the terms and conditions of the award with the OMB-designated integrity and performance system (currently FAPIIS). Federal awarding agencies may also pursue other enforcement actions per §200.339.

FTA Circular 5010.1E, Chapter III: Administration of the Award

1. AWARD CLOSEOUT. Closeout, in general, is the term used to signify the process by which the recipient and FTA agree that all activities approved for the Award have been completed and/or the federal assistance awarded has been expended for eligible costs. Recipients are required to close an Award 90 days after the end of the period of performance. FTA, or the recipient, may initiate the closeout process. Closeout, by either party, does not preclude FTA's ability to seek repayment or other remedies for a recipient's breach of the terms and conditions of the Grant or Cooperative Agreement.

Closeout by Recipient. The recipient is responsible to initiate closeout of the Award, within 90 days after the end of the period of performance, or after all approved activities are completed and/or the applicable federal assistance has been expended for all eligible costs. Any deviation from the approved Award must be documented in the closeout amendment...

FTA Circular 9040.1G, Chapter V Program Management and Administrative Requirements

1. CLOSEOUT. States should initiate project closeout with subrecipients within ninety days after all funds are expended and all work activities for the project are completed. The states should similarly initiate program of project closeout with FTA within ninety days after all work activities for the program of projects are completed. A final federal financial report (SF 424), final budget, and final program of projects must be submitted electronically via the FTA electronic award management system at the time of closeout.

FTA expects grants awarded for a specific program of projects to be completed within a reasonable, specified time frame, generally two to three years. If small amounts of funds remain in an inactive grant, the state should request that the funds be deobligated and the project closed out. If the deobligated funds are still within their period of availability, FTA can reobligate the funds in a new grant to the state along with other currently available funds. Otherwise, the deobligated funds lapse and are reapportioned by FTA among all the states in a subsequent year.

FTA Circular 9070.1G, Chapter VI Program Management and Administrative Requirements

2. CLOSEOUT. Recipients should initiate project closeout with subrecipients within ninety days after all funds are expended and all work activities for the project are completed. Recipients should similarly initiate POP closeout with FTA within ninety days after all work activities for the POP are completed. A final Federal Financial Report, final budget, and final POP must be submitted electronically via the electronic grant management system at the time of closeout.

FTA expects grants awarded for a specific POP to be completed within a reasonable, specified time frame, generally not to exceed two to three years. Although this circular provides recipients with a great deal of flexibility in developing and subsequently revising programs of projects, it is not FTA's intent that grants be continually revised or amended in ways that will excessively

prolong the life of the grant, and consequently result in a large number of active Section 5310 grants. If small amounts of funds remain in an inactive grant, the recipient should request that the funds be deobligated and the project closed out. If the deobligated funds are still within their period of availability, FTA can reobligate the funds in a new grant to the recipient along with other currently available funds. Otherwise the deobligated funds lapse and are reapportioned by FTA among states and UZAs in a subsequent year.

OMB Memorandum M-20-17, “Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations,” March 19, 2020

12. Extension of closeout. (2 CFR§ 200.343)

Awarding agencies may allow the grantee to delay submission of any pending financial, performance and other reports required by the terms of the award for the closeout of expired projects, provided that proper notice about the reporting delay is given by the grantee to the agency. This delay in submitting closeout reports may not exceed one year after the award expires.

Corrective Action(s) and Schedule: By October 30, 2023, DRPA must submit to the Region 3 office:

- More effective procedures for award management to enable it to close awards.
- An award closeout plan for all awards.

On August 23, 2023 DRPA submitted a revised closeout schedule that aligns with the ACCT 45 FTA Retainage Release for Grant Closeout procedure submitted August 18, 2023. **This deficiency is closed.**

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 DRPA, the FTA requirements for Technical Capacity – Program Management & Subrecipient Oversight were found to be 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 DRPA, no deficiencies were found with the FTA requirements for Technical Capacity – Project Management.

6. Transit Asset Management

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

Finding: During this Triennial Review of DRPA, 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 DRPA, 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)

The SAP asset listing includes individual assets as well as project-level line items. Departments maintain separate inventories that may be more detailed. The physical inventory memo developed by PATCO is at the project and award-level; the memo does not provide details at the asset level in order to conduct a reconciliation with the assets listed in SAP.

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 October 30, 2023, DRPA must submit to the Region 3 office:

- Written inventory control procedures defining roles and responsibilities for tracking FTA-funded assets and reconciling physical inventories to its equipment records.
- A timeline for performing the physical inventory and reconciliation of FTA-funded equipment.

On August 7, 2023, DRPA submitted ACCT 44 FTA Asset and Equipment Reconciliation and SOP 8 to address this corrective action. DRPA will complete the next inventory by December 2024. **This deficiency is closed.**

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 DRPA, no deficiencies were found with the FTA requirements for Maintenance.

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 DRPA, one (1) deficiency was found with the FTA requirements for Procurement.

Deficiency Description: Missing FTA clauses (P11-1)

The DRPA 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.

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(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 October 30, 2023, DRPA must submit to the Region 3 office:

- Revised procurement procedures that address inclusion of all FTA-required third-party contract clauses through use of a clause checklist or other mechanism.
- A procedure for updating the required contract clauses on an annual basis.

By December 11, 2023, DRPA must submit to the Region 3 office evidence of implementation with the next applicable procurement.

On August 7, 2023, DRPA submitted the revised Procurement Manual addressing the corrective action. Bid number 12-K was released in July 2023 with all applicable clauses. **This deficiency is closed.**

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 DRPA, no deficiencies were found with the USDOT requirements for DBE.

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 DRPA, one (1) deficiency was found with the FTA requirements for Title VI.

Deficiency Description: Language Assistance Plan implementation deficiencies (TVI2-1)

The DRPA Language Assistance Plan notes that training is provided ‘...on policies and procedures concerning language assistance and ways to determine whether an individual needs assistance services’ through the new employee orientation process. DRPA is not providing this training during orientation.

FTA Circular 4702.1B Chapter III.9.b Developing a Language Assistance Plan

After completing the Four Factor Analysis, the recipient shall use the results of the analyses to determine which language assistance services are appropriate. Additionally, the recipient shall develop an assistance plan to address the identified needs of the LEP population(s) it serves. The DOT LEP Guidance recognizes that certain recipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written plan.

However, FTA has determined it is necessary to require its recipients to develop an assistance plan in order to ensure compliance.

Corrective Action(s) and Schedule: By October 30, 2023, DRPA must prepare and submit to the Office of Civil Rights via FTACivilRightsSupport@dot.gov (per instructions in Section VII of this report) documentation of implementing its LAP, including the completion of required training.

New Hire Orientation was completed August 22, 2023, including the Language Assistance Plan presentation. **This deficiency is closed.**

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 DRPA, 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 DRPA, the USDOT requirements for ADA – Complementary Paratransit were not applicable.

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 DRPA, no deficiencies were found with the FTA requirements for Equal Employment Opportunity.

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 DRPA, the FTA requirements for School Bus were not applicable.

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 DRPA, the FTA requirements for Charter Bus were not applicable.

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 DRPA, no deficiencies were found with the FTA requirements for Drug-Free Workplace Act.

18. Drug and Alcohol Program

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

Finding: During this Triennial Review of DRPA, 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 DRPA, 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 DRPA.

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 DRPA.

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 DRPA, no deficiencies were found with the FTA requirements for PTASP Requirements.

23. Cybersecurity

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

Finding: During this Triennial Review of DRPA, no deficiencies were found with the FTA requirements for Cybersecurity Requirements.

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	D	TC-AM5-1	Inactive award/ untimely closeouts	1. The recipient must submit to the FTA regional office more effective procedures for award management to enable it to close awards. 2. The recipient must submit to the FTA regional office an award closeout plan for all awards.	10/30/23	8/23/23
4. Technical Capacity – Program Management and Subrecipient Oversight	NA					
5. Technical Capacity – Project Management	ND					
6. Transit Asset Management	ND					
7. Satisfactory Continuing Control	D	SCC8-4	No evidence of physical inventory or reconciliation	1. The recipient must submit to the FTA regional office written inventory control procedures defining roles and responsibilities for tracking FTA-funded assets and reconciling physical inventories to its equipment records. 2. The recipient must submit a timeline for performing the physical inventory and reconciliation of FTA-funded equipment.	10/30/23	8/7/2023
8. Maintenance	ND					
9. Procurement	D	P11-1	Missing FTA Clauses	The recipient must submit to the FTA regional office: <ul style="list-style-type: none"> • Revised procurement procedures that address inclusion of all FTA-required third-party contract clauses through use of a clause checklist or other mechanism. • A procedure for updating the required contract clauses on an annual basis. • Evidence of implementation with the next applicable procurement 	10/30/23 12/11/23	8/7/2023
10. Disadvantaged Business Enterprise	ND					
11. Title VI	D	TVI2-1	Language Assistance Plan implementation deficiencies	The recipient must prepare and submit to the FTA Office of Civil Rights documentation of implementing its LAP, including the completion of required training.	10/30/23	8/22/23

Review Area	Finding	Deficiency Code(s)		Corrective Action(s)	Response Due Date(s)	Date Closed
		Code	Description			
12. Americans with Disabilities Act (ADA) – General	ND					
13. ADA – Complementary Paratransit	NA					
14. Equal Employment Opportunity	ND					
15. School Bus	NA					
16. Charter Bus	NA					
17. Drug-Free Workplace	ND					
18. Drug and Alcohol Program	ND					
19. Section 5307 Program Requirements	ND					
20. Section 5310 Program Requirements	NA					
21. Section 5311 Program Requirements	NA					
22. Public Transportation Agency Safety Plan	ND					
23. Cybersecurity	ND					

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)

VI. Attendees

Name	Title	Phone Number	E-mail Address
<i>Delaware River Port Authority</i>			
Ray Santarelli	General Counsel	(856) 968-2405	rjsantarelli@drpa.org
Amy Ash	Manager, Contract Administration	(856) 968-2084	alash@drpa.org
Sonia Inman	Manager, EEO	(856) 968-2257	slinman@drpa.org
Darcie DeBeaumont	Director Finance (DRPA)	(856) 968-2152	d_debeaumont@drpa.org
Carol Herbst	Senior Accountant	(856) 968-2432	caherbst@drpa.org
John Lotierzo	Consultant (former Director Finance (DRPA))	(856) 772-6918	jflotierzo@drpa.org
Jalila Parker	Deputy CEO	(856) 968-2464	jdparker@drpa.org
Dave Aubrey	Inspector General	(856) 969-7822	djaubrey@drpa.org
Angeleen Coppolino	Manager, Internal Audit	(856) 969-7823	a_coppolino@drpa.org
Yvette Martelli	Assistant to Inspector General	(856) 968-2177	y_martelli@drpa.org
Mike Rakowski	Manager, Planning & Design	(856) 968-2095	mdrakowski@drpa.org
Elisabeth Klawunn	Sr. Engineer	(856) 968-2075	elklawunn@drpa.org
Dave Fullerton	Director, Safety Services	(856) 772-6928	ddfullerton@drpa.org
John Rink	General Manager (PATCO)	(856) 772-6942	jdrink@drpa.org
Tonyelle Cooke	Director - Government Relations	(856) 968-2106	TKCOOKARTIS@drpa.org
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Bill Shaw	Director, Power & Signals (PATCO)	(856) 772-3989	wbshaw@drpa.org
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Anthony Romero	Procurement Specialist (Contractor)	215-656-7100	Anthony.Romero.CTR@dot.gov
<i>Contractor</i>			
Ellen Harvey	Lead Reviewer	617-577-0042	eharvey@calyptusgroup.com

VII. Appendices

Civil Rights Corrective Action Submission

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

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

Do not submit MS Word or Excel spreadsheets.

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

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

For example, **Region3- DRPA -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: DRPA -1419, DBE6-1
DBE Shortfall Analyses**

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