

# **Workshop on FTA's Oversight Review Process – SMRs/TRs**

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AASHTO Internal External Audits Committee Conference

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U.S. Department of Transportation  
Federal Transit Administration

# Agenda

- FTA Program Oversight
- The CORTAP Manual
- The Review Process
- Preparing for Your Review
- Question & Answer (Q&A)

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# FTA Program Oversight

# What is Program Oversight?

FTA is responsible for conducting oversight activities to help ensure that recipients of Chapter 53 grants use the funds in a manner consistent with their intended purpose and in compliance with regulatory and statutory requirements.

We do this through Comprehensive Reviews (Triennial & State Management) which:

- Occur every three years
- Forward-looking instead of reactive
- Assess management practices and program implementation

Specialized Reviews (Financial, Procurement, & Civil Rights):

- Occur at FTA's discretion
- Focus on specific areas of Federal compliance

**FTA's goal is to leave the recipient in better shape than they were before the review, with a clear understanding of any compliance issues found and what corrective actions are needed to be compliant.**

# FTA Program Oversight

- Strengthens the capacity of FTA funding recipients to improve public transit for America's communities.
- Meets statutory requirements.
- Fulfills FTA's fiduciary responsibility to prevent and identify improper payments and to ensure every dollar counts toward improving public transit.
- Confirms and promotes recipient compliance with FTA requirements.
- Provides technical assistance to correct identified deficiencies.
- Helps address Congressional and public inquiries about the use of federal funds.

# Other FTA Reviews

## Program-Specific

- Procurement
- Buy America
- Financial Management
- Real Estate
- Safety and Security
  - Drug and Alcohol Program
  - State Safety Oversight
  - Security Readiness Assessment

## Project Level

- Project Management Oversight
- Financial Capacity Assessment

- Americans With Disabilities Act (ADA)
  - Complementary Paratransit
  - Fixed-route Operations
- Equal Employment Opportunity (EEO)
- Disadvantaged Business Enterprise (DBE)
- Title VI

# FY23 SMR/Combined: Top Findings

Rank	Review Area	Finding	Fiscal Years			
			FY23	FY22	FY21	FY19
1	Procurement	P11-1 - Missing FTA clauses	X	X	X	X
2	Technical Capacity – Program Management & Subrecipient Oversight	TC-PgM7-1 - Inadequate oversight of subrecipients	X			
3	Technical Capacity – Award Management	TC-AM5-1 - Inactive award/untimely closeouts	X		X	
4	ADA	ADA-CPT8-1 - Insufficient oversight of subrecipients for ADA complementary paratransit	X			
5	Disadvantaged Business Enterprise	DBE5-1 - DBE uniform reports contain inaccuracies and/or are missing required information	X	X	X	
6	Procurement	P21-1 - Insufficient oversight of subrecipient procurements	X	X	X	
7	Procurement	P5-1 - Incomplete written documentation of procurement history	X		X	
8	Technical Capacity – Award Management	TC-AM4-1 - POP Status Reports missing or lacking required information	X		X	X
9	Disadvantaged Business Enterprise	DBE6-1 - DBE goal achievement analysis and corrective action plan not completed	X	X	X	X
10	Maintenance	M5-1 - Inadequate oversight of subrecipient, contractor or lessee maintenance activities	X			X

# FY23 Triennial: Top Findings

Rank	Review Area	Finding	Fiscal Years			
			FY23	FY22	FY21	FY19
1	Procurement	P11-1 - Missing FTA clauses	X	X	X	X
2	Disadvantaged Business Enterprise	DBE5-1 - DBE uniform reports contain inaccuracies and/or are missing required information	X	X	X	X
3	Procurement	P4-1 - Responsibility determination deficiencies	X	X	X	
4	Procurement	P12-2 - Lobbying certifications not included in procurement solicitations or signed by bidders	X	X		
5	Procurement	P10-1 - Lacking independent cost estimate	X	X	X	X
6	Procurement	P5-1 - Incomplete written documentation of procurement history	X	X	X	
7	Technical Capacity – Award Management	TC-AM2-1 - Incorrect FFR reporting	X		X	X
8	Disadvantaged Business Enterprise	DBE11-1 - Unreported transit vehicle purchases	X			X
9	Public Transportation Agency Safety Plans	PTASP3-1 - ASP missing required element(s)	X			
10	Procurement	P10-2 - Lacking required cost or price analysis	X	X	X	X



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# The CORTAP Manual



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# One Manual, One Process

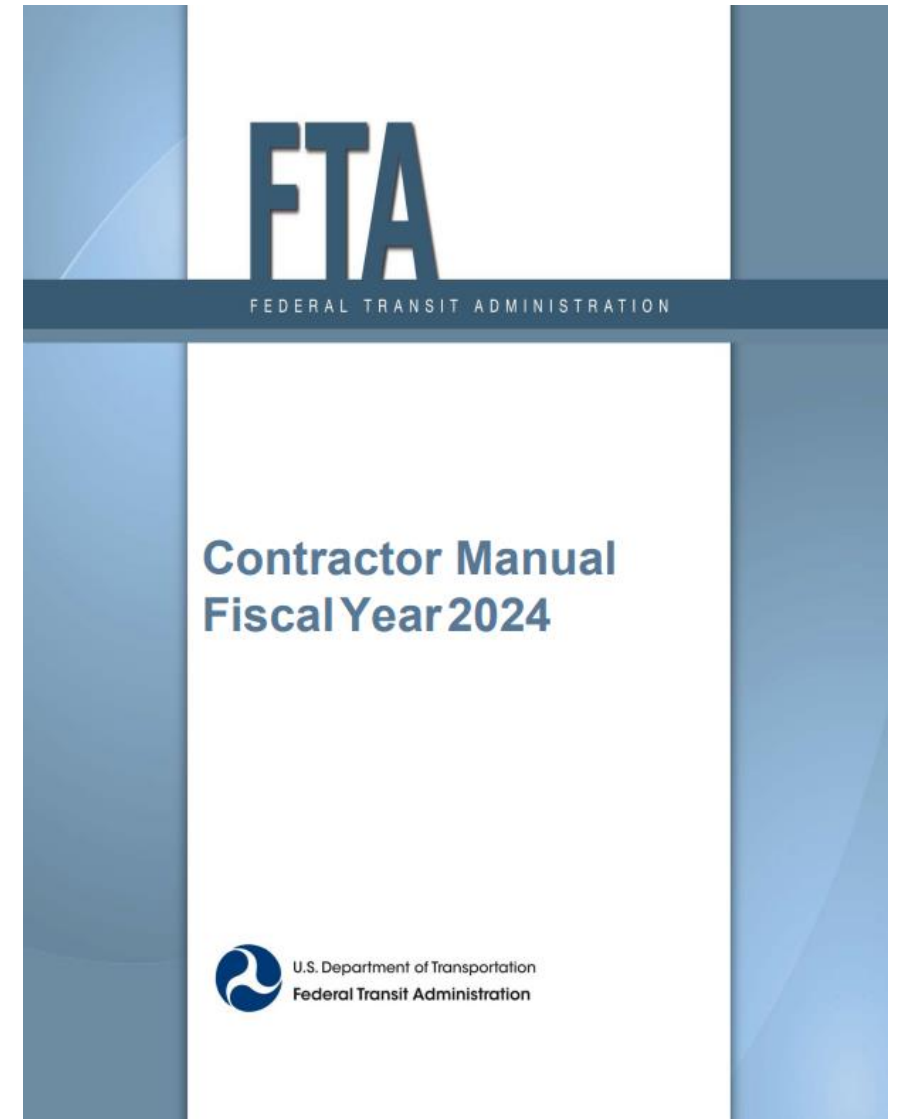
## Manual

- Ensures consistency across Triennial and State Management reviews

## Process

- Streamlined Recipient Information Request (RIR)

**Scan QR Code for  
Contractor's Manual**



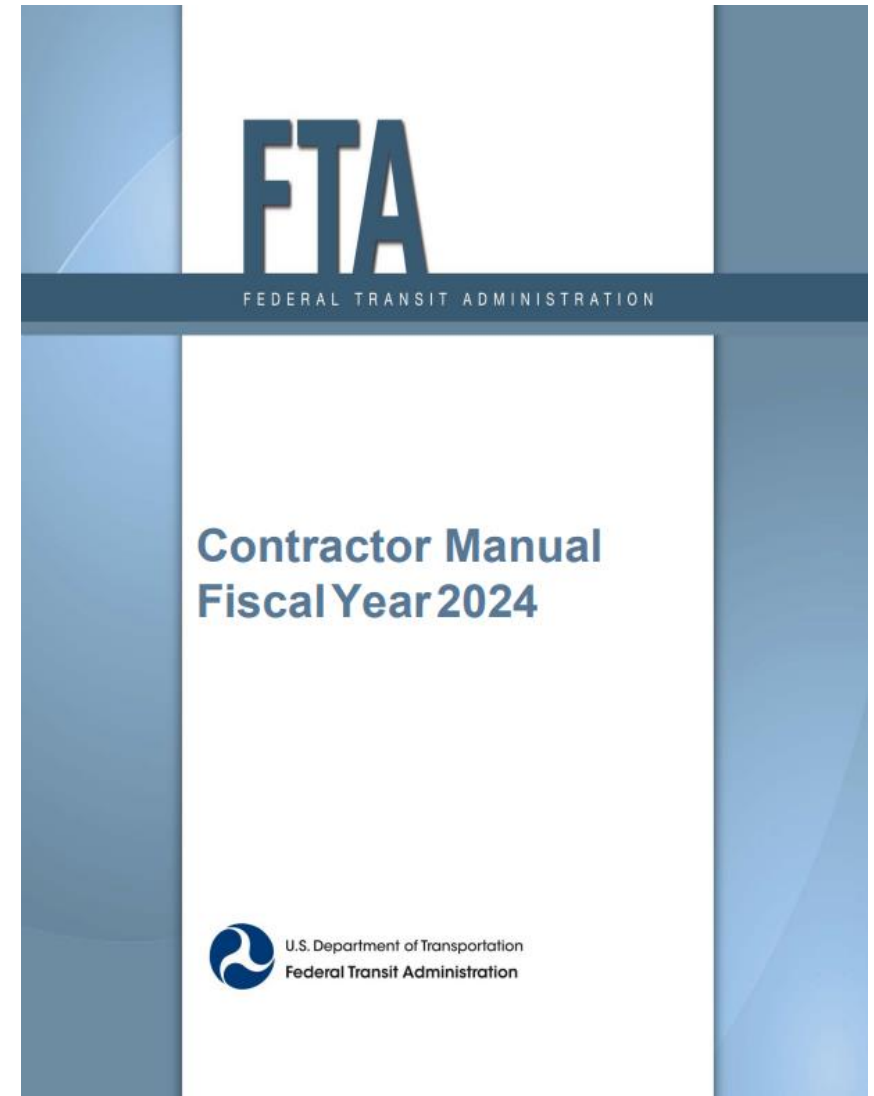
# Current Review Areas

- Legal
- Financial Management and Capacity
- Technical Capacity - Award Management
- Technical Capacity - Program Management and Subrecipient Oversight
- Technical Capacity – Project Management
- Transit Asset Management
- Satisfactory Continuing Control
- Maintenance
- Procurement
- Disadvantaged Business Enterprise
- ADA – General
- ADA – Complementary Paratransit
- Equal Employment Opportunity
- School Bus
- Charter Bus
- Drug-Free Workplace Act
- Drug and Alcohol Program
- Section 5307 Program Requirements
- Section 5310 Program Requirements
- Section 5311 Program Requirements
- Public Transportation Agency Safety Plan
- Cybersecurity

# CORTAP Manual Structure

Each overarching question has six basic parts

1. **Basic Requirement:** high-level, clear statement of what a recipient is required to do
2. **Applicability:** Recipients to whom the requirement applies
3. **Explanation: Detailed** description of the basic requirement
4. **Indicators of Compliance:** How reviewers will assess compliance with the basic requirement
5. **Instruction to Reviewer for Determination:** Based on result of indicators
6. **Governing Directives:** Citation from law, regulation, agreement, or other guidance forming the basis of a potential finding



# Review Area Format

## Introductory page lists:

- Purpose of the review area
- Questions to be examined
- Information needed from the recipient

## 1. LEGAL

### PURPOSE OF THIS REVIEW AREA

The recipient must promptly notify the FTA of legal matters and additionally notify the U.S. Department of Transportation (US DOT) 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.

### QUESTIONS TO BE EXAMINED

1. Since the last Comprehensive Review, did the recipient promptly notify the FTA of any legal matters that may affect the FTA?
2. Since the last Comprehensive Review, did the recipient promptly notify the FTA and US DOT OIG of any instances relating to false claims under the False Claims Act or fraud, waste or abuse?
3. Since the last Comprehensive Review, did the recipient and any subrecipients use only non-appropriated funds for any lobbying activities and did each file the required disclosure form?

### INFORMATION NEEDED FROM RECIPIENT

#### Recipient Information Request

- List of litigations, breaches, defaults, disputes or instances where the Federal government was named as a party to litigation or a legal disagreement since the last review
- List of false claims received or criminal violation committed related to Federal assistance since the last review
- List of law enforcement investigations concerning the recipient's federally-funded projects, to the extent known to the recipient
- List of lobbying activities conducted since the last review

#### Recipient Follow-up

- Office of Management and Budget (OMB) Standard Form LLL
- Documentation of lobbying activities conducted by subrecipients, contractors, and subcontractors

# Question Format

## L1. Since the last Comprehensive Review, did the recipient promptly notify the FTA of any legal matters that may affect the FTA?

### BASIC REQUIREMENT

A recipient must promptly notify the FTA of any current or prospective legal matters that may affect the Federal government.

### APPLICABILITY

All recipients

### DETAILED EXPLANATION FOR REVIEWER

The recipient is required to promptly notify the FTA Chief Counsel or the FTA Regional Counsel for the region in which the recipient is located of any current or prospective legal matters that may affect the Federal government. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming of the Federal government as a party to litigation or a legal disagreement in any forum for any reason.

### INDICATORS OF COMPLIANCE

- a. *Were there any legal matters including major disputes, breaches, defaults, or litigation where the Federal government was named as a party or FTA-funded assets could be affected? If no, move to the next question.*
- b. *If yes, did the recipient promptly notify the FTA Chief Counsel or its Regional Counsel?*

### INSTRUCTIONS FOR REVIEWER

Review information from the recipient and regional office. Conduct an internet search of the recipient for documentation of legal matters including major disputes, breaches, defaults, or litigation where the Federal government was named as a party or FTA-funded assets could be affected since the last Comprehensive Review.

### POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it did not notify the FTA Chief Counsel or Regional Counsel about a major dispute, breach, default, litigation, or any instances when the Federal government was named as a party to litigation or a legal disagreement.

DEFICIENCY CODE L1-1: Failure to notify FTA of potential or pending litigation

SUGGESTED CORRECTIVE ACTION: The recipient must submit documentation to the regional office that it has submitted the applicable information to the FTA Chief Counsel or Regional Counsel along with a process to ensure timely notification in the future.

### GOVERNING DIRECTIVE

*FTA Master Agreement, Section 39(b)(1)(2)*

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

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# The Review Process



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# Review Process



## FTA and contractor:

- Review past performance
- Review current status
- Contact recipient regarding possible site visit dates
- Prepare and send the RIR to recipient



# Review Process



## Recipient completes and returns to the reviewer:

- Recipient profile
- Documents requested
- Ancillary questions
- Preliminary virtual site visit schedule

# Review Process

## SECTION B – RECIPIENT INFORMATION REQUEST

### 1. LEGAL

**BASIC REQUIREMENT:** The recipient must promptly notify the FTA of legal matters and additionally notify the U.S. Department of Transportation (US DOT) 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.

**NOTE:** For files used to satisfy multiple requested documents, please indicate where in the file, i.e., page number, section, etc., the information can be found.



Requested Documents	Applicability	Date Submitted	Electronic File Name	Comments from Recipient
a. List of major disputes, breaches, defaults, litigation, or instances where the Federal government was named as a party to litigation or a legal disagreement since the last review	All recipients			
b. List of false claims received or criminal violation committed related to Federal assistance since the last review	All recipients			
c. List of law enforcement investigations concerning the recipient's Federally-funded projects, to the extent known to the recipient	All recipients			

# Review Process



**Contractor discusses background research and RIR responses with the FTA Regional Office to determine if an Enhanced Review Focus (ERF) is needed.**

## **Discussion topics may include:**

- Repeat/open deficiencies
- Other review/audit findings
- Problems in closing past deficiencies
- Inadequate reporting to FTA
- Complaints
- Significant number of contractors or subrecipients
- Events that are unusual or generate news
- Multiple issues in one area

# Review Process



**Contractor works with the recipient to identify potential issues and may request additional information for review, and provides a list of files to be reviewed during the Site Visit, including:**

- ECHO drawdown files
- Procurement files
- Maintenance records
- Additional selected records for further review

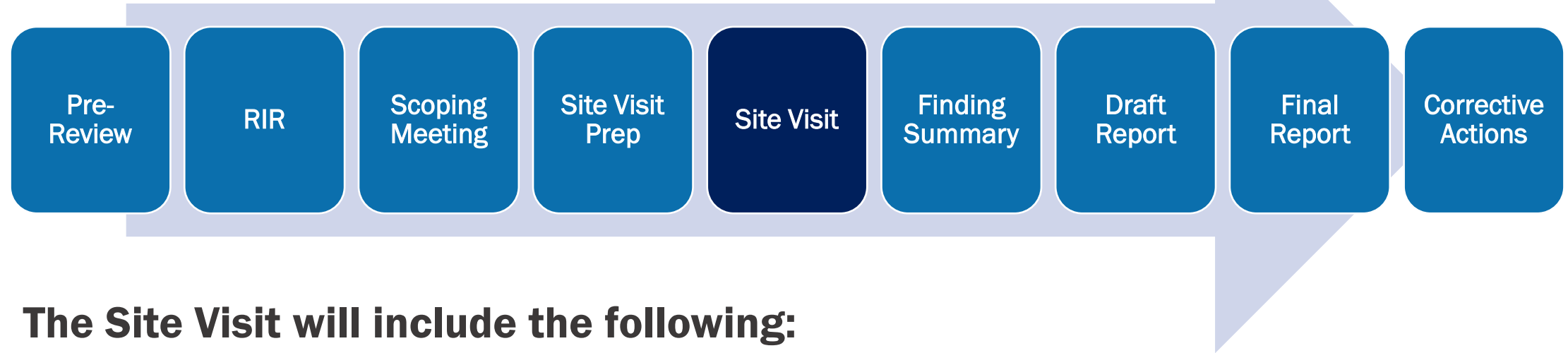
# Review Process



**FTA and Contractor sends an Agenda to the recipient 10 business days before the Site Visit that includes:**

- Final proposed schedule
- Follow-up questions and document requests
- Selected records and documents for further review

# Review Process



## The Site Visit will include the following:

- Entrance Conference
- Interviews, if needed
- Subrecipients/contractors/lessees site visits – **See Next Slide**
- Exit conference

# Review Process



## **Subrecipient/contractor/lessee site visits:**

- Informally discuss compliance with FTA requirements
- Confirm recipient oversight
- Review requested back-up documents, as applicable (maintenance records, procurement files, back-up documentation for invoice to the recipient, Title VI notice, qualifications of drug and alcohol program vendors)

# Review Process



- **Issued at the Exit Conference**
- **Discuss corrective action deadlines**
  - Obtain recipient input on timeframe
  - Ensure adequate time for implementation and continued compliance



# Review Process



- **Issued to the recipient within 21 business days of the Exit Conference – includes review and ERF findings**
- **Recipient reviews Draft Report for accuracy and provides comments within 10 business days**

# Review Process



- **Issued by FTA within 45 business days after the Exit Conference**
- **Includes final determination and status of findings and corrective actions**

# Review Process



- **Submit by due date or earlier**
- **Open findings or late corrective actions can lead to program-specific review(s) and/or ERF(s) in the next Comprehensive Review**

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# Preparing for Your Review



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# Preparing for your Review

- Think of the Triennial Review is an open book test.
- Use the Recipient Information Request and the CORTAP Contractor Manual as review preparation tools–To understand what the reviewers are looking for and why.
- Download the new Contractors Manual every year and note changes.
- Review the questions, applicability and indicators of compliance to better understand requirements.
- If you have questions about applicable requirements, contact your Regional Office and ask.
- Examine single audit or internal audit findings.
- Participate in peer-to-peer reviews and exchanges.
- Attend FTA workshops and webinars.

# Preparing for your Review

- **Pre-Review:**
  - Use the regional office and other recipients as technical resources
  - Train staff in requirements
  - Monitor changes and adjust processes accordingly
- **Post-Review:**
  - Implement corrective actions
  - Submit documentation to FTA regional office **BY THE DUE DATE**

# Resources

- FTA Website
  - *Contractors Manual (updated annually)*
  - *Circulars*
  - *Frequently Asked Questions (FAQ)*
  - *Training Opportunities*
  - *Templates*
  - *Comprehensive Reviews*
  - *FTA email updates*
- FTA Regional Offices
- Peers and coworkers
- State Transit Associations
- State Departments of Transportation
- American Association of State Highway and Transportation Officials
  - Multi-State Transit Technical Assistance Program (MTAP)
- National Transit Institute (NTI)
- National Rural Transit Assistance Program (RTAP)
  - FTA 101
  - ProcurementPRO
  - Cost Allocation Calculator
  - Transit Acronym Dictionary
  - Boards that Perform
- Community Transportation Association of America (CTAA)
- American Public Transportation Association (APTA)
- Transportation Research Board (TRB)
- Transit Cooperative Research Program (TCRP)
- National Cooperative Highway Research Program (NCHRP)
  - NCHRP 20-65/Task 45, New Small Urbanized Area System: A Guidance Brief New Urban Area

# Overall Tips for Compliance

Review previous Triennial/State Management Review Reports



- Document corrective action implementation
- Avoid repeat deficiencies

Conduct a self-assessment in non-review years



- FTA updates the Contractors Manual annually

Understand how information provided for one section of the review provides input for others, such as:



- Procurement lists for DBE
- Inventory lists for Maintenance

FTA's email subscription



- Sign up for [GovDelivery](#)



# Questions, Concerns, & Comments?



# FTA Mission, Vision, Values



## Mission

Improve America's Communities through Public Transportation



## Vision

A Better Quality of Life for All Built on Public Transportation Excellence

## Values

*Service*

Provide reliable, transparent, responsive, and anticipatory services to meet stakeholder needs

*Integrity*

Commitment to the highest professional and ethical standards

*Innovation*

Foster new ideas, concepts, and solutions for improved outcomes

*Sustainability*

Optimize decisions, resources, and systems to make long-term positive impacts on the environment, infrastructure, and safety

*Equity*

Remove barriers for systemically underserved communities to access all aspects of economic, social, and civic life

# Thank you!

**Hope Jensen**

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