



# TRI DELTA TRANSIT

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## **APPENDIX A**

### **Agenda Item 7c**

Final Report  
Fiscal Year 2022  
Triennial Review

**Board of Directors Meeting**

Wednesday June 22, 2022

**FINAL REPORT**

**FISCAL YEAR 2022  
TRIENNIAL REVIEW**

of

**Eastern Contra Costa Transit Authority  
(ECCTA)  
Antioch, CA  
ID: 5617**

Performed for:

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL TRANSIT ADMINISTRATION  
REGION 9**

Prepared By:

**Calyptus Consulting Group, Inc.**

**Scoping Meeting Date: March 2, 2022**

**Site Visit Date: April 11-14, 2022**

**Draft Report Date: May 17, 2022**

**Final Report Date: June 8, 2022**

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## I. Executive Summary

This report documents the Federal Transit Administration’s (FTA) Triennial Review of the Eastern Contra Costa Transit Authority (ECCTA) of Antioch, CA. 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, administrative and statutory requirements were discussed and documents were reviewed.

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 the ECCTA’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 American Rescue Plan (ARP) Act of 2021. The ECCTA was also requested to share if and/or how it suspended, deviated from, or significantly updated or altered its transit program due to the public health emergency.

The Triennial Review focused on the ECCTA’s compliance in 23 areas. Four (4) areas were not applicable. Deficiencies related to the COVID-19 Relief funds have been clearly identified as part of the deficiency description in the respective review area.

Deficiencies were found in the areas listed below.

Review Area	Deficiencies	
	Code	Description
Financial Management and Capacity (F)	F2-3	ECHO draws not properly approved
	F4-2	Funds not disbursed timely
Technical Capacity – Award Management (TC-AM)	TC-AM2-1	Incorrect FFR reporting
Procurement (P)	P11-1	Missing FTA clauses
Americans with Disabilities Act – General (ADA-GEN)	ADA-GEN5-1	Demand response service deficiency

Subsequent to the virtual site visit, the ECCTA provided corrective action responses to address the deficiencies noted in the Financial Management and Capacity, Technical Capacity – Award Management, and Procurement areas of this report. The deficiencies in these areas, as noted in the above table, 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...” This Triennial Review was performed in accordance with the FTA procedures (published in FTA Order 9010.1B, April 5, 1993).

The Triennial Review process includes a review of the recipient’s compliance in 23 areas. The basic requirements for each of these areas are summarized in Section IV.

This report presents the findings from the Triennial Review of the ECCTA. The review concentrated on procedures and practices employed since the ECCTA’s previous Triennial Review; 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 through the FTA’s regional 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 virtual site visit. Due to the COVID-19 Public Health Emergency, a virtual site visit was conducted of each recipient. In addition, the review was expanded to address the recipient’s compliance with the administrative relief and flexibilities FTA granted and the requirements of the COVID-19 relief funds received through the CARES Act, CRRSAA of 2021, and ARP Act of 2021. Recipients were also requested to 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) 2022 process began with the regional office transmitting, a Recipient Information Request (RIR) to the ECCTA on November 23, 2021, indicating a review would be conducted. While the ECCTA prepared its response to the RIR, the regional office and review team conducted a desk review and scoping meeting on March 2, 2022. Necessary files retained by the regional office were sent to the Reviewer electronically. 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. As a result of this review, an agenda package indicating the issues that would be discussed, records to be reviewed, and interviews to be conducted was then sent to the ECCTA on March 12, 2022. The virtual site visit occurred April 11-14, 2022.

The virtual site visit portion of the review began with an entrance conference, at which the purpose of the Triennial Review and the review process were discussed. The Reviewer conducted additional interviews and reviewed documentation to evidence the ECCTA’s compliance with FTA requirements.

Upon completion of the review, the FTA and the Reviewer provided a summary of findings to the ECCTA at an exit conference. Section VI of this report lists the individuals participating in the review.

### 3. Metrics

The metrics used to evaluate whether a recipient is meeting the requirements for each of the areas reviewed are:

- *Not Deficient*: An area is considered not deficient if, during the review, nothing came to light that would indicate the requirements within the area reviewed were not met.
- *Deficient*: An area is considered deficient if any of the requirements within the area reviewed were not met.
- *Not Applicable*: An area can be deemed not applicable if, after an initial assessment, the recipient does not conduct activities for which the requirements of the respective area would be applicable.

### III. Recipient Description

#### 1. Organization

The Eastern Contra Costa Transit Authority (ECCTA) is a Joint Powers Authority (JPA) established in 1976 by the cities of Antioch, Brentwood, Pittsburg and the County of Contra Costa. Tri Delta Transit, the ECCTA's adopted marketing and system identity, began service on June 6, 1977. Tri Delta Transit provides transit services to its member cities of Antioch, Brentwood, Pittsburg, and unincorporated areas in Eastern Contra Costa County. Oakley became a city and joined the JPA in 2000. Tri Delta Transit operates fixed-route bus, paratransit and Tri MyRide, an on-demand microtransit service. The complementary paratransit service includes an optional same-day, on-demand service called Mobility On Demand.

Tri Delta Transit performs vehicle and facility maintenance with its own staff and contracts with First Transit for vehicle operations. The population of its service area is approximately 320,000. Tri Delta Transit operates a network of 15 weekday fixed routes and 5 weekend routes. Service is generally provided weekdays from 3:00 a.m. to 1:00 a.m., Saturdays from 5:00 a.m. to 1:30 a.m., and Sunday from 6:00 a.m. to 1:00 a.m. The recipient's complementary paratransit service, operates during the same days and hours of service as the fixed-route bus service.

The basic adult fare for bus service is \$2.00. A reduced fare of \$0.85 is offered to seniors, persons with disabilities, and Medicare cardholders during all hours. The fare for ADA paratransit service is \$2.75 if the trip begins and ends in the service area and \$5.50 if the trip ends out of the service area. Period passes are available for bus service and a 10-ride coupon book is available for regular paratransit service. Tri MyRide has a fare of \$2.00 per trip. Mobility On Demand has a base fare of \$4.00 per trip and the customer is also responsible for any fare in excess of \$20.00.

Tri Delta Transit operates a fleet of 62 buses for fixed-route service. Its bus fleet consists of standard 40-foot transit buses. Currently, 4 of 62 buses are battery electric zero-emission buses. Tri Delta Transit also has a fleet of 34 paratransit vehicles, which are operated by its contractor for ADA paratransit service. Tri Delta Transit also added 8 new vehicles to its fleet for operation of the new Tri MyRide service. Tri Delta Transit operates from a single maintenance and administration facility in Antioch, CA.



## 2. Award and Project Activity

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

Federal Award Identification Number	Award Amount	Year Executed	Award Name
CA-2022-039	\$3,361,534	2022	ECCTA FY21 5307 - ARPA Operating Assistance
CA-2017-164	\$12,762,285	2021	FY17 Capital & Operating Programs

The ECCTA received supplemental funds for operating assistance in award number CA-2020-074. This is not the ECCTA's first time receiving operating assistance from the FTA.

### Projects Completed

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

- Installed WiFi on all the buses (LCTOP)
- Installed more bus chargers (LCTOP)
- Added 8 new Demand Response vehicles for Tri MyRide Microtransit service (TDA)

### Ongoing Projects

The ECCTA is currently implementing the following noteworthy projects:

- Currently constructing the Oakley Park and Ride (FTA/TDA)

### Future Projects

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

- Bus Replacements (FTA/TDA)
- Bus electrification/chargers (FTA/TDA/LCTOP)
- Hydrogen Fueling Station (hopefully Low No/Bus and Bus Facilities grant)

## IV. Results of the Review

### 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.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the FTA requirements for Legal.

### 2. Financial Management and Capacity

Basic Requirement: The recipient must have financial policies and procedures; an organizational structure that defines, assigns and delegates fiduciary authority; and financial management systems in place to manage, match, and charge only allowable costs to the award. The recipient must conduct required Single Audits, as required by 2 CFR part 200, and provide financial oversight of subrecipients.

Finding: During this Triennial Review of the ECCTA, two (2) deficiencies were found with the FTA requirements for Financial Management and Capacity.

Deficiency Description #1: ECHO draws not properly approved (F2-3)

The ECCTA Chief Executive Officer (CEO) is registered in the Electronic Clearinghouse Operation (ECHO) system as the approving official. However, the ECCTA Chief Operating Officer (COO) signs the ECCTA Authorization for Electronic Transfer of Federal Funds form for each drawdown and initiates the drawdowns in ECHO. This approval was not delegated to the COO in writing and segregation of duties was not evident.

*2 CFR Part 200.303 Internal Controls*

*The non-Federal entity must:*

*(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in 'Standards for Internal Control in the Federal Government', issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission.*

*(b) Comply with the US Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.*

(c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

(e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

*FTA Circular 5010.1E Award Management Requirements Chapter VI (2) Internal Controls*

(f) *Standards of Internal Control and Audit Resolutions.*

(1) *General.*

b) *The recipient's formal organization structure must clearly define, assign, and delegate appropriate authority for all duties.*

c) *Responsibility for duties and functions must be segregated within the organization to ensure that adequate internal checks and balances exist. Recipients should pay particular attention to authorization, performance, recording, inventory control, and review functions to reduce the opportunity for unauthorized or fraudulent acts.*

g) *The recipient must provide proper supervision and performance must be subject to review of an effective internal audit program.*

h) *All personnel must be properly qualified for their assigned responsibilities, duties, and functions; education, training, experience, competence, and integrity should be considered in assigning work; all must be held fully accountable for the proper discharge of their assignments.*

Corrective Action(s) and Schedule: By July 22, 2022, the ECCTA must:

- 1) Revise the SOP ECHO Reimbursement and the Authorization for Electronic Transfer of Federal Funds form to ensure someone other than the approving official requests ECHO funds.
- 2) Submit a copy of the April 2022 drawdown documentation using the revised form.
- 3) Implement and submit to the regional office documentation of training conducted of the appropriate staff on new policies and procedures.

The ECCTA completed a drawdown on April 13, 2022, and provided backup documentation evidencing revised procedures and tools along with evidence of staff training. **This deficiency is closed.**

Deficiency Description: Funds not disbursed timely (F4-2)

The ECCTA initiated a drawdown on June 23, 2021, for award CA-2017-164 for \$293,841. The ECCTA received the funds that day. Payment was not made to the Ghilotti Brothers until July 8, 2021, due to a communications error. At the time of the review, the ECCTA had already revised the standard operating procedures to specify that payment must be made within 3 days per FTA Circular 5010.1E.

*FTA Circular 5010.1E Chapter VI (2) (f) (3) (b) (7) Cash Management*

*...Payment received from FTA must be disbursed within three business days...*

Corrective Action(s) and Schedule: By July 22, 2022, the ECCTA must:

- 1) Submit documentation with the April 2022 drawdown to support that funds were disbursed in accordance with FTA requirements.
- 2) Implement and submit to the regional office documentation of training conducted of the appropriate staff on new policies and procedures.

The ECCTA completed a drawdown April 13, 2022 and provided backup documentation evidencing revised procedures and tools along with evidence of staff training. **This deficiency is closed.**

### 3. Technical Capacity – Award Management

Basic Requirement: The recipient must report progress of projects in awards to the Federal Transit Administration (FTA) and close awards timely.

Finding: During this Triennial Review of the ECCTA, one (1) deficiency was found with the FTA requirements for Technical Capacity – Award Management.

Deficiency Description: Incorrect FFR reporting (TC-AM2-1)

The ECCTA does not track unliquidated obligations related to rolling stock or ongoing construction projects. Unliquidated obligations as defined in 2 CFR 200.97 are not reported in the FFRs per FTA Circular 5010.1E.

*2 CFR 200.328 Financial reporting*

*Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved government wide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent*

*reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.*

## *2 CFR 200.97 Unliquidated obligations*

*Unliquidated obligations means, for financial reports prepared on a cash basis, obligations incurred by the non-Federal entity that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are obligations incurred by the non-Federal entity for which an expenditure has not been recorded.*

## *FTA Circular 5010.1E, Chapter. III, Section 3. Reporting Requirements*

*a. Federal Financial Report (FFR). FTA's electronic FFR report is consistent with and includes information identified in OMB's Standard Form FFR (SF FFR). A recipient must submit an FFR for each active Award. The FFR accompanies the MPR (described below) and is used to monitor the federal assistance awarded. The purpose of the FFR is to provide a current, complete, and accurate financial picture of the Award. This report is submitted electronically through TrAMS. The first 4 items (A-D) are prepared using cash accounting. The remaining report items (E-U) must be prepared on the accrual basis of accounting; that is, income is recorded when earned instead of when received, and expenses are recorded when incurred instead of when paid. These items, (E-U) of the FFR, may not be prepared on the cash basis of accounting, even though a recipient may keep its books on the cash basis during its accounting year. If this is the case, at the submission of the FFR, the recipient must prepare the necessary accruals and submit the FFR on the accrual basis of accounting. (See Appendix B, "Federal Financial Report").*

*The FFR must contain the following elements:*

- (1) All financial facts (e.g., expenditures and obligations) relating to the Award (scope of work and supporting activities); the purpose of each financial report and applicable reporting period should be completely and clearly displayed in the reports.*
- (2) Reported financial data should be accurate to the last Award Budget (this may be the initial Award, or last revision to the Award Budget or amendment to the Award) and the reporting period. The requirement for accuracy does not rule out inclusion of reasonable estimates when precise measurement is impractical, uneconomical, unnecessary, or conducive to delay. Financial data reported may reconcile data included in the prior report, and must be explained in the explanation/remarks section of the report.*
- (3) Financial reports must be based on the required supporting documentation maintained in the recipient's official financial management system that produces information that objectively discloses financial aspects of events or transactions.*
- (4) Financial data reported should be derived from accounts that are maintained on a consistent, periodic basis; material changes in accounting policies or methods and their effect must be clearly explained.*

(5) Reporting terminology used in financial reports to FTA should be consistent with receipt and expense classifications included in the latest Award.

(6) The recipient is responsible for indicating whether or not it is charging indirect costs to the Award at the time of application. If the recipient is charging indirect costs to the Award, the recipient is responsible for having an approved Indirect Cost Rate Proposal or Cost Allocation Plan approved by the cognizant agency on file, and uploading the documentation into their TrAMS "Recipient Profile." The recipient must report on related indirect expenditures.

(7) The recipient must provide financial information related to the FFR categories: Federal Cash, Recipient Share, Unliquidated Obligations, and Program Income.

Corrective Action(s) and Schedule: By July 22, 2022, the ECCTA must:

- 1) Submit the FY22 Q2 FFR including the correct unliquidated obligations and address FTA comments, and
- 2) Submit to the FTA regional office procedures and a tool for tracking and reporting unliquidated obligations for future reports.

The ECCTA completed FFR and MPR reports for CA-2017-164-02 and CA-2022-039-00 including unliquidated obligations and submitted a spreadsheet indicating how the ECCTA will track grant activity, including unliquidated obligations for future FFRs. **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 the ECCTA, 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 be able to implement the Federal Transit Administration (FTA)-funded projects in accordance with the award application, the FTA Master Agreement, and applicable laws and regulations using sound management practices.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the FTA requirements for Technical Capacity – Project Management.

## 6. Transit Asset Management

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

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the FTA requirements for Transit Asset Management.

## 7. Satisfactory Continuing Control

Basic Requirement: The recipient must ensure that Federal Transit Administration (FTA)-funded property will remain available to be used for its originally authorized purpose throughout its useful life until disposition.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the FTA requirements for Satisfactory and Continuing Control.

## 8. Maintenance

Basic Requirement: Recipients must keep federally-funded vehicles, equipment, and facilities in good operating condition. Recipients must keep Americans with Disabilities Act (ADA) accessibility features on all vehicles, equipment, and facilities in good operating order.

Finding: During this Triennial Review of the ECCTA, 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 the ECCTA, one (1) deficiency was found with the FTA requirements for Procurement.

Deficiency Description: Missing FTA clauses (P11-1)

Deficiencies in review of procurement files

During the virtual site visit to the ECCTA, one (1) procurement file was reviewed: one (1) invitation for bid (IFB) for construction. The table below provides more details about this procurement.

Procurement #	1
Goods/Services Procured	Construction
Date	3/24/2021
Dollar Value	\$3,989,518.75
Type	Construction, Ghilotti Bros.
Method	IFB
New Start or Small Start	No
Awarded by Contractors or Subrecipients	No
Change Order	No
DBE Goal	No
Protest	No
Deficiencies	P11-1

The one (1) IFB, did not include the Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse, or other legal matters as required by the FTA Master Agreement.

Following the review, the ECCTA updated the Procurement Manual to include the updated clause list and matrix. The ECCTA received acknowledgement from the selected contractor that the additional clause would be included with the upcoming agreement. This award is pending Board approval.

*FTA Master Agreement (28) Section 39(b).*

*Notification to FTA; Flow Down Requirement. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.*

*(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.*

*(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.*



*(3) Additional Notice to U.S. DOT Inspector General. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.*

Corrective Actions and Schedule: By July 22, 2022, the ECCTA must:

- 1) Submit the executed award including all FTA required third party contract clauses.

The ECCTA submitted a revised Federal Clause checklist, RFP packet including federal clauses in the Special Conditions section, and the final executed contract including the additional required clause for Notice to FTA and DOT IG on May 18, 2022. **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 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.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the US DOT 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 the ECCTA, no deficiencies were found with the FTA requirements for Title VI.

## 12. Americans with Disabilities Act (ADA) – General

Basic Requirement: Titles II and III of the Americans with Disabilities Act of 1990 provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility and the provision of service, including complementary paratransit service.

Finding: During this Triennial Review of the ECCTA, one (1) deficiency was found with the US DOT requirements for ADA – General.

Deficiency Description: Demand response service deficiency (ADA-GEN5-1)

The ECCTA has established agreements with Lyft, Uber, and United Taxi to provide on-demand service to paratransit-eligible riders. During the review, the ECCTA did not provide documentation demonstrating that equivalent service is provided to persons with disabilities, including wheelchair users.

Following the review, draft procedures were submitted for comment. These should be finalized and approved.

### *49 CFR 37.5 Nondiscrimination*

*(a) No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.*

### *49 CFR 37.23 Service under contract*

*(a) When a public entity enters into a contractual or other arrangement (including, but not limited to, a grant, subgrant, or cooperative agreement) or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.*

*(b) A private entity which purchases or leases new, used, or remanufactured vehicles, or remanufactures vehicles, for use, or in contemplation of use, in fixed route or demand responsive service under contract or other arrangement or relationship with a public entity, shall acquire accessible vehicles in all situations in which the public entity itself would be required to do so by this part.*

*(c) A public entity which enters into a contractual or other arrangement (including, but not limited to, a grant, subgrant, or cooperative agreement) or relationship with a private entity to provide fixed-route service shall ensure that the percentage of accessible vehicles operated by the public entity in its overall fixed route or demand responsive fleet is not diminished as a result.*

*(d) A private entity that provides fixed route or demand responsive transportation service under contract or other arrangement (including, but not limited to, a grant, subgrant, or cooperative agreement) with another private entity shall be governed, for purposes of the transportation service involved, by the provisions of this part applicable to the other entity.*

Corrective Action(s) and Schedule: By July 22, 2022, the ECCTA must submit to the Regional Civil Rights Officer (RCRO), implemented procedures for monitoring the demand-response service to ensure that equivalent service is provided to persons with disabilities, including wheelchair users, according to the criteria described in 49 CFR 37.77(c).

### **13. ADA – Complementary Paratransit**

Basic Requirement: Under 49 CFR 37.121(a), each public entity operating a fixed-route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed-route system. “Comparability” is determined by 49 CFR 37.123-37.133. Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the US DOT requirements for ADA – Complementary Paratransit.

### **14. Equal Employment Opportunity**

Basic Requirement: The recipient must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age or disability be excluded from participating in, or denied the benefits of, or be subject to discrimination in employment under any project, program or activity receiving Federal financial assistance under the Federal transit laws.

Finding: During this Triennial Review of the ECCTA, 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 Federal Transit Administration (FTA) Administrator under an allowable exemption. Federally-funded equipment or facilities cannot be used to provide exclusive school bus service.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the FTA requirements for School Bus.

## 16. Charter Bus

Basic Requirement: Recipients are prohibited from using the FTA-funded equipment and facilities to provide charter service that unfairly competes with private charter operators. Recipient may operate charter only when the service meets a specified exception defined in rule.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the FTA requirements for Charter Bus.

## 17. Drug Free Workplace Act

Basic Requirement: Recipients are required to maintain a drug free workplace for all award-related employees; report any convictions occurring in the workplace timely; and have an ongoing drug free awareness program.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the FTA requirements for the Drug-Free Workplace Act.

## 18. Drug and Alcohol Program

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

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

## 19. Section 5307 Program Requirements

Basic Requirement: The recipient must participate in the transportation planning process in accordance with Federal Transit Administration (FTA) requirements and the metropolitan and statewide planning regulations.

Recipients shall develop, publish, afford an opportunity for a public hearing on, and submit for approval, a program of projects (POP).

Recipients are expected to have a written, locally developed process for soliciting and considering public comment before raising a fare or carrying out a major transportation service reduction.

For fixed-route service supported with Section 5307 assistance, fares charged seniors, persons with disabilities or an individual presenting a Medicare card during off peak hours will not be more than one half the peak hour fares.

Finding: During this Triennial Review of the ECCTA, no deficiencies were found with the FTA requirements for Section 5307 Program Requirements.

## 20. Section 5310 Program Requirements

Basic Requirement: Recipients must expend Section 5310 funds on eligible projects that meet the specific needs of seniors and individuals with disabilities. Projects selected for funding must be included in a locally developed, coordinated public transit-human services transportation plan. Recipients must approve all subrecipient leases of Section 5310-funded vehicles. Leases of Section 5310-funded vehicles must include required terms and conditions. Either the recipient or subrecipient must hold title to the leased vehicles.

Finding: This section only applies to recipients that receive Section 5310 funds directly from the FTA; therefore, the related requirements are not applicable to the review of the ECCTA.

## 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.

Finding: This section only applies to recipients that receive Section 5311 funds directly from FTA; therefore, the related requirements are not applicable to the review of the ECCTA.

## 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 the ECCTA, no deficiencies were found with the FTA requirements for Public Transportation Agency Safety Plan 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: This section only applies to recipients that operate rail; therefore, the related requirements are not applicable to the review of the ECCTA.

## V. Summary of Findings

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
1. Legal	ND				
2. Financial Management and Capacity	D	F2-3: ECHO draws not properly approved	<p>The ECCTA must:</p> <ol style="list-style-type: none"> <li>1) Revise the SOP ECHO Reimbursement and the Authorization for Electronic Transfer of Federal Funds form to ensure someone other than the approving official requests ECHO funds.</li> <li>2) Submit April 2022 drawdown documentation using revised form.</li> <li>3) Implement and submit to the regional office documentation of training conducted of the appropriate staff on new policies and procedures.</li> </ol> <p>The ECCTA completed a drawdown April 13, 2022 and provided backup documentation evidencing revised procedures and tools along with evidence of staff training. <b>This deficiency is closed.</b></p>	July 22, 2022	April 15, 2022
		F4-2: Funds not disbursed timely	<p>The ECCTA must:</p> <ol style="list-style-type: none"> <li>1) Submit documentation with April 2022 drawdown to support that funds were disbursed in accordance with FTA requirements.</li> <li>2) Implement and submit to the regional office documentation of training conducted of the appropriate staff on new policies and procedures.</li> </ol> <p>The ECCTA completed a drawdown April 13, 2022 and provided backup documentation evidencing revised procedures and tools along with evidence of staff training. <b>This deficiency is closed.</b></p>	July 22, 2022	April 15, 2022

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
3. Technical Capacity – Award Management	D	TC-AM2-1: Incorrect FFR reporting	<p>The ECCTA must:</p> <ol style="list-style-type: none"> <li>1) Submit the FY22 Q2 FFR including the correct unliquidated obligations and address FTA comments, and</li> <li>2) Submit to the FTA regional office procedures and a tool for tracking and reporting unliquidated obligations for future reports.</li> </ol> <p>The ECCTA completed FFR and MPR reports for CA-2017-164-02 and CA-2022-039-00 including unliquidated obligations and submitted a spreadsheet indicating how the ECCTA will track grant activity, including unliquidated obligations for future FFRs. <b>This deficiency is closed.</b></p>	July 22, 2022	May 3, 2022
4. Technical Capacity – Program Management and Subrecipient Oversight	NA				
5. Technical Capacity – Project Management	ND				
6. Transit Asset Management	ND				
7. Satisfactory Continuing Control	ND				
8. Maintenance	ND				
9. Procurement	D	P11-1: Missing FTA Clauses	<p>The ECCTA must:</p> <ol style="list-style-type: none"> <li>1) Submit the executed award including all FTA required third party contract clauses.</li> </ol> <p>The ECCTA submitted a revised Federal Clause checklist, RFP packet including federal clauses in the Special Conditions section, and the final executed contract including the additional required clause for Notice to FTA and DOT IG on May 18, 2022. <b>This deficiency is closed.</b></p>	July 22, 2022	May 18, 2022
10. Disadvantaged Business Enterprise	ND				
11. Title VI	ND				

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
12. Americans with Disabilities Act (ADA) – General	D	ADA-GEN5-1: Demand response service deficiency	The ECCTA must submit to the Regional Civil Rights Officer (RCRO) implemented procedures for monitoring the demand-response service to ensure that equivalent service is provided to persons with disabilities, including wheelchair users, according to the criteria described in 49 CFR 37.77(c).	July 22, 2022	
13. ADA – Complementary Paratransit	ND				
14. Equal Employment Opportunity	ND				
15. School Bus	ND				
16. Charter Bus	ND				
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	NA				

The metrics used to evaluate whether a recipient is meeting the requirements for each of the areas reviewed are: Deficient (D)/Not Deficient (ND)/Not Applicable (NA)



## VI. Participants

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## **VII. Appendices**

No appendices are included in this report.