



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

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June 10, 2022

Ms. Patricia Kemp  
Chair, HART Board of Directors  
Hillsborough Area Regional Transit Authority (HART)  
1201 E. 7<sup>th</sup> Avenue  
Tampa, FL 33605

**Re: Federal Transit Administration (FTA) Fiscal Year 2022 Triennial Review - Final Report**

Dear Ms. Kemp:

I am pleased to provide you with a copy of this FTA report as required by 49 U.S.C. Chapter 53 and other Federal requirements. The enclosed final report documents the FTA's Triennial Review of HART in Tampa, FL 33605. Although not an audit, the Triennial Review is the FTA's assessment of HART's compliance with Federal requirements, determined by examining a sample of award management and program implementation practices. As such, the Triennial Review is not intended as, nor does it constitute, a comprehensive and final review of compliance with award requirements.

Due to the Coronavirus 2019 (COVID-19) Public Health Emergency, a virtual site visit was conducted for this Triennial Review. In addition, the review was expanded to address HART's compliance with the administrative relief and flexibilities FTA granted and the requirements of the COVID-19 Relief funds received through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) of 2021, and the American Rescue Plan (ARP) Act of 2021.

The Triennial Review focused on HART's compliance in 23 areas. No deficiencies were found with the FTA requirements in 15 of these areas. Deficiencies were found in three areas: Financial Management and Capacity, Procurement, and Disadvantaged Business Enterprise (DBE). Five areas were not applicable. HART had no repeat deficiencies from the Fiscal Year 2018 Triennial Review.

Subsequent to the virtual site visit, HART provided corrective action responses to address and close deficiencies P10-1 and P20-2 noted in the Procurement area of the report that follows.

## Regulations and Guidance

As HART moves forward with its transit program, the FTA would like to provide a look-ahead for future oversight activities related to new and/or updated requirements, below.

### Cybersecurity Certification for Rail Rolling Stock and Operations

In FY2020, the National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, §7613 promulgated the addition of U.S.C. Section 5323(v). This new requirement instructs recipients that operate rail fixed guideway public transportation systems to certify to FTA that it established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks. Recipients are to use the approach described in the voluntary standards and best practices developed by the National Institute of Standards and Technology (NIST) and the Secretary of Homeland Security in consultation and coordination with various stakeholders. Recipients are to also identify hardware and software it determines should be tested and analyzed by a third party to mitigate cybersecurity risk

For the FY2022 review cycle, FTA is deploying a “soft launch” in determining, if and how, recipients are developing their plan for identifying and reducing cybersecurity risks. Recipients are to certify in TrAMS by correctly completing Category 20 of the Annual Certifications and Assurances to indicate their compliance with this requirement. For the FY2025 review cycle, this requirement will be reviewed for full compliance.

For additional information about the cybersecurity framework, visit the NIST’s website at: <https://www.nist.gov/cyberframework/framework>.

Thank you for your cooperation and assistance during this Triennial Review. If you need any technical assistance or have any questions, please do not hesitate to contact Mr. Chris White, FTA General Engineer, at 404-865-5619 or by email at [christopher.white@dot.gov](mailto:christopher.white@dot.gov).

Sincerely,



(for) Yvette G. Taylor, Ph.D.  
Regional Administrator

Enclosure

cc: Loretta Kirk, CFO, HART  
Chris White, General Engineer, FTA Region IV  
Michele D. Foster, Regional Civil Rights Officer, FTA Region IV  
Tashu Trivedi, Technical Project Manager, Team TFC  
Benjamin Sumpter, Lead Reviewer, Team TFC

**FINAL REPORT**

**FISCAL YEAR 2022  
TRIENNIAL REVIEW  
of**

**Hillsborough Area Regional Transit Authority  
HART  
Tampa, FL  
ID: 1096**

*Performed for:*

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

*Prepared By:*

**Contract Service Innovations, LLC  
Under subcontract to TFC Consulting, Inc.**

**Scoping Meeting Date: March 8-10, 2022  
Site Visit Date: April 4-7, 2022  
Final Report Date: June 10, 2022**

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## I. Executive Summary

This report documents the Federal Transit Administration’s (FTA) Triennial Review of the Hillsborough Area Regional Transit Authority (HART) of Tampa, FL. 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 Contract Service Innovations, LLC under subcontract to TFC Consulting, Inc. During the 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 HART’s compliance with the administrative relief and flexibilities FTA granted and the requirements of the COVID-19 Relief funds received through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) of 2021, and the American Rescue Plan (ARP) Act of 2021. HART 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 HART’s compliance in 23 areas. Deficiencies related to the COVID-19 Relief funds have been clearly identified as part of the deficiency description in the respective review area.

Deficiencies were found in the areas listed below.

Review Area	Deficiencies	
	Code	Description
2. Financial Management and Capacity (F)	F1-1	Lacking/missing required written financial management policies and procedures
9. Procurement (P)	P10-1	Lacking independent cost estimate
	P11-1	Missing FTA clauses
	P17-1	Improper piggyback purchase
	P20-2	Pre-award and/or post-delivery audits not performed
10. Disadvantaged Business Enterprise (DBE)	DBE5-1	DBE uniform reports contain inaccuracies and/or are missing required information

Subsequent to the virtual site visit, HART provided corrective action responses to address the deficiencies noted in the P10-1 and P20-2 Procurement area of this report. The two deficiencies in this area, 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 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 HART. The review concentrated on procedures and practices employed since HART’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 at 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 site visit to the recipient’s location. 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 the 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 HART on November 29, 2021, indicating a review would be conducted. While HART prepared its response to the RIR, the regional office and review team conducted a desk review and scoping meeting on March 8-10, 2022. Necessary files retained by the regional office were sent to the reviewers electronically. Following the desk review and scoping meeting, the reviewers 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 HART on March 18, 2022. The site visit to HART occurred on April 4-7, 2022.

The 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 reviewers conducted additional interviews and reviewed documentation to ensure HART’s compliance with FTA requirements.

Upon completion of the site visit, the FTA and the reviewers provided a summary of preliminary findings to HART at an exit conference. Section VI of this report lists the individuals participating in the site visit.

### 3. Metrics

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

- *Not Deficient*: 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 Hillsborough Area Regional Transit Authority (HART) was created in October of 1979 to plan, finance, acquire, construct, operate and maintain mass transit facilities and supply transportation assistance in Hillsborough County, Florida. The population of its service area is approximately 807,015.

HART's Board of Directors is comprised of 15 members appointed by Hillsborough County, the State of Florida, and the Cities of Tampa and Temple Terrace. Responsibility for the management, control and operation of HART is vested in the Board. The CEO of HART manages the agency and reports directly to the Board of Directors.

HART offers 32 fixed routes, paratransit service (HARTPlus), bus rapid transit (MetroRapid), express routes, route deviation service (HARTFlex), rubber-tire In-Town Trolleys, and the TECO Line Streetcar system.

Fixed-route bus service operates 4:00 a.m. to 1:13 a.m. Monday through Friday, 4:47 a.m. to 12:45 a.m. on Saturday and Sunday. The TECO Line Streetcar system operates 7:00 a.m. to 11:00 p.m. Monday through Thursday, 7:00 a.m. to 2:00 a.m. on Friday, 8:30 a.m. to 2:00 a.m. on Saturday, and 8:30 a.m. to 11:00 p.m. on Sunday. The HARTPlus ADA complementary paratransit service is offered during the same days and hours of operation as the fixed-route and streetcar systems.

The basic adult fare on the fixed-route buses is \$2.00. A half fare of \$1.00 is offered during all hours of operation to adults aged 65 and older, persons with disabilities, Medicare cardholders, and youth between the ages of 5 and 18. The cost of a one-way HARTPlus trip is \$4.00.

HART operates a fleet of 138 FTA-funded buses for fixed-route service, 14 of which are in contingency. The fixed-route fleet consists of 40-foot low floor buses. Peak service requirements are 110 buses for a spare ratio of 20%. Its fleet is also comprised of 70 FTA-funded cutaway buses and vans used in the delivery of paratransit service, and nine replica streetcars and one vintage streetcar, also with FTA interest.

HART headquarters are located in the Ybor Facility, 1201 East 7th Avenue, Tampa, which is also its rail maintenance facility. Additional administrative offices and the bus maintenance facility and storage area are located at 4305 East 21st Avenue, Tampa. HART maintains three transit centers, two transfer centers, and 11 streetcar stations in Tampa. FTA has funded all of HART's facilities, centers and streetcar stations.

#### 2. Award and Project Activity

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

<b>Award Number</b>	<b>Award Amount</b>	<b>Year Executed</b>	<b>Description</b>
FL-04-0167	\$4,700,000	2018	State of Good Repair - HM Rehab/Renov
FL-2019-081	\$800,000	2019	Sec 20005b Pilot TOD Land Use Planning
FL-2020-024	\$880,006	2020	5307 FLEX - Surface Transportation Block Grant
FL-2022-003	\$15,747,731	2022	5307 CRRSAA Operating
FL-2022-009	\$47,765,443	2022	5307 ARP Operating
FL-2019-095	\$3,339,842	2019	FY2018 & FY2019 5339 Bus and Bus Facilities
FL-2020-062	\$2,002,889	2020	5337 State of Good Repair Funds
FL-2019-066	\$13,477,078	2019	5307 Urbanized Area Formula
FL-2020-066	\$12,836,456	2020	5307 Urbanized Area Formula Grant
FL-2021-073	\$ 14,206,745	2021	5307 Urbanized Area Formula Grant FY2021
FL-2021-010	\$ 4,000,000	2021	FHWA STBG FLEX to Sec 5307; Capital and Equipment; FFY 20
FL-2021-065	\$100,240	2021	FY2019 Innovations in Transit Public Safety - Human Trafficking Awareness Discretionary Grant
FL-2018-095	\$13,533,850	2018	FY 2018 Sec 5307 Urbanized Area Formula
FL-2017-065	\$1,223,267	2017	FY 2016 Section 5307 Urbanized Area Formula Grant

HART received Supplemental Funds for operating assistance in award numbers FL-2022-003, FL-2022-009, and FL-2020-038. This not HART's first time receiving operating assistance from the FTA.

### **Projects Completed**

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

- Marion Transit Center (MTC) Concrete Rehabilitation Project
- Northwest Operators' Breakroom
- Replacement of the Streetcar Barn Door #5

### **Ongoing Projects**

HART is currently implementing the following noteworthy projects:

- Shelters & Amenities
- Security Camera Vehicle Replacement Contract
- Regional Inter-Jurisdictional Mobility Project (Flamingo Fares)

## **Future Projects**

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

- Heavy maintenance facility campus construction

## 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 HART, 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 HART, one deficiency was found with the FTA requirements for Financial Management and Capacity.

The table below provides more details about the ECHO drawdowns reviewed.

Award Number	Financial Purpose Code	Transaction Date	Drawdown Amount	Deficiencies
FL-2018-095-01	00	09/06/2018	\$8,161,128	• None
FL-2019-095-01	00	02/12/2020	\$249,528	• None
FL-2018-108-01	00	05/21/2019	\$2,075,444	• None
FL-2017-086-01	00	12/08/2017	\$1,756,448	• None
FL-2019-014-01	04	02/22/2019	\$110,000	• None
FL-2019-095-01	00	11/13/2019	\$105,069	• None
FL-2016-062-01	01	03/27/2019	\$31,986	• None
FL-2017-068-02	00	09/19/2019	(\$46,753)	• None
FL-2017-106-01	08	10/23/2017	\$219,749	• None
FL-2020-038-01	04	07/10/2020	\$5,957,486	• None

Award Number	Financial Purpose Code	Transaction Date	Drawdown Amount	Deficiencies
FL-2020-038-01	04	09/18/2020	\$3,586,691	• None
FL-2020-038-01	04	02/26/2021	\$736,412	• None
FL-2020-038-01	04	04/09/2021	\$4,058,122	• None

HART's award FL-2020-038-01 has been closed and this award included \$39,865,488 of their apportioned FY2020 Section 5307 CARES Act funds.

Deficiency Description:

**F1-1: Lacking/missing required written financial management policies and procedures**

The Recipient Information Request (RIR) requires submittal of financial management policies and procedures that include determining allowability of costs and the timely distribution of funds. HART's response to the RIR was that the policies were in the process of being updated and were to be submitted. A supplemental request for the financial policies was sent prior to the virtual site visit. HART provided a document entitled Grant Operating Procedures Manual as of January 11, 2022. During the virtual site visit, HART acknowledged the manual was incomplete and anticipated completing the manual in the future.

The manual was in draft format with incomplete sections for program of projects, cost allocation plan, grant close-outs and other areas listed in the table of contents. The completed sections of the manual included detailed operating procedures outlining the steps for processing ECHO requests, completing Milestone Progress Reports, Federal Financial Reports, and journal entries. The manual lacked the required written language for determining allowability of costs and ensuring the timely distribution of funds in compliance with 2 CFR 200. The manual also lacked policy language regarding internal controls, delegating levels of authority and implementation of other financial practices.

2CFR Part 200.302 Financial management

*(b) The financial management system of each non-Federal entity must provide for the following (see also §§200.334, 200.335, 200.336, and 200.337):*

*(4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes.*

*(6) Written procedures to implement the requirements of §200.305.*

*(7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.*

Corrective Action and Schedule: By August 10, 2022, HART must submit to the FTA regional office:

- Financial management policies and procedures for managing FTA award funds in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award
- This must include policies and procedures for determining allowability of cost and timely distribution of funds in accordance with 2 CFR 200
- Documentation that it has trained appropriate staff on the new policies and procedures

### 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 HART, no deficiencies were found with the FTA requirements for Technical Capacity – Award Management.

### 4. Technical Capacity – Program Management & Subrecipient Oversight

Basic Requirement: States must document and follow a public involvement process for the development of the long-range statewide transportation plan and State Transportation Improvement Program (STIP). Designated recipients of Sections 5310, 5311, and 5339 funds must develop and submit a State Management/ Program Management Plan to the FTA for approval. Recipients must enter into an agreement with each subrecipient, obtain required certifications from subrecipients, report in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) on subawards, and ensure subrecipients comply with the terms of the award.

During this Triennial Review of HART, the FTA requirements for Technical Capacity – Program Management & Subrecipient Oversight were 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 HART, 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 HART, 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 HART, 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 HART, 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 HART, deficiencies were found with the FTA requirements for Procurement.

Six procurement files were reviewed. The table below provides more details about these procurements.

<b>Contract/ Product</b>	<b>Award Date</b>	<b>Method</b>	<b>Amount</b>	<b>Deficiencies</b>
IFB-36644 Streetcar Midlife Rehab	1/7/2020	IFB	\$2,744,000	<ul style="list-style-type: none"> <li>• Missing federal clauses</li> <li>• ICE completed after bid opening</li> </ul>
RFP-37561 TOD Pilot Grant Program	3/3/2020	RFP	\$879,110	<ul style="list-style-type: none"> <li>• Missing federal clauses</li> <li>• Missing ICE</li> </ul>
RFP-21298CG E&D 21st Ave. Storm Water Project	1/7/2019	RFP- contract modification	\$124,876	<ul style="list-style-type: none"> <li>• None</li> </ul>
PO 19-1991  Services Net App Camera Storage at Ybor	4/25/2019	Sole Source	\$61,333.77	<ul style="list-style-type: none"> <li>• Missing federal clauses</li> </ul>
PO 21-0491 Gillig 16-40ft vehicles	12/30/2020	RFP	\$8,412,752	<ul style="list-style-type: none"> <li>• No authorization of HART participation/ assignment found in JTA consortium procurement</li> <li>• Missing federal clauses</li> <li>• Missing post-delivery audits</li> </ul>
RFP-23892CG D/B Heavy Maintenance Building Rehab Project	10/8/2018	RFP	\$3,288,423	<ul style="list-style-type: none"> <li>• Missing federal clauses</li> </ul>

Deficiency Description:

**P10-1: Lacking independent cost estimate**

The independent cost estimate (ICE) is a tool to assist in determining the reasonableness of the bid or proposal being evaluated. An ICE is completed prior to receipt of bids or proposals on all procurements exceeding the Federal Simplified Acquisition Threshold. Several issues were found regarding the ICE completion requirement.

The procurement file for IFB-36644 Streetcar Midlife Rehab included an undated ICE in an Excel document. The HART solicitation award form noted the bid due date as November 1, 2019. The procurement checklist in the electronic folder had an ICE completion date of November 4, 2019, a few days after bid opening.

The procurement file for RFP-37561 TOD Pilot Grant Program did not include an ICE and did not have an ICE completion date on the procurement checklist.

2 CFR 200.324 Contract cost and price

*(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.*

Corrective Action and Schedule: By August 10, 2022, HART must submit to the FTA regional office:

- An updated ICE template with completion date and signature requirement
- An updated procurement checklist with solicitation reference information
- Evidence of FTA approved procurement training completion

Subsequent the virtual site visit, HART provided an updated ICE template, procurement checklist and evidence of recent FTA procurement training. This deficiency is now closed.

### **P11-1: Missing FTA clauses**

Recipients are required to include specific required clauses in FTA-funded procurements. Incorporation of a clause by reference is permitted, however a general reference to FTA guidelines or clauses is not sufficient to incorporate a clause.

HART included a federal clause matrix for each of the non-purchase order procurements sampled during the virtual site visit. The matrix did not include two clauses: 1) Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse, or other legal matters and 2) Prohibition on certain telecommunications and video surveillance services or equipment. These two clauses were missing from all applicable procurements.

The procurements PO 19-1991 and PO 21-0491 were purchase orders. The federal clauses were not incorporated into the purchase orders nor was there a reference to applicable federal clauses.

#### *FTA Master Agreement (25), Section 16.d.*

*Required Clauses in Third Party Contracts. In addition to other applicable provisions of federal law, regulations, requirements, and guidance, all third party contracts made by the Recipient under the Federal award must contain applicable provisions.*

#### *FTA Master Agreement, Section 39(b)*

*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.*

#### *2 CFR 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.*

*(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:*

(1) Procure or obtain;  
(2) Extend or renew a contract to procure or obtain; or  
(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

Corrective Action and Schedule: By August 10, 2022, HART must submit to the FTA regional office:

- An updated federal clause matrix with missing clause requirements
- An updated procurement checklist with solicitation reference information
- Evidence of FTA approved procurement training completion

Subsequent the virtual site visit, HART provided an updated federal clause matrix, procurement checklist and evidence of recent FTA procurement training. However, the updated clause matrix only included one of the two missing clauses. The updated federal clause matrix did not include clause 2 CFR 200.216 Prohibition on certain telecommunications and video surveillance services or equipment. To close this finding, HART must provide an updated federal clause matrix that includes the 2 CFR 200.216 clause Prohibition on certain telecommunications and video surveillance services or equipment.

### **P17-1: Improper piggyback purchase**

Recipients may use another recipient's contract rights if the original contract was procured in compliance with Federal requirements, contained required Federal provisions, does not contain excessive options, the optioned vehicles do not include cardinal changes to the original vehicles, and the contract price is fair and reasonable. The underlying contract must include an

assignability clause clearly describing the assignor-recipient's right to assign contract rights to the assignee-recipient; or, that the vendor be made a party to the assignment.

Transit recipients in the state of Florida have procurement consortiums in place for designated transit systems to lead the bus procurements process for member agencies. The previous lead procuring agency in the state for Heavy Duty Transit Coaches was Central Florida Regional Transportation Authority (2013 LYNX RFP #13-R06-Heavy Duty Transit Coaches). The 2013 LYNX RFP identified the Consortium Members in Section 2.3 which identified HART (along with other agencies) as an authorized consortium member to place orders against the contract.

HART ordered 16 Gillig 40-foot vehicles (PO 21-0491) from the Jacksonville Transportation Authority (JTA) on the 2018 procurement RFP P-18-005 State of Florida Heavy Duty Transit Bus Procurement. HART procurement records noted, "JTA conducted a procurement for buses for a consortium of systems in FL, including HART." The JTA RFP P-18-005 did not include HART as an authorized participant to place orders against the contract. During the site visit interviews, HART procurement staff referenced this procurement as a purchase off a State of Florida contract. There was no indication from the procurement records this purchase was from a State of Florida contract but appeared to be a contract for transit systems in the state of Florida.

*FTA Circular 4220.1F Chapter V (7)(2) Assignment of Contract Rights*

*...The recipient may assign those contract rights to other recipients if the original contract contains an assignability provision that permits the assignment of all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions. Some refer to this process as "piggybacking..." "...A recipient that obtains contractual rights through assignment may use them after first determining that the original contract price remains fair and reasonable, and the original contract provisions are adequate for compliance with all Federal requirements. The recipient need not perform a second price analysis if a price analysis was performed for the original contract. However, FTA expects the recipient to determine whether the contract price or prices originally established are still fair and reasonable before using those rights.*

Corrective Action and Schedule: By August 10, 2022, HART must submit to the FTA regional office:

- Documentation that HART was listed as a participant or was assigned buses in the JTA RFP P-18-005 State of Florida Heavy Duty Transit Bus Procurement for the Gillig 16- 40ft vehicles PO 21-0491.

Subsequent the virtual site visit, HART provided the same contracts previously provided during the virtual site visit. To sufficiently close this finding, HART will need to review the procurement record provided to the review team, review the language and circumstances outlined in the final report and provide the requested documentation.

**P20-2: Pre-award and/or post-delivery audits not performed**

A recipient purchasing revenue service rolling stock with Federal funds must conduct pre-award and post-delivery audits verifying compliance with Buy America provisions, purchaser's

requirements, resident inspector requirements, and Federal Motor Vehicle Safety Standards (FMVSS).

The procurement file for PO 21-0491 Gillig 16-40ft vehicles included pre-award audit information conducted by the lead procuring agency, JTA. HART is responsible for conducting the post-delivery audit process. The procurement file did not include the post-delivery audits.

49 CFR 663.31 Post-delivery audit requirements

*A recipient purchasing revenue service rolling stock with FTA funds must ensure that a post-delivery audit under this part is complete before title to the rolling stock is transferred to the recipient.*

Corrective Action and Schedule: By August 10, 2022, HART must submit to the FTA regional office:

- Post-delivery audit information for PO 21-0491. This should include:
  - Post-delivery Buy America Cert
  - Post-delivery purchaser's requirement Cert
  - Post-delivery FMVSS Cert
  - On-site inspectors report for >10 vehicles

Subsequent the virtual site visit, HART provided the post-delivery audit reports conducted by First Transit for the Gillig 16 – 40ft vehicles. This deficiency is now 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 HART, deficiencies were found with the US DOT requirements for DBE.

Deficiency Description:

### **DBE5-1: DBE uniform reports contain inaccuracies and/or are missing required Information**

Recipients of FTA funds are expected to keep accurate data regarding contracts awarded and paid with FTA dollars and report on such per the instructions for completing the Uniform Report of DBE Awards or Commitments and Payments.

The two Uniform Reports of DBE Awards or Commitments and Payments (semi-annual reports) for federal fiscal year 2021 did not include all the FTA-funded contracting activity. The June 1st semi-annual report for contracting activities from October 2020 to March 2021 reported \$1,900 in prime awards. The December 1<sup>st</sup> semi-annual report for contracting activities from April 2021

to September 2021 reported \$0 in prime awards. HART acknowledged during the virtual site visit that incorrect information was reported to FTA.

49 CFR 26.37(c)

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

Corrective Action and Schedule: By August 10, 2022, HART must submit to the FTA regional office and the Regional Civil Rights Officer (RCRO):

- Corrected FY 2021 June 1 and Dec 1 reports.
- Notification to RCRO when ready to complete update in TrAMS.
- Confirmation of DBE staff training through NTI or other FTA approved organization on DBE program requirements.

## 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 HART, 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 HART, no deficiencies were found with the US DOT requirements for ADA – General.

## 13. ADA – Complementary Paratransit

Basic Requirement: Under 49 CFR 37.121(a), each public entity operating a fixed-route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed-route system. “Comparability” is determined by 49 CFR 37.123-37.133. Requirements for

complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

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

## 18. Drug and Alcohol Program

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

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

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 HART.

## 21. Section 5311 Program Requirements

Basic Requirement: States must expend Section 5311 funds on eligible projects to support rural public transportation services and intercity bus transportation.

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

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

## V. Summary of Findings

Review Area	Finding	Deficiency Codes	Corrective Actions	Response Due Date	Date Closed
1. Legal	ND				
2. Financial Management and Capacity	D	F1-1: Lacking/missing required written financial management policies and procedures	Submit to the FTA regional office: <ul style="list-style-type: none"> <li>Financial management policies and procedures for managing FTA award funds in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.</li> <li>This must include procedures for determining allowability of cost and timely distribution of funds in accordance with 2 CFR 200.</li> <li>Documentation that it has trained appropriate staff on the new policies and procedures.</li> </ul>	August 10, 2022	
3. Technical Capacity – Award Management	ND				
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	P10-1: Lacking independent cost estimate	Submit to the FTA regional office: <ul style="list-style-type: none"> <li>An updated ICE template with completion date and signature requirement</li> <li>An updated procurement checklist with solicitation reference information</li> <li>Evidence of FTA approved procurement training completion</li> </ul>	August 10, 2022	May 20, 2022
	D	P11-1: Missing FTA clauses	Submit to the FTA regional office: <ul style="list-style-type: none"> <li>An updated federal clause matrix with missing clause requirements</li> <li>An updated procurement checklist with solicitation reference information</li> <li>Evidence of FTA approved procurement training completion</li> </ul>	August 10, 2022	

Review Area	Finding	Deficiency Codes	Corrective Actions	Response Due Date	Date Closed
	D	P17-1: Improper piggyback purchase	Submit to the FTA regional office: <ul style="list-style-type: none"> <li>Documentation that HART was listed as a participant or was assigned buses in the JTA consortium of bus procurements for the Gillig 16- 40ft vehicles PO 21-0491.</li> </ul>	August 10, 2022	
	D	P20-2: Pre-award and/or post-delivery audits not performed	Submit to the FTA regional office: <ul style="list-style-type: none"> <li>Post-delivery audit information for PO 21-0491. This should include: <ul style="list-style-type: none"> <li>post-delivery Buy America Cert</li> <li>post-delivery purchaser's requirement Cert</li> <li>post-delivery FMVSS Cert</li> <li>on-site inspectors report for &gt;10 vehicles</li> </ul> </li> </ul>	August 10, 2022	April 11, 2022
10. Disadvantaged Business Enterprise	D	DBE5-1: DBE uniform reports contain inaccuracies and/or are missing required information	Submit to the FTA Regional Civil Rights Officer/regional office: <ul style="list-style-type: none"> <li>Corrected FY 2021 June 1 and Dec 1 reports.</li> <li>Notification to RCRO when ready to complete update in TrAMS.</li> <li>Confirmation of DBE staff training through NTI or other FTA approved organization on DBE program requirements.</li> </ul>	August 10, 2022	
11. Title VI	ND				
12. Americans with Disabilities Act (ADA) – General	ND				
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				

Review Area	Finding	Deficiency Codes	Corrective Actions	Response Due Date	Date Closed
22. Public Transportation Agency Safety Plan	ND				
23. Cybersecurity	ND				

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

## VI. Attendees

Name	Title	Phone Number	E-mail Address
<b><i>HART</i></b>			
Adelee Marie Le Grand	CEO	6566	LeGrandA@gohart.org
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Brian Allan	Director of Streetcar	6614	AllanB@gohart.org
Cathy Zickefoose	Director of Procurement &	6383	ZickefooseC@gohart.org
Dale Smith	Manager of Facilities	6436	SmithD@gohart.org
Darlene Lollie	Grants Mgmt. and Financial	6349	LollieD@gohart.org
DeWayne Brown	Project Manager I	6557	BrownD2@gohart.org
Dexter Corbin	Director of Technology and	6299	CorbinD@gohart.org
Emmanuel Nunez	Manager of Retail Sales &	6434	NunezE@gohart.org
Gayle Torres	Grants Mgmt. & Financial	6571	TorresG@gohart.org
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Linda Walker	DBE Coordinator	6554	WalkerL@gohart.org
Lorena Donaldson	Project Manager II	6586	DonaldsonL@gohart.org
Lynda Crescentini	Dir. of Enterprise Project	6592	CrescentiniL@gohart.org
Nicholas Goulbourne	Technical Support Coordinator	6375	GoulbourneN@gohart.org
Renee Pratt-Cocroft	DBE Coordinator	6626	Pratt-CocroftR@gohart.org
Richard Kinning	Program Analyst - ERP	6255	KinningR@gohart.org
Scott Drainville	Chief of Maintenance and Transportation	6408	DrainvilleS@gohart.org
Sean Irvin	Sr. Manager of Transit Management & Inventory	6444	IrvinS@gohart.org
Sylvia Berrien	Interim Director of Legal	6625	BerrienS@gohart.org
Tina Prieto	Purchasing Agent II/ERP	6361	PrietoT@gohart.org
Kiera Johnson	Project Coordinator II	6568	JohnsonK@gohart.org
Moise Pluviose	Sr. Budget & Grants Analyst	6413	PluvioseM@gohart.org
Kemly Green	Interim Director Ops Support	6431	greenk@gohart.org
<b><i>FTA</i></b>			
D. Michele Foster	Regional Civil Rights Officer	404-865-5633	DMichele.Foster@dot.gov
Chris White	General Engineer	404-865-5619	christopher.white@dot.gov
Dwight Hill	Sr. Contracts Consultant	404- 865-5641	Dwight.Hill.CTR@dot.gov

<b><i>Contract Service Innovations, LLC under subcontract to TFC Consulting, Inc.</i></b>			
Benjamin Sumpter	Lead Reviewer	512-501-5455	bsumpter@csi-compliance.com
Patricia Downs	Reviewer	512-501-5455	pdowns@csi-compliance.com
Hilda Mercedes	Reviewer	512-501-5455	hmercedes@csi-compliance.com

## VII. Appendices

No appendices included in this report.