

# FTA

FEDERAL TRANSIT ADMINISTRATION

## FTA's Top Ten Triennial Review Findings

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# 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)
  - 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 Oversight in Context

Oversight is necessary and beneficial for recipients, the public, and FTA

- Strengthens the capacity of FTA funding recipients to improve public transit for America's communities
- Required in legislation
- Fulfills FTA's fiduciary responsibility to prevent and identify improper payments and to ensure every dollar counts toward improving public transit
- Confirms and promotes grantee compliance with FTA requirements
- Helps address Congressional and public questions about the use of federal funds

# Triennial Reviews (FY14-18)

	FY 14	FY 15	FY 16	FY 17	FY 18
<b>Total Reviews</b>	<b>198</b>	<b>210</b>	<b>198</b>	<b>207</b>	<b>226</b>
<b>Average Findings per Review</b>	<b>6.98</b>	<b>7.2</b>	<b>8.2</b>	<b>7.5</b>	<b>6.5*</b>
<b>Reviews with no Findings</b>	<b>14</b>	<b>14</b>	<b>10</b>	<b>19</b>	<b>24*</b>

\*preliminary data based on 161 completed reviews

# Triennial Review Findings by Topic Area

Triennial Review Topic Area	2014	2015	2016	2017	% of All Findings (FY17)
ADA	174	197	284	209	15%
Charter Bus	6	7	7	7	0%
Disadvantaged Business Enterprise	148	188	279	252	18%
Drug and Alcohol	83	100	128	89	6%
Equal Employment Opportunity	20	24	43	25	2%
Financial Management/Capacity	90	105	109	105	7%
Half Fare	15	11	7	7	0%
Legal	19	16	3	4	0%
Maintenance	108	100	119	130	9%
Planning/Program of Projects	50	53	39	45	3%
Procurement	335	388	333	286	20%
Public Comment	15	19	17	16	1%
Satisfactory Continuing Control	89	77	66	53	4%
School Bus	1	3	1	0	0%
Security	8	3	6	4	0%
Technical Capacity	135	167	115	110	8%
Title VI	51	58	75	80	6%
<b>Total Number of Findings</b>	<b>1347</b>	<b>1516</b>	<b>1631</b>	<b>1422</b>	

# Top 10 Triennial Review Findings

	FY14	FY15	FY16	FY17
1	<b>ADA</b> Insufficient no-show policy	<b>ADA</b> Insufficient no-show policy	<b>ADA</b> Insufficient no-show policy	<b>Maintenance</b> Facility/equipment maintenance plan lacking or inadequate
2	<b>Procurement</b> Lacking independent cost estimate	<b>DBE</b> uniform reports not submitted semi-annually	<b>Procurement</b> Lacking required cost/price analysis	<b>Financial Management</b> No financial policies and procedures
3	<b>Procurement</b> No FTA clauses	<b>Procurement</b> No verification that excluded parties are not participating	<b>DBE</b> goal achievement analysis not completed or not submitted	<b>ADA</b> Limits or capacity constraints on Complementary Paratransit service
4	<b>Procurement</b> policies and procedures not evident	<b>Procurement</b> No FTA clauses	<b>ADA</b> Limits or capacity constraints on Complementary Paratransit service	<b>ADA</b> Insufficient no-show policy
5	<b>DBE</b> uniform reports not submitted semi-annually	<b>Technical Capacity</b> Incorrect FFR reporting	<b>Maintenance</b> Facility/equipment maintenance plan lacking or inadequate	<b>DBE</b> goal achievement analysis not completed or not submitted

 Findings that appear in the top 10 each year

# Top 10 Triennial Review Findings

	FY14	FY15	FY16	FY17
6	<b>Technical Capacity</b> Incorrect FFR reporting	<b>Procurement</b> Lacking independent cost estimate	<b>DBE</b> Uniform reports not submitted semi-annually	<b>Procurement</b> No FTA clauses
7	<b>Procurement</b> No verification that excluded parties are not participating	<b>Procurement</b> Lacking required cost/price analysis	<b>ADA</b> Complementary Paratransit service deficiencies	<b>ADA</b> Insufficient complaint process
8	<b>DBE</b> Goal achievement analysis not completed or not submitted	<b>DBE</b> Goal achievement analysis not completed or not submitted	<b>Procurement</b> Lacking independent cost estimate	<b>Procurement</b> Lacking required cost/price analysis
9	<b>Procurement</b> Lacking required cost/price analysis	<b>Maintenance</b> Facility/equipment maintenance plan lacking or inadequate	<b>Drug and Alcohol</b> Policy lacking required elements	<b>Technical Capacity</b> Inadequate oversight of subrecipient/third party contractor/lessees
10	<b>Maintenance</b> Facility/equipment maintenance plan lacking or inadequate	<b>Procurement</b> Policies and procedures not evident	<b>ADA</b> service provisions deficiencies	<b>DBE</b> Uniform reports not submitted semi-annually

 Findings that appear in the top 10 each year

# Preliminary FY18 Data

Review Area	% of Findings
Procurement	24%
ADA	16%
DBE	12%
Financial Management and Financial Capacity	9%
Technical Capacity	9%
Title VI	6%
5307 Program Requirements	6%
Maintenance	5%
Satisfactory Continuing Control	5%
Drug and Alcohol Program	3%
Equal Employment Opportunity	2%
Charter Bus	1%
Drug-Free Workplace Act	1%
Legal	0%
School Bus	0%
5310 Program Requirements	0%

Top 10 Findings
<b>Financial:</b> Missing, insufficient, or out of date financial operating procedures
<b>Procurement:</b> Missing FTA clauses
<b>ADA:</b> Insufficient ADA complaint process
<b>Procurement:</b> Lacking required cost/price analysis
<b>ADA:</b> Limits or capacity constraints on ADA complementary paratransit service
<b>Title VI:</b> Language Assistance Plan deficiencies
<b>Procurement:</b> Pre-award and/or post-delivery certifications lacking
<b>Satisfactory Continuing Control:</b> Inadequate equipment records
<b>DBE:</b> Uniform reports contain inaccuracies and/or are missing required information
<b>Procurement:</b> Procurement policies and procedures not current/complete



# FTA's Comprehensive Review Guide

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. **Determination:** Based on result of indicators
6. **Governing Directives:** Citation from law, regulation, agreement, or other guidance forming the basis of a potential finding



<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/oversight-policy-areas/56711/fy18-comprehensive-review-guide.pdf>

# Highlights of Top Triennial Review Deficiencies

# Top Triennial Review Deficiencies

- **Maintenance**
  - Facility/equipment maintenance plan lacking or inadequate
- **ADA**
  - Insufficient no-show policy
- **DBE**
  - Goal achievement analysis not completed or not submitted
- **Procurement**
  - Lacking required cost/price analysis
- **DBE**
  - Uniform reports not submitted semi-annually

# Maintenance

## *Facility/equipment* maintenance plan lacking or inadequate

- Purpose of the Maintenance Review Area

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.

- Relevant 2018 Review Guide Question

**M1.** Does the recipient have a written maintenance plan(s) for FTA-funded assets (including vehicles/vessels, facilities, and equipment)?

# Maintenance

## *Facility/equipment* maintenance plan lacking or inadequate

### Relevant Indicators

- a. Does the recipient have a written maintenance plan(s) for FTA-funded:
  - i. Vehicles?***
  - ii. Facilities and facility-related equipment?***
  - iii. Equipment?***
- b. Does the written maintenance plan(s) identify a system of periodic inspections and preventive maintenance for:
  - i. Vehicles?***
  - ii. Facilities and facility-related equipment?***
  - iii. Equipment?***

# Maintenance

## *Facility/equipment* maintenance plan lacking or inadequate

### What drives this deficiency?

- FTA provides substantial funding for facilities and equipment
- Maintenance efforts often focus on **vehicles**
  - Less variety of items, intervals, and activities
  - One overall plan can often cover the entire fleet
  - Maintenance is typically centralized
- Equipment and facilities present unique maintenance plan challenges
  - Everything from intermodal facilities to bus washing equipment to elevators
  - Wide variety of maintenance intervals and activities
  - Maintenance is often decentralized (internal, contracted, warranty)

# Maintenance

## *Facility/equipment* maintenance plan lacking or inadequate

### What can recipients do to prevent this deficiency?

- Review property records for FTA-funded assets
  - Submitted as part of the Triennial Review
- Review Comprehensive Guide for:
  - Plan contents
  - Items that should be covered
- Assign coordination responsibility

A model program for FTA- funded facilities and equipment would include:

- An organization and assignment of responsibility for facility and equipment maintenance
- A system of periodic inspections and preventive maintenance to be performed at certain defined intervals (required in regulation). Such a system may be part of a recipient's maintenance management information system. Maintenance intervals might be measured in terms of time (daily, monthly, or annually) or in terms of use (hours).
- A record-keeping system that maintains adequate permanent records of maintenance and inspection activity for buildings and equipment.
- For Section 5307-funded facilities and equipment, goals and objectives of the maintenance program and how they will be met (required in regulation).

The maintenance programs should address specific mission critical and safety items, which include, but are not limited to:

- |   |  |
|---|--|
| • Buildings                                     | • Plumbing systems                                 |
| • Elevators                                     | • Overhead doors                                   |
| • Escalators                                    | • Vehicle maintenance lifts                        |
| • Passenger stations/shelters                   | • Vehicle washers and wash water recycling systems |
| • Parking lots                                  | • Heating and/or air conditioning units            |
| • Right-of-way (guideway, track, ballast, etc.) | • Power substations, etc.                          |
| • Electric distribution and control equipment   | • Security equipment                               |

# Americans With Disabilities Act (ADA)

## Complementary Paratransit

### *Insufficient no-show policy*

- Purpose of the ADA Review Area

Titles II and III of the ADA 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.

- Relevant 2018 Review Guide Question

**CPT3.** If the recipient has a no-show/late cancellation policy for ADA complementary paratransit service, does it meet the ADA complementary paratransit service requirements?



# Americans With Disabilities Act (ADA)

## Complementary Paratransit

### *Insufficient no-show policy*

## Relevant Indicators

- a. Does the recipient suspend riders for a reasonable period of time only after a pattern or practice of missing scheduled trips is established?
- b. Does the recipient impose a mandatory financial penalty as part of its no-show policy, including charging for the fare of the no-show trip?
- c. Are only no-shows under the rider's control counted towards the suspension?
- d. Before suspending service for no-show violations, does the recipient notify the rider and provide an opportunity to respond? Does the recipient allow individuals to appeal no-show policy violations and stay suspensions pending the outcome of the appeal?

# Americans With Disabilities Act (ADA)

## Complementary Paratransit

### *Insufficient no-show policy*

#### What drives this deficiency?

- Policies do not allow a true ‘pattern or practice’ of no-shows to be determined
  - 3 no-shows a month could be 7.5% of trips or 100%, depending on the riders’ pattern
- Public materials (ride guides, websites) do not reflect practice or internal policies
- Data on no-shows or late cancellations is lacking
- Mandatory financial penalties are assessed
- The ‘time’ does not match the ‘crime’
  - Suspension periods are not reasonable
  - FTA considers longer than 30 days to be excessive

# Americans With Disabilities Act (ADA) Complementary Paratransit *Insufficient no-show policy*

## What can recipients do to prevent this deficiency?

- Review no-show policies, considering different types of riders
- Ensure consistency of *internal procedures* and *external communications*
- Review the need to have a policy
  - Not a requirement if passengers are not being suspended
- Review contractors' and/or subrecipients' policies and external materials
- Review Appendix D of 49 CFR Part 37 for useful, illustrative information
- Utilize FTA Circular 4710.1 - Guidance (*not requirements*), which can be very instructive in this area

# Disadvantaged Business Enterprise (DBE)

## *Goal achievement analysis not completed or not submitted*

- Purpose of the DBE Review Area

Recipients must comply with 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US Department of Transportation (US DOT)-assisted contracts. Recipients also must create a level playing field on which DBEs can compete fairly for US DOT-assisted contracts.

- Relevant 2018 Review Guide Question

**DBE6.** For each of the past three completed Federal fiscal years, if the recipient's DBE achievements (based on contract awards) were below the overall goal for the applicable year, did the recipient complete the required shortfall analysis and corrective action plan?

# Disadvantaged Business Enterprise (DBE)

## *Goal achievement analysis not completed or not submitted*

### Relevant Indicators

- a. Was the recipient required to conduct shortfall analyses and develop a corrective action plan?
- b. If applicable, did the recipient submit shortfall analyses and corrective action plans to FTA on time?
- c. If the recipient is not considered to be a Top 50 Recipient by FTA, but was required to conduct a shortfall analysis and develop a corrective action plan, do the analysis and plan contain required elements?

# Disadvantaged Business Enterprise (DBE)

## *Goal achievement analysis not completed or not submitted*

### What drives this deficiency?

- Recipients do not meet their overall DBE goal, and:
  - Do not realize that they have to complete a shortfall analysis, and/or
  - Do not know what numbers on their reports to analyze
- The analysis and corrective action plan are not sufficient
  - Too much narrative, not enough facts, data, and dates
- ‘Top 50’ recipients do not submit analysis to FTA or submit it late

# Disadvantaged Business Enterprise (DBE)

## *Goal achievement analysis not completed or not submitted*

### What can recipients do to prevent this deficiency?

- Complete the last DBE report of the fiscal year early
  - Last report due Dec. 1<sup>st</sup> shortfall analysis due December 29<sup>th</sup>
- Check FTA’s website for “Top 50” determination  
<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/top-50-grantees>
- Use training modules on FTA’s DBE website
- Comprehensive Review Guide lists analysis contents:

- Shortfall percentage
- Shortfall explanation
  - DBE Participation on fiscal year FTA-assisted projects
  - Race-conscious/race-neutral breakdown
  - Race-neutral measures
  - Specific reasons for shortfall

Review the corrective action plans to verify if they included:

- Description of all corrective action measures
- Explanation of how proposed corrective actions will increase DBE participation in the current year
- Timeline for implementation

# Procurement

## *Lacking required cost/price analysis*

- **Purpose of the Procurement Review Area**

Where Federal Transit Administration (FTA) funds are used in procurements for services or supplies, or where FTA-funded facilities or assets are used in revenue contracts, FTA Circular 4220. IF applies. FTA funds, even operating assistance, can be segregated from local funds. FTA Circular 4220. IF does not apply to wholly locally-funded capital procurements. *Note: There is flexibility in this area for States under the Uniform Guidance.*

- **Relevant 2018 Review Guide Question**

***P10.*** Does the recipient develop independent cost estimates and conduct cost and/or price analysis for each procurement action ***above the Simplified Acquisition Threshold?*** \*

\*The Uniform Guidance only requires this for procurements above the Simplified Acquisition Threshold.



# Procurement

## *Lacking required cost/price analysis*

### Relevant Indicator

- b. Did the recipient conduct a cost analysis or price analysis for every procurement action above the Simplified Acquisition Threshold?

# Procurement

## *Lacking required cost/price analysis*

### What drives this deficiency?

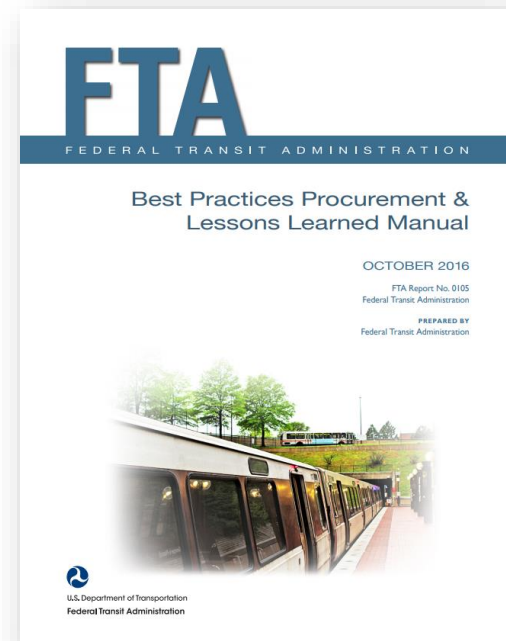
- Recipients do not conduct a cost or price analysis when applicable:
  - Often happens with one type of procurement or buyer, and/or where procurement is a decentralized function
- Recipients conduct a cost or price analysis but do not document it
- Recipients misclassify procurement as locally-funded
  - Often occurs when recipient is part of a state or local government that does not routinely procure FTA-funded products or services
- New recipients may not understand FTA procurement requirements

# Procurement

## *Lacking required cost/price analysis*

### What can recipients do to prevent this deficiency?

- Include the completion of a cost or price analysis in file checklist
- Develop standardized form for cost or price analysis
  - FTA's *Best Practices Procurement Manual* includes guidance (Section 4.6) and sample forms and checklists
  - FTA's *Pricing Guide for FTA Grantees* also provides guidance materials (<https://www.transit.dot.gov/funding/procurement/third-party-procurement/pricing-guide-fta-grantees>)



<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/procurement/8286/fta-best-practices-procurement-and-lessons-learned-manual-2016.pdf>

# Disadvantaged Business Enterprise (DBE)

*Uniform reports not submitted semi-annually*

- Purpose of the DBE Review Area

Recipients must comply with 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US Department of Transportation (US DOT)-assisted contracts. Recipients also must create a level playing field on which DBEs can compete fairly for US DOT-assisted contracts.

- Relevant 2018 Review Guide Question

**DBE4.** Has the recipient submitted the Uniform Report of DBE Awards or Commitments and Payments semi-annually by the required due dates?

# Disadvantaged Business Enterprise (DBE)

*Uniform reports not submitted semi-annually*

## Relevant Indicators

- a. Did the recipient submit semi-annual reports on time?
- b. If the recipient did not submit one or more semi-annual report for the past three fiscal years, is there evidence to support that no submission(s) was/were necessary?

# Disadvantaged Business Enterprise (DBE)

*Uniform reports not submitted semi-annually*

## What drives this deficiency?

- Recipient meets the threshold for submitting reports
- Report are not submitted on time
- Reports are missing
- Gathering data from subrecipients impacts timeliness
- Turnover at the DBE Liaison Officer position

# Disadvantaged Business Enterprise (DBE)

*Uniform reports not submitted semi-annually*

## What can recipients do to prevent this deficiency?

- Develop a process for completing the semi-annual forms
  - Forms due June 1 (covers Oct – Mar); and December 1 (covering Apr-Sep)
  - Ensure TrAMS access is secured – forms completed within a module
  - Include procurements awarded, ongoing, and completed for the six-month period
  - Include ALL FTA-funded procurements (except for transit vehicle purchases)
  - Allocate time to gather internal and subrecipient data – aggregate report
- Use training on FTA's DBE website

# Overall Tips For Compliance

- Review previous review reports
  - Document corrective action implementation
  - Avoid repeat deficiencies
- Conduct a self-assessment in non-Review years
  - FTA updates the Comprehensive Guide 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
- Sign up for FTA's email subscription



# Top Triennial Review Deficiencies (cont'd)

- **Financial Management and Capacity**
  - No Financial Policies and Procedures
- **ADA Complementary Paratransit**
  - Limits or capacity constraints on Complementary Paratransit service
- **Procurement**
  - No FTA clauses
- **ADA – General**
  - Insufficient complaint process
- **Technical Capacity – Program Management and Subrecipient Oversight**
  - Inadequate oversight of subrecipient/third party contractor/lessees

# Financial Management and Capacity

## *No Financial Policies and Procedures*

- Purpose of the Financial Management and Capacity Review Area

The recipient must have financial policies and procedures; an organizational structure that defines, assigns and delegates authority; and financial management systems in place to match, manage, and charge only allowable cost to the award. The recipient must conduct required single audits and provide financial oversight of subrecipients.

- Relevant 2018 Review Guide Question

**F1.** Does the recipient have policies and procedures in place for managing federal awards, establishing internal controls, ensuring timely distribution of funds, and determining allowability of costs?

# Financial Management and Capacity

## *No Financial Policies and Procedures*

### Relevant Indicators

- a. Does the recipient have written financial policies and procedures?
- b. How do policies and procedures address internal control practices to prevent waste, loss and misuse of federal funds
- c. If the recipient has had any audit/review findings or significant changes to its organization or software being used, have policies and procedures been updated as necessary?
- d. Have policies and procedures been updated to reflect any changes to federal regulatory requirements?

# Financial Management and Capacity

## *No Financial Policies and Procedures*

### What drives this deficiency?

- No detailed policies and procedures for:
  - managing FTA grant funds
  - internal control practices to prevent fraud, waste and abuse
  - levels of authority
  - accounting software being used
  - required financial reporting
  - financial oversight of subrecipients

# Financial Management and Capacity

## *No Financial Policies and Procedures*

### What can recipients do to prevent this deficiency?

- Develop accounting policies and procedures
- Update procedures for:
  - New accounting software
  - Audit finding resolution
  - Organizational changes
  - Changes in Federal regulatory requirements

# ADA Complementary Paratransit

## *Limits or capacity constraints on Complementary Paratransit service*

- Purpose of the ADA Review Area

Titles II and III of the ADA 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.

- Relevant 2018 Review Guide Question

**CPT4.** Does the recipient limit the availability of service to ADA paratransit eligible individuals?

# ADA Complementary Paratransit

## *Limits or capacity constraints on Complementary Paratransit service*

### Relevant Indicators

- a. Where the recipient cannot provide a trip at the requested time, does the recipient negotiate trip times so that trips are scheduled within one hour before or after an individual's desired departure time?
- b. Does the recipient restrict the number of trips an eligible individual will be provided?
- c. Does the recipient limit the availability of service by using waiting lists?
- d. Does any operational pattern or practice significantly limit the availability of service to eligible individuals?

# ADA Complementary Paratransit

## *Limits or capacity constraints on Complementary Paratransit service*

### What drives this deficiency?

- Recipients have capacity constraints
- There is inadequate data and/or reporting on trip reservations, dispatch, and/or performance
- Performance data is gathered, but not evaluated
- Reservationists, dispatchers, and/or operators are not adhering to requirements or policies
- Complementary paratransit service exceeds the requirements and is impacting the capacity of the entire system
- Paratransit trips are co-mingled with other trips and separate data on ADA complementary paratransit is not tracked



# ADA Complementary Paratransit

## *Limits or capacity constraints on Complementary Paratransit service*

### What can recipients do to prevent this deficiency?

- Gather data on the indicators in the Comprehensive Review Guide that relate to this area
- Review reports on ADA data to determine if potential capacity constraints are indicated
- Review internal procedures for reservationists, dispatchers, and operators to ensure that each understands the definitions in the indicators
- Observe reservationists as they are taking calls to ensure adherence to policies and requirements

# Procurement

## *No FTA clauses*

- **Purpose of the Procurement Review Area**

Where Federal Transit Administration (FTA) funds are used in procurements for services or supplies, or where FTA-funded facilities or assets are used in revenue contracts, FTA Circular 4220. IF applies. FTA funds, even operating assistance, can be segregated from local funds. FTA Circular 4220. IF does not apply to wholly locally-funded capital procurements. *Note: There is flexibility in this area for States under the Uniform Guidance.*

- **Relevant 2018 Review Guide Question**

**P11.** Did the recipient include applicable federal clauses in FTA-funded procurements exceeding the micro-purchase limit and construction contracts over \$2,000?

# Procurement

*No FTA clauses*

## Relevant Indicator

- a. Did the recipient include applicable required clauses in FTA-funded procurements?

# Procurement

*No FTA clauses*

## What drives this deficiency?

- Recipients do not recognize a procurement as being FTA-funded
- Recipients are not using a current checklist for clauses
- Lack of consistency
  - If procurement is decentralized in an agency, one department may be compliant, while another has deficiencies
- An unanticipated high bid or increased contract cost causes a procurement to cross a monetary threshold, requiring additional clauses

# Procurement

## *No FTA clauses*

### What can recipients do to prevent this deficiency?

- Use a clause checklist
  - Check FTA’s Comprehensive Guide
  - Review FTA’s Master Agreement when it is issued each year (<https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>)
- Develop standard clause language
  - See FTA’s *Best Practices Procurement Manual*
- Develop a method for identifying FTA-funded procurements
  - Across departments
  - With others conducting procurements on transit’s behalf

# ADA - General

## *Insufficient complaint process*

- Purpose of the ADA Review Area

Titles II and III of the ADA 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.

- Relevant 2018 Review Guide Question

**ADA1.** Does the recipient track, resolve, and respond to ADA-related complaints?

# ADA - General

## *Insufficient complaint process*

### Relevant Indicators

- a. Is the process for filing a complaint advertised to the public, such as on the recipient's website?
- b. Does public information about the complaint process include the appropriate contact information?
- c. Are the complaint procedures accessible to and usable by individuals with disabilities?
- d. Do the procedures provide for the prompt and equitable resolution of complaints, including a procedure for responding to complaints and tracking the responses?
- e. Does the recipient retain ADA-related complaints for at least one year and a summary of all ADA-related complaints for at least five years?

# ADA - General

## *Insufficient complaint process*

### What drives this deficiency?

- Recipients missed new July 2015 requirements
  - ADA complaint process must be sufficiently advertised
  - Complaint responses must be promptly communicated
- ADA complaints not retained for required intervals
  - 1 year for the individual complaint
  - 5 years for the complaint log



# ADA - General

## *Insufficient complaint process*

### What can recipients do to prevent this deficiency?

- Review current versions of 49 CFR Parts 27 and 37 for the requirements on ADA complaints
- Review website, ride guide, and other external communications for compliance, accuracy, and consistency
- Review internal tracking and retention policies for compliance
- If all service complaints go to a common center, ensure that ADA complaints can be distinguished
- Review contracted or subrecipient practices for compliance

# Technical Capacity – Program Management and Subrecipient Oversight

## *Inadequate oversight of subrecipient/third party contractor/lessees*

- **Purpose of the Technical Capacity-PgM Review Area**

The recipient must follow the public involvement process for transportation plans; develop and submit a State Management Plan to the Federal Transit Administration (FTA) for approval; 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.

- **Relevant 2018 Review Guide Question**

***TC-PgM7.*** Does the recipient's oversight program ensure subrecipient compliance with Federal requirements and performance goals, and provide for evaluation of subrecipient risk of noncompliance with those requirements?

# Technical Capacity – Program Management and Subrecipient Oversight

## *Inadequate oversight of subrecipient/third party contractor/lessees*

### Relevant Indicators

- a. What is the recipients process for monitoring subrecipients?
- b. How does the recipient evaluate subaward and/or subrecipient risk?
- c. Has the recipient conducted risk assessments of its subrecipient?
- d. How does the recipient evaluate subaward performance?
- e. How are the outcomes of risk assessments incorporated into the oversight process?
- f. What actions has the recipient taken to address identified compliance issues or risk with subrecipients?

*Note: This question covers primarily high-level subrecipient oversight. In the 2018 Comprehensive Review Guide, most sections conclude with separate additional questions on contractor oversight and subrecipient oversight.*

# Technical Capacity – Program Management and Subrecipient Oversight

*Inadequate oversight of subrecipient/third party contractor/lessees*

## What drives this deficiency?

- Recipients have contractor-operated service, subrecipients, and/or lessees
  - Contractor – hired by the recipient through a procurement action
  - Subrecipient – an entity to which the recipient passes through a portion of its FTA funds and the subrecipient ‘stands in the recipient’s shoes’
  - Lessee – an entity which leases an FTA-funded asset for transit service it controls
- Oversight is decentralized, inadequate, or non-existent
- Oversight activities not consistently documented
- Follow-up of oversight findings does not occur
- Complications when subrecipients are also direct FTA recipients

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*Inadequate oversight of subrecipient/third party contractor/lessees*

## What can recipients do to prevent this deficiency?

- Create a comprehensive, standardized oversight approach
  - Include oversight procedures for Comprehensive Review Guide questions that relate specifically to contractors/lessees/subrecipients – word searching the Guide can help
- When regulations change, review and revise oversight guides
- Document oversight activities and corrective measures
- Follow up with contractors/lessees/subrecipients on findings

**Thank You!**

**Questions?**