

FTA

F E D E R A L T R A N S I T A D M I N I S T R A T I O N

Central Midlands Regional Transit Authority
Paratransit Compliance Review Final Report

June 30, 2014

Federal Transit Administration



U.S. Department of Transportation

Federal Transit Administration

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Executive Summary

Purpose

This report reviews the Central Midlands Regional Transit Authority's (CMRTA) Dial-A-Ride Transit (DART) complementary paratransit service in the Columbia, SC metropolitan area. Its objective is to verify whether CMRTA is meeting its obligations under the ADA to provide paratransit as a complement to its fixed route service.

This compliance review included three stages:

1. Preparation: compilation of information covering policies and procedures and interviews with eligible DART riders and local disability organizations
2. Site visit: a three-person review team's observation of how CMRTA handles trip requests, scheduling and dispatching, examination of eligibility applications and related documents (including appeals), and interviews with CMRTA and contractor employees
3. Analysis and reporting: identification of deficiencies requiring corrective actions and suggestions of effective practices in complementary paratransit service

Key Findings

CMRTA representatives are committed to providing quality paratransit service as a complement to its fixed route service. The review team also observed that:

- CMRTA (known locally as The COMET) had operated for more than a decade with limited financial resources, forcing the agency to reduce both fixed route bus and paratransit service. In 2013, through receipts from a county sales tax approved in 2012, CMRTA was able to begin restoring some services (including service on Saturday)
- Looking forward, CMRTA was planning to work with a new contractor to assist in the DART eligibility determination process, which will include in-person assessments for some applicants
- CMRTA was not denying any trip requests for DART service and DART service appeared to operate without capacity constraints or limits on service availability
- CMRTA's contractor staff appeared well trained, treated individuals with disabilities in a respectful and courteous way, and understood their job responsibilities

The review identified the following deficiencies that CMRTA can correct immediately:

- CMRTA does not adequately communicate to DART applicants their right to presumptive eligibility for determinations not made within 21 days
- The DART reservations line is closed on Sundays and holidays; as a result, CMRTA cannot provide next-day service on Mondays and days following holidays
- CMRTA's definition of "late cancellation" as less than 24 hours before the scheduled pickup time conflicts with FTA policy
- CMRTA improperly requires DART riders to pay fares for no-shows and late cancellations

The review also identified the following deficiencies that CMRTA must address:

- CMRTA does not have operational practices to prevent untimely DART drop-offs for trips with appointment times

- CMRTA does not have a process to ensure prompt and equitable resolution of complaints related to DART service
- CMRTA does not monitor DART's on-time pickup performance, on-time drop-off performance, trip lengths, or telephone hold times

Please see Section 5 for a discussion of all 21 deficiencies. The Summary Table of Compliance Review Findings (following Section 5) lists all findings. CMRTA must address all deficiencies within 60 days of receipt of this report.

1 General Information

This chapter provides basic information concerning FTA's compliance review of CMRTA. Information on CMRTA, the review team, and the dates of the review are presented below.

Grant Recipient:	Central Midlands Regional Transit Authority
City/State:	Columbia, SC
Grantee Number:	6558
Executive Official:	Dr. Robert Schneider, Executive Director
On-site Liaison:	Michelle Ransom, Grants and Contracts Administrator
Report Prepared By:	the Collaborative, Inc.
Dates of Site Visit:	January 6-9, 2014
Review Team Members:	David Chia, the Collaborative, Inc. James Purdy, the Collaborative, Inc. Bill Schwartz, the Collaborative, Inc.

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2 Jurisdiction and Authorities

Public entities that operate fixed route transportation services for the general public are required by the U.S. Department of Transportation (DOT) regulations implementing the Americans with Disabilities Act of 1990 (ADA) to provide complementary paratransit service for persons who, because of their disability, are unable to use the fixed route system. These regulations (49 CFR Parts 27, 37, 38, and 39) include eligibility requirements and service criteria that must be met by complementary paratransit service programs. Section 37.135(d) of the regulations required that complementary paratransit service meet these criteria by January 26, 1997.

The Federal Transit Administration (FTA) is responsible for ensuring compliance with the ADA and the DOT regulations implementing the ADA.

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3 Introduction to CMRTA

The Central Midlands Regional Transit Authority (CMRTA) is a regional transportation authority that serves the Columbia, South Carolina metropolitan area. CMRTA operates fixed route buses (known as The COMET) and Dial-a-Ride Transit (DART), the complementary paratransit service, which is the subject of this compliance review. According to FTA’s National Transit Database (NTD), CMRTA’s service area is 129 square miles, with a population of 254,000.

In FY 2012, fixed route ridership was 1,568,790. CMRTA’s fleet included 41 buses and a peak fleet of 28. According to CMRTA’s [website](#), all buses are lift-equipped. Figure 3.1 presents a map of The COMET bus routes as of early 2014.

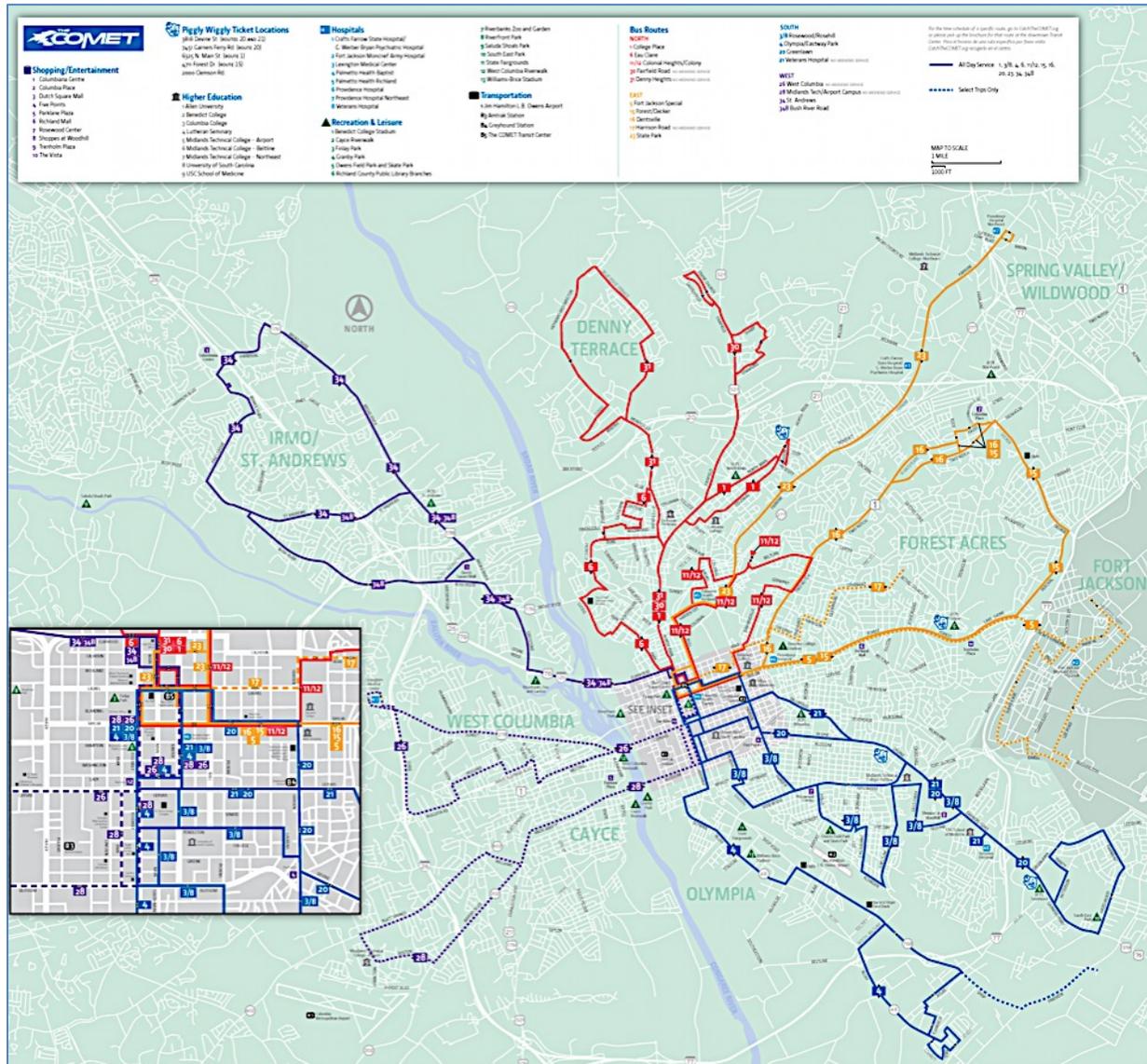


Figure 3.1 – The COMET (CMRTA) Bus Routes

CMRTA was formed in 2002 as a new entity. Previously, South Carolina Electric and Gas operated fixed route bus and complementary paratransit in the region. CMRTA operated for more than a decade with limited financial resources, which forced the agency to implement successive service reductions. CMRTA

cut fixed route service frequencies, operated limited peak-period bus runs on certain routes, and made comparable cuts to DART service.

In 2012, Richland County voters approved a one-cent sales tax for transportation (effective May 1, 2013), which included funding for roadways, transit, and greenways. CMRTA, which was rebranded as The COMET, began receiving disbursements later in 2013. According to CMRTA's executive director, this new revenue stream has enabled the agency to hire new personnel, procure new capital assets, and issue a new private operator contract for both CMRTA and DART.

3.1 Introduction to Complementary Paratransit Services and Organizational Structure

At the time of the site visit (January 2014), DART had approximately 640 ADA paratransit eligible riders in its rider database. In 2013, DART provided 49,478 passenger trips.

DART van and website [link](#)

CMRTA's facility is located at 3613 Lucius Road in Columbia, several miles from downtown. All agency and contractor employees are located at this facility, and fixed route and complementary paratransit vehicles are parked here. Since 2003, CMRTA has been contracting with Veolia Transportation and its predecessor Connex, to provide turnkey complementary paratransit service. Veolia also operates The COMET, CMRTA's fixed route bus service. At the time of the site visit, CMRTA was procuring a new complementary paratransit contract for Spring 2014.

Contractor employees handle most DART activities, including:

- Trip reservations
- Scheduling and dispatching
- Driving
- Vehicle maintenance
- Training
- Service monitoring

CMRTA provides the following DART services:

- Facilities for an office, vehicle parking, and vehicle maintenance
- Vehicles
- Paratransit software
- Telephone system
- Marketing and publicity

Table 3.1 summarizes DART complementary paratransit ridership for the four most recent calendar years. As shown, ridership had been decreasing every year and 2013 ridership was about 70 percent of ridership in 2010. CMRTA managers attributed this to the overall reduced service hours for both fixed route and complementary paratransit.

Table 3.1 – DART Complementary Paratransit Ridership

Calendar Year	All Passenger Trips	ADA Certified Rider Trips
2013	49,478	45,387
2012	55,590	50,956
2011	62,687	56,807
2010	70,613	59,716

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4 Scope and Methodology

The purpose of this review is to provide FTA with a tool for determining whether a public operator of a fixed route system complies with the complementary paratransit requirements under DOT ADA regulations. However, the deficiencies identified and findings made in this report are by necessity limited to the information available to and the observations made by the review team at the time of the site visit. A lack of findings in a particular review area does not constitute endorsement or approval of an entity's specific policies, procedures or operations; instead, it simply indicates that no deficiencies in the delivery of service were observed at the time of the site visit.

The scope of the review and the methodology employed by the review team is described in detail below.

4.1 Scope

The review focused on whether CMRTA's complementary paratransit service (Dial-a-Ride Transit or DART) operates according to the service criteria specified in 49 CFR § 37.131 of the DOT ADA regulations, and without capacity constraints prohibited under 49 CFR § 37.131(f). The review examined the DART service area, response time, fares, and hours and days of service, as well as its policies, standards and procedures for monitoring service provision, including on-time performance, on-board travel time, telephone hold times, and avoiding trip denials and missed trips. The review seeks to ascertain whether service is being provided to eligible individuals within at least the minimum required service area on a next-day basis, during the same hours and days as the fixed route system, for not more than twice the fixed route fare for the same trip; whether there are patterns or practices that result in a substantial number of trip limits, trip denials, untimely pickups, and/or trips of excessive length; policies which cause riders to arrive late to appointments; or long telephone hold times, as defined by the transit system's established standards (or typical practices if standards do not exist).

Overall, the complementary paratransit compliance review included the following regulatory requirements:

- Complaint resolution and compliance information (49 CFR §§ 27.13(b) and 27.121(b))
- Nondiscrimination (49 CFR § 37.5)
- Service under contract (49 CFR § 37.23)
- Requirement for comparable complementary paratransit service (49 CFR § 37.121)
- ADA paratransit eligibility: Standards (49 CFR § 37.123)
- ADA paratransit eligibility: Process (49 CFR § 37.125 including:
 - Information is made available in accessible formats upon request
 - A decision is made within 21 days or presumptive eligibility is granted pending a decision
 - There is written notification of all decisions
 - All denials or conditional eligibility determinations are completed in writing with specific reasons for the decision
 - There is an administrative appeals process for denials and conditional eligibility determinations
 - Reasonable policies for suspending service to eligible riders who establish a pattern or practice of missing trips
- Complementary paratransit service for visitors (49 CFR § 37.127)
- Types of service (49 CFR § 37.129)

- Service criteria for complementary paratransit (49 CFR § 37.131) including:
 - Service area
 - Response time
 - Fares
 - Trip purpose restrictions
 - Hours and days of service
 - Capacity constraints
- Subscription service (49 CFR § 37.133)
- Training requirements (49 CFR § 37.173)

4.2 Methodology

FTA's Office of Civil Rights sent a notification letter to CMRTA Executive Director Robert Schneider on November 6, 2013, confirming the dates for the site visit and asking CMRTA to send information to the review team in advance of the site visit. (See Attachment A.)

Prior to the site visit, the review team examined the following service information:

- CMRTA's description of how it structures its complementary paratransit service
- Public information describing CMRTA's complementary paratransit service
- CMRTA's standards or goals for on-time performance, trip denials, missed trips, complementary paratransit trip length, on-time performance, and telephone hold times, and how it specifies all of these standards or goals in its contracts with contractors and in its riders' guides

As requested by FTA, CMRTA made additional information available during the visit:

- Copies of completed driver manifests for recent months
- Thirty-six months of service data, including the number of trips requested
- Records of consumer comments and complaints related to capacity issues, including trip denials, on-time performance, travel time, and telephone access
- Procedures for passenger complaints and other incident reports
- CMRTA's summary of complaints
- A fleet roster of DART vehicles
- A listing of complementary paratransit employees and their start dates
- Capital and operating budgets and cost data

The CMRTA ADA paratransit compliance review site visit took place from January 6–9, 2014. The visit began with an opening conference, held at 9 a.m. on January 6, 2014, at CMRTA offices at 3613 Lucius Road, Columbia, SC. Attending the conference were:

- Dr. Robert Schneider, Executive Director, The COMET (CMRTA)
- Michelle Ransom, Grants and Contracts Administrator, The COMET (CMRTA)
- Larry Livingston, Assistant General Manager, Veolia Transportation
- Sandra McKinley, DART Manager, Veolia Transportation
- Carlos Gonzalez, Region IV Civil Rights Officer, FTA (by telephone)
- Anita Heard, FTA Office of Civil Rights (by telephone)
- David Chia, Review Team Leader, the Collaborative

- Jim Purdy, Review Team Member, the Collaborative
- Bill Schwartz, Review Team Member, the Collaborative

Following the opening conference, the review team met with representatives from CMRTA and its complementary paratransit contractor to discuss the information sent in advance, as well as the on-site information and material. The review team then toured the CMRTA facility, including the DART offices. Using data from a sample week of DART service (October 14–19, 2013), the review team began its analysis of on-time performance, trip lengths, and telephone performance. The review team also listened to calls from DART riders making trip reservations.

On Tuesday, January 7, 2014, the review team again listened to trip reservation calls. They began a review of the eligibility determination process. They interviewed the lead DART scheduler and interviewed DART drivers. They continued to analyze on-time performance and trip lengths.

On Wednesday, January 8, 2014, the review team observed dispatch operations and interviewed the lead afternoon dispatcher. They met with CMRTA and contractor staff to review rider complaints and discuss the complaint-resolution process. They continued to review eligibility determinations. They interviewed additional DART drivers.

On Thursday, January 9, 2014, the review team continued to analyze and tabulate the various data they had gathered. They prepared for the exit conference, which took place at 1 p.m. at CMRTA's office. Attending the conference were:

- Dr. Robert Schneider, Executive Director, The COMET (CMRTA) (by telephone)
- Michelle Ransom, Grants and Contracts Administrator, The COMET (CMRTA) (by telephone)
- Carlos Gonzalez, Region IV Civil Rights Officer, FTA (by telephone)
- Stacie Parkins, FTA Region IV (by telephone)
- Jeremy Furrer, FTA Office of Civil Rights (by telephone)
- Brian Whitehead, FTA Office of Civil Rights (by telephone)
- Larry Livingston, Assistant General Manager, Veolia Transportation
- Sandra McKinley, DART Manager, Veolia Transportation
- David Chia, Review Team Leader, the Collaborative
- Jim Purdy, Review Team Member, the Collaborative
- Bill Schwartz, Review Team Member, the Collaborative

FTA provided CMRTA with a draft copy of the report for review and response. CMRTA did not have any comments on the draft report.

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5 Findings and Advisory Comments

This chapter details the findings for each of the areas pertinent to the regulations found in 49 CFR Parts 27, 37 and 38 outlined in the Scope and Methodology section above. For each area, an overview of the relevant regulations and a discussion of the regulations as they apply to CMRTA's complementary paratransit system are provided below, with corrective actions and a timetable to correct deficiencies for each of the requirements and sub-requirements where necessary

Findings are expressed in terms of "deficiency" or "no deficiency." Findings of deficiency denote policies or practices found to be not in compliance with DOT ADA regulations or matters for which FTA requires additional reporting to determine whether an ADA compliance issue exists.

Findings of deficiency shall always require corrective action and/or additional reporting, and will always be expressed as:

- A statement concerning the policy or practice in question at the time of the review
- A statement concerning the DOT ADA requirements being violated or potentially being violated
- A statement concerning the required corrective action to resolve the issue

Advisory comments are statements detailing recommended or suggested changes to policies or practices to ensure effective practices under the ADA or otherwise assist the entity in achieving or maintaining compliance.

5.1 Comparable Complementary Paratransit Service

Requirement: Under 49 CFR § 37.121, transit agencies operating a fixed route system must provide complementary paratransit service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

Discussion: During this compliance review, no deficiencies were found with the requirement for CMRTA to provide comparable paratransit service with the DART service.

5.2 ADA Paratransit Eligibility Process

Absence of Administrative Burdens

Requirement: Under 49 § CFR 37.125, transit agencies must establish an eligibility process for complementary paratransit. The process may not impose unreasonable administrative burdens on applicants, and, since it is part of the entity's nondiscrimination obligations under § 37.5(d), may not involve "user fees" or application fees to the applicant.

Discussion: During this compliance review, no deficiencies were found with the prohibition against unreasonable administrative burdens in CMRTA's eligibility process. An advisory comment is made regarding free transportation for in-person interviews and functional assessments.

The two-part DART application is available online or by calling DART. (See Attachment B.) The first part of the application requests general information, and asks about mobility aids, use of personal attendants, and functional abilities. The second part requests information from two professionals who are familiar with the applicant, asking them how they know the applicant, the nature of the applicant's health condition or disability, whether the disability is permanent or temporary, and other questions. These other questions vary, depending on whether the applicant's disability is visual, mobility-related, or cognitive. CMRTA accepts verifications from a wide array of professionals.

Up until September 2013, CMRTA contracted with a social worker to review ADA paratransit eligibility applications and recommend determinations. CMRTA terminated that contract and began internally reviewing applications on an interim basis while seeking a new contractor. During this interim period, which overlapped with the site visit, CMRTA was approving all complete applications, granting unconditional eligibility for 90 days.

According to the executive director, CMRTA was about to engage Able South Carolina, the local center for independent living, to assist with eligibility determinations, including conducting telephone interviews and functional assessments. As of March 2014, the contract was in place.

Advisory Comment: Given that CMRTA's new contractor may be using in-person functional assessments as part of its eligibility determinations, CMRTA will have to provide free transportation to and from such appointments. CMRTA should promote this free transportation in application materials and on CMRTA's website.

5.3 Paratransit Eligibility Standards

Requirement: Under 49 CFR § 37.123(e)(1)–(3), a transit agency's eligibility processes, application materials and public information must be comprehensive enough to permit the transit system to determine that the following individuals are ADA paratransit eligible:

Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable individuals with disabilities

Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities

Any individual with a disability who has a specific impairment-related condition that prevents the individual from traveling to a boarding location or from a disembarking location

Discussion: During this compliance review, no deficiencies were found with CMRTA's eligibility processes, applications, and public information for its DART service.

The review team examined two sets of eligibility application files, including applications the prior contractor processed and applications processed since CMRTA terminated its prior contractor.

The prior contractor reviewed eligibility applications without conducting functional assessments and CMRTA granted unconditional eligibility. The internal interim review process also resulted in unconditional eligibility, but for 90 days (see above).

Accessible Information

Requirement: Under 49 CFR § 37.125(b), transit agencies must make all information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility available in accessible formats, either as a rule or upon request.

Discussion: During this compliance review, no deficiencies were found with the requirement for CMRTA to make all information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility available in accessible formats.

Upon request, CMRTA makes its application and determination letters available in electronic format. In addition, upon request, it can make its application and DART Rider's Guide (DART Guide – see Attachment C) available in braille.

Eligibility Determinations or Presumptive Eligibility Within 21 Days

Requirement: Under 49 CFR § 37.125(c), a transit agency that has not made a written eligibility determination by the 21st day following submission of a complete application must treat the applicant as eligible on the 22nd day and provide service until and unless the transit agency denies the application. The transit agency's process must communicate to applicants the right to this presumptive eligibility so they are aware of their rights to schedule and use the service beginning on the 22nd day.

Discussion: During this compliance review, deficiencies were found with the requirement for CMRTA to communicate applicants' rights to presumptive eligibility for applications not processed within 21 days. Deficiencies were also found with the timeliness of communicating eligibility determinations.

While the DART application form states that a "written eligibility determination will be made within 21 days of receipt of a COMPLETED application," the form does not explain applicants' rights to schedule and use the service beginning on the 22nd day. CMRTA's appropriate presumptive eligibility policy is contained in the No-Show/Late Cancellation Policy Brochure (No-show Brochure – see Attachment D), which states:

In the event that COMET denies an individual's application for eligibility, COMET shall notify the individual in writing of the denial, shall state the reasons for the denial and inform the individual of his/her appeal rights. If, by a date 21 days following the submission of a complete application, COMET has not made determination of eligibility, the applicant shall be treated as eligible and [be] provided service until written notification has been provided as described herein.

Because applicants may not read the No-show Brochure until they receive DART eligibility, this is not sufficient to communicate an applicant's right to schedule and use service beginning on the 22nd day.

At the time of the site visit, a CMRTA employee was maintaining a spreadsheet with DART applicants' names, addresses, and birthdates. CMRTA's paratransit contractor was maintaining application files containing completed, date-stamped paper applications, and copies of transmitted eligibility determination letters. Neither CMRTA nor the contractor was tracking the number of days that CMRTA was taking to process each application.

The review team analyzed 42 DART applications received between September and November 2013. For each of the 42 applications analyzed, the review team recorded the date of receipt and the date CMRTA mailed its determination letter. As shown in Table 5.1, CMRTA processed 26 applications (62.9 percent) within 21 days while 16 applications took longer than 21 days. For these 16 applicants, CMRTA should have—but did not—provide the applicants presumptive eligibility on the 22nd day.

The review team noted that time required to process applications shortened during the latter portion of the sample period; CMRTA processed all completed applications received after October 29, 2013 within 21 days.

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must provide presumptive eligibility beginning on the 22nd day after receiving a completed application until it has made an eligibility determination. CMRTA must inform applicants of their right to receive DART service accordingly and must include this information on the application form and on other public documents, including the agency website.

Table 5.1 – Processing Time for 42 Eligibility Determinations (September–November 2013)

Days to Process	Number of Applications	Percent of Applications
0–1	6	14.3
2–14	2	4.8
15–21	18	42.9
Subtotal	26	61.9
22–28	3	7.1
>28	13	31.0
Total	42	100.0

Written Eligibility Determinations Including Specific Reasons for Denials or Temporary or Conditional Eligibility Determinations

Requirements: Under 49 CFR § 37.125(d), determinations of eligibility must be made in writing. The documentation must include the name of the eligible individual, the name of the transit provider, the telephone number of the entity’s paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual’s eligibility including the use of a personal care attendant (PCA). Under § 37.125(e), if applicants are found to be ineligible, the determination must state the specific reasons for the decision (a mere statement that the applicant has been found to be ineligible is not sufficient). If an individual has been determined to be conditionally or temporarily eligible, the determination must state the conditions under which eligibility is granted and the basis for that determination. Information concerning the applicant’s right to appeal under § 37.125(g) must also be provided.

Discussion: During this compliance review, deficiencies were found with CMRTA’s written eligibility determinations.

No deficiencies were found with how CMRTA explains eligibility denials, places any limitations on eligibility or the right to appeal eligibility determinations. Advisory comments are made regarding future eligibility determinations other than unconditional eligibility and the content of letters explaining the DART service area.

CMRTA does not provide ID cards to DART riders. The letters that CMRTA sends to eligible applicants serve as official documentation of ADA paratransit eligibility. These letters include the following information:

- Name
- Statement that they are ADA paratransit eligible
- Telephone number and name of CMRTA’s paratransit coordinator

However, the letters lack or are unclear regarding the following required information:

- Name of the transit provider: the letter says “DART,” while it should say “CMRTA”
- Expiration date for eligibility: while the letter states that eligibility is for 90 days, it does not include the actual expiration date
- Any conditions or limitations on the individual's eligibility including the use of a PCA: the letter does not identify whether the rider uses a PCA

As noted above, at the time of the site visit, CMRTA was granting unconditional 90-day eligibility to all applicants. Consequently, eligibility determination letters did not need to provide reasons for applicants’

being not eligible or not fully eligible. Nor did the determination letters need to provide information concerning applicants' right to appeal.

Corrective Action and Schedule: Within 60 days of the issuance of the final report, CMRTA must correct its certification letter (or other official documentation of ADA paratransit eligibility) to include all required information, including the transit agency's name, the expiration date of eligibility, and use of a PCA.

Advisory Comments: The eligibility letters CMRTA sends to applicants who reside outside the DART service area inform them that they live outside of the service area. An applicant's home address is not relevant to eligibility for complementary paratransit service, and CMRTA does not make eligibility determinations based on an applicant's home address. However, including this information in determination letters without further elaboration may be confusing. An effective practice is to explain that service is limited to trips within the complementary paratransit service area and that an applicant's home address does not affect ADA paratransit eligibility.

As of March 2014, CMRTA had engaged a new contractor to conduct in-person interviews and functional assessments as part of its revised eligibility determination process. As such, some future applications will likely result in eligibility denials and possibly result in determinations of conditional or temporary eligibility. If CMRTA denies eligibility or grants conditional or temporary eligibility, it must include specific reasons for the determinations and provide information on how to request an appeal.

Recertification of Eligibility at Reasonable Intervals

Requirement: Under 49 CFR § 37.125(f), transit agencies are permitted to require paratransit riders to recertify eligibility at reasonable intervals. As stated in Appendix D, a reasonable interval would be between one and three years.

Discussion: During this compliance review, no deficiencies were found with the recertification process or with how CMRTA communicates recertification of eligibility to applicants. Although CMRTA was granting temporary 90-day eligibility to all new applicants, CMRTA's policy, according to the executive director, is to grant eligibility for either three or five years. Prior to expiration, CMRTA requires riders to reapply for recertification using the same application form.

Administrative Appeal Process for Denials or Decisions Granting Conditional or Temporary Eligibility

Requirements: Under 49 CFR § 37.125(g), transit agencies must have a process for administering appeals through which individuals who are denied eligibility can obtain review of the denial. Transit agencies are permitted to require written notice, within 60 days of its written decision denying or limiting eligibility that the applicant wishes to exercise his or her right to an appeal hearing. Transit agencies cannot require the "filing of a written appeal."

The appeal process must include an opportunity for the applicant to be heard and to present information and arguments, with appropriate separation of function (i.e., a decision by a person not involved with the initial decision to deny eligibility). Appeal decisions must be provided in writing and explain the reasons for denying the appeal. The appeal hearing must be scheduled within a reasonable amount of time, and if a decision has not been made within 30 days of the completion of the appeal process, the appellant must be provided complementary paratransit service from that time until and unless a decision to deny the appeal is issued, as required.

Discussion: During this compliance review, deficiencies were found with CMRTA's time requirements for filing an appeal. Deficiencies were also found with the requirement to file written appeals.

No deficiencies were found with the requirement to provide an opportunity to be heard in person, for the process to have appropriate separation of function, the timeline for issuing written decisions, or with the requirement to provide specific explanations in written appeal decisions.

At the time of the site visit, CMRTA had not convened its appeal panel for many years and had no appeal decisions on file. As noted above, CMRTA was approving all applications for eligibility. As discussed below, CMRTA was not suspending any riders for a pattern or practice of missing schedule trips.

Page 3 of the DART No-show Brochure includes a section titled, "Appeals Process," which covers appeals for ADA paratransit eligibility denials as well as for no-show suspensions and other sanctions. This brochure explains CMRTA's process for all appeals, including service suspensions for "incidents of violent or threatening behavior."

CMRTA has outlined the structure of a three-member Appeal Panel that draws from an Accessibility Advisory Committee (AAC) to review appeals. According to CMRTA's executive director, the AAC is not currently functioning as a committee; he noted that should it be necessary to convene an Appeal Panel, the chair of the CMRTA Board of Directors would make the appointments consistent with the No-show Brochure. The Appeal Panel would include three individuals: a "disability advocacy entity representative, a disabled service user, and a [CMRTA Board of Directors] representative."

According to the No-show Brochure, CMRTA's Appeal Panel appropriately "shall not include any individuals who may be directly involved in the initial eligibility review/denial or the compilation of the record regarding No-Show/Late Cancellations and/or incidents of violent or threatening behavior."

The published process for filing an appeal includes two steps. The first is the Letter of Intent to Appeal and the second is the Appeal Panel hearing and decision process. According to the No-show Brochure:

Individuals desiring to exercise their right to due process shall provide written notification to the Chairman of CMRTA Accessibility Advisory Committee within 14 calendar days of receipt of notification of denial of service eligibility, sanctions for No-Show/Late Cancellations incidents, or incidents of violent or threatening behavior. The written notification to CMRTA shall at a minimum include the following:

- Full name, complete mailing and physical addresses and daytime telephone number
- A statement that an in-person review is requested before the Appeal Panel or that an in-person review is not requested but review by the Appeal Panel is being requested
- In the event that an in-person review is desired, the statement shall include the details of any support assistance that may be required (i.e., representation by another individual, transportation service for appearance, etc.)
- A statement concerning the basis upon which the appeal is being made
- Any other information or additional documentation, which supports the individual's appeal

The requirement to file an appeal within 14 calendar days does not comply with the DOT ADA regulations, which permit transit agencies to establish a 60-day "statute of limitations" on filing of appeals. In addition, because transit agencies cannot require the filing of a written appeal, CMRTA's fourth requirement to provide "a statement concerning the basis upon which the appeal is being made," and its fifth requirement to provide any additional information or documentation, does not comply.

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must revise its appeal process to:

- Provide a minimum of 60 days for the filing of an appeal
- No longer require appellants to submit statements concerning the basis for appeals or to provide any supportive information when requesting an appeal

In addition, CMRTA must revise its public information regarding its appeal process to reflect these corrections.

Complementary Paratransit for Visitors

Requirements: Under 49 CFR § 37.127(d)–(e), complementary paratransit service must be made available to visitors not residing in the jurisdiction(s) served by a transit agency for any combination of 21 days during any 365-day period, beginning with the visitor’s first use of the service during the 365-day period. Transit agencies must treat as eligible all visitors who present information that they are eligible for complementary paratransit service in the jurisdiction in which they reside; for those who do not present such documentation, transit agencies may require documentation of the individual’s place of residence and, if the individual’s disability is not apparent, of his or her disability. In no case may transit agencies require visitors to apply for or receive eligibility certification for their own complementary paratransit service before providing service to eligible visitors.

Discussion: During this compliance review, deficiencies were found with the documentation requirements for eligible visitors.

No deficiencies were found with how CMRTA grants eligibility to those visitors who are ADA paratransit eligible in another transit system.

According to page 5 of DART Guide (see Attachment C), “Out-of-town visitors who are ADA eligible can use DART services. Please contact the DART reservation office at 255-7123 Monday-Friday.” The DART Guide does not include any information for visitors who are not ADA paratransit eligible, which may include those visiting from an area that does not provide complementary paratransit service.

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must modify its policies to accept as eligible visitors who do not present documentation of eligibility. This includes accepting without documentation visitor requests from individuals with an apparent disability.

5.4 Types of Service

Requirement: Under 49 CFR § 37.129(a), transit agencies must provide complementary paratransit service on an origin-to-destination-basis. Transit agencies may determine, through their local planning process, whether to establish either door-to-door or curb-to-curb service as the basic mode of complementary paratransit service. Where the local planning process establishes curb-to-curb service as the basic complementary paratransit service mode, however, provision must still be made to ensure that the service available to each passenger actually gets the passenger from his or her point of origin to his or her destination point. To meet this origin-to-destination requirement, service may need to be provided to some individuals, or at some locations, in a way that goes beyond curb-to-curb service.

Discussion: During this compliance review, no deficiencies were found with how CMRTA meets its obligations for type of service.

CMRTA’s origin-to-destination policy is curb-to-curb service but extends to door-to-door service under certain circumstances. Page 5 of the DART Guide, under “Where Do I Wait For My Ride?” directs riders to wait near the curb or “another safe waiting area in front of, or as close as possible to, the entrance of the pickup location... The operator cannot enter the building.” Drivers will “drop the rider off at the sidewalk, or another safe waiting area next to the curb or a public street in front of, or as close as possible to, the designated drop-off location.” Based on driver interviews, however, drivers provide riders with assistance as needed as long as drivers can keep the vehicle within their sight.

5.5 Service Criteria for Complementary Paratransit

Requirement: As codified in 42 U.S.C. 12143, the ADA directed the Secretary of Transportation to issue regulations that establish minimum service criteria for determining the level of service provided by paratransit as a complement to fixed route service. These criteria are contained in 49 CFR § 37.131 and include service area, response time, fares, and hours and days of service, and prohibit restrictions on trip purpose and capacity constraints that limit the availability of service to eligible individuals. The review team assessed CMRTA's complementary paratransit system using these criteria as described in this section.

Service Area

Requirement: Under 49 CFR § 37.131(a)(1), all public entities operating a fixed route transit system must provide complementary paratransit service that covers, at a minimum, all areas within a 3/4-mile radius of all of its bus routes, and within a "core service area" that includes any small areas that may be more than 3/4-mile from a bus route, but are otherwise surrounded by served corridors. This includes any areas that cross political boundaries or taxing jurisdictions, but are within a 3/4-mile radius of a fixed route, unless the transit agency does not have the legal authority to operate in those areas. For transit agencies operating a light rail or rapid rail transit service, the complementary paratransit service area must also include a 3/4-mile radius around each station, with service provided from points within the service area of one station to points within the service area of another.

Discussion: During this compliance review, no deficiencies were found with how CMRTA meets the service area requirements.

According to the DART Guide, "service days, areas and times of service are based on the Fixed Route bus system. DART riders can access the same areas, on the same days and at the same times that a person using the fixed route bus system can...Not all areas are available at all times."

According to a DART reservationist, when callers request a trip, she first consults the paratransit software to verify whether the address is in the database. If not, she then uses the software's mapping tool to determine if it is within 3/4-mile of fixed route service. If the trip is outside of the service area, she informs the caller and suggests that if they can travel to an address within the service area, DART service is available. The review team observed this in practice.

If a requested pickup or drop-off address is outside of but close to the 3/4-mile limit, she informs the caller that she will submit an inquiry to the paratransit manager to determine if DART service is available. The paratransit manager reviews such inquiries and can insert addresses to the database, including those beyond the 3/4-mile limit, assuming they do not add substantial time.

Response Time

Requirements: Under 49 CFR § 37.131(b), transit agencies must schedule and provide complementary paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day, including during times comparable to normal business hours on a day when the offices are not open before a service day. Reservations may be taken by reservation agents or by mechanical means. Under 49 CFR § 37.131(b)(2), while transit agencies may negotiate the pickup time with a caller prior to a trip being scheduled, they cannot require a rider to schedule trips to begin more than one hour before or after the rider's desired departure time. Any greater deviation would exceed the bounds of comparability. Transit agencies must have policies and procedures in place to ensure that schedulers and dispatchers do not adjust a rider's negotiated pickup time or pickup window without the rider's consent.

Under 49 CFR § 37.131(b)(4), if transit agencies propose to change their reservations system, they must comply with the public participation requirements equivalent to those of § 37.137 (b)–(c). Transit

agencies may permit reservations to be made up to 14 days in advance of an eligible individual's desired trips, subject to the same trip negotiation requirements as next-day trips required under § 37.131(b)(2).

Discussion: During this compliance review, deficiencies were found with the requirement to provide next-day service.

No deficiencies were found with how DART reservationists negotiate trip requests.

Pages 1 and 2 of the DART Guide explain the trip reservation process as follows:

To request a trip, call the DART reservationists at (803) 255-7123. Trip reservation requests are accepted between the hours of 9:00 AM and 5:00 PM Monday through Saturday. After 5:00 PM, requests for next-day service cannot be accommodated. Trip requests may be made up to fourteen (14) days in advance. DART reservationists will make trip confirmations at the time of scheduling.

Because the DART reservations line is closed on Sundays and holidays, callers are unable to reserve next-day trips for Mondays and days following holidays. At the time of the site visit, CMRTA was not using a voicemail system to accept trip requests.

The review team observed DART reservationists taking calls and noted that they accepted trip requests within one hour before or one hour after requested pickup times. For some calls, reservationists provided pickup times to callers without being able to schedule the actual trip in the paratransit software. In these cases, reservationists noted the need for schedulers to subsequently find a run on which to place the trip request. According to the paratransit manager, schedulers add runs to accommodate trips reservationists are unable to schedule during the initial reservations call.

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must begin accepting next-day trip requests on Sundays and holidays except when days following holidays fall on non-service days (e.g., Sundays). CMRTA must also update public information to reflect this change.

Fares

Requirement: Under 49 CFR § 37.131(c), complementary paratransit fares must be no more than twice the fixed route fares for the same trip at the same time of day on the fixed route system, excluding discounts. Transit agencies must allow eligible riders to travel with at least one companion (with additional companions accommodated on a space-available basis). If personal care attendants (PCAs) accompany riders, transit agencies must provide service to one companion in addition to the PCA. Companions may be charged the same fare as the eligible rider; no fare may be charged for a PCA.

Discussion: During this compliance review, no deficiencies were found with CMRTA's fares for DART service.

CMRTA's base fixed route fare is \$1.50. The DART fare is \$3. Companions pay \$3. PCAs do not pay a fare.

No Trip Purpose Restrictions

Requirement: Under 49 CFR § 37.131(d), there can be no restrictions or priorities based on trip purpose. When a user reserves a trip, the entity will need to know the origin, destination, time of travel, and how many people are traveling. The entity does not need to know why the person is traveling, and should not even ask.

Discussion: During this compliance review, no deficiencies were found with respect to trip purpose restrictions. CMRTA does not restrict any trips or set any priorities based on trip purpose. The review team's observations of the reservations process showed that DART reservationists do not ask callers for information regarding trip purpose.

Hours and Days of Service

Requirement: Section 37.131(e) of the DOT ADA regulations requires that the complementary paratransit service be available during the same hours and days as the fixed route service. This means that if a trip can be taken between two points on a transit agency's fixed route system at a specific time of day, it must also be able to be taken on complementary paratransit. It also means that the service area may change depending upon the time of day or day of the week, when certain routes or areas may not be served. This requirement applies on a route-by-route basis. For example, an area that has fixed route bus service on weekdays but not weekends must have complementary paratransit service (provide trips) on weekdays but not necessarily on weekends; an area that has bus service from 5 a.m. until 9 p.m. must have complementary paratransit service, at minimum, from 5 a.m. until 9 p.m.

Discussion: During this compliance review, no deficiencies were found with the requirement to provide DART service during the same days and hours as fixed route service. An advisory comment is made regarding published information on hours and days of service.

According to Page 7 of the DART Guide, service hours are 5 a.m. to 9 p.m. Monday–Saturday, which are the same service hours as The COMET. In its review of the staffing schedules for DART drivers, the review team noted that all shifts end at 8 p.m. The paratransit manager reported that she adjusts work shifts on an as-needed basis to cover any trips between 8 and 9 p.m.

Advisory comment: CMRTA should correct the inconsistency between the published service hours in the DART Guide (5 a.m. to 9 p.m. Monday–Saturday) and the service hours on the [website](#) (5:30 a.m. to 9 p.m. Monday–Friday and 5:30 a.m. to 8 p.m. Saturdays).

5.6 Absence of Capacity Constraints

Requirement: Under 49 CFR § 37.131(f), transit agencies may not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: restrictions on the number of trips an individual will be provided; waiting lists for access to the service; or any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. Such patterns or practices include, but are not limited to: substantial numbers of significantly untimely pickups for initial or return trips, substantial numbers of trip denials or missed trips, or substantial numbers of trips with excessive trip lengths.

No Restrictions on the Number of Trips Provided to ADA Paratransit Eligible Individuals

Requirement: Under 49 CFR § 37.131(f)(1), transit agencies may not impose restrictions on the number of trips provided to ADA paratransit eligible riders.

Discussion: During this compliance review, no deficiencies were found with the prohibition against restricting the number of complementary paratransit trips CMRTA provides to ADA paratransit eligible riders. CMRTA does not have a policy limiting the number of DART trips. During the review team's observations, DART reservationists did not limit the number of trips that riders could reserve.

No Waiting List for Access to the Service

Requirement: Under 49 CFR § 37.131(f)(2), transit agencies are prohibited from establishing policies or engaging in practices and/or procedures that establish waiting list(s) for accessing the service.¹

¹ Under § 37.133(c), waiting lists may only be established for participation in subscription service that may be offered as part of the transit agency's complementary paratransit system.

Discussion: During this compliance review, no deficiencies were found with the prohibition against waiting lists for non-subscription complementary paratransit service. DART reservationists accepted all trip requests between 14 days and one day in advance.

No Substantial Numbers of Significantly Untimely Pickups for Initial or Return Trips

Requirement: Under 49 CFR § 37.131(f)(3)(i)(a), transit agencies must provide complementary paratransit service without any substantial numbers of significantly untimely pickups for initial or return trips.

Discussion: During this compliance review, no deficiencies were found with DART’s on-time pickup performance or with how CMRTA defines timely pickups.

CMRTA does not regularly monitor on-time pickup performance. (See Section 5.12 for a discussion of deficiencies with respect to monitoring service that private entities provide under contract.) The window for a DART on-time pickup is 15 minutes prior to the scheduled pickup time to 15 minutes after the scheduled pickup time (-15/+15). DART reservationists explain this window to callers, and Page 2 of the DART Guide explains its “ready window” as starting 15 minutes before the scheduled pickup and ending 15 minutes after the scheduled pickup. The established monthly standard for on-time pickups in CMRTA’s provider contract is 97 percent.

The review team analyzed the 914 DART trips from the sample week of October 14–19. As summarized in Table 5.2, 93.7 percent of the pickups during the sample week took place within the pickup window. While this on-time performance rate does not meet CMRTA’s performance standard, 93.7 percent on-time performance does not constitute a “substantial number of significantly late” pickups. Only 1.4 percent of pickups were more than 15 minutes late. None of the pickups took place before the start of the pickup window, which reflects CMRTA’s policy that drivers may not arrive before that start of the window.

Table 5.2 –On-Time Performance for 914 DART Trips (October 14–19, 2013)

All pickups	914
Early	0%
In window (-15/+15)	93.7%
All late	6.3%
1–15 minutes late	5.0%
16–30 minutes late	1.0%
>30 minutes late	0.4%

No Substantial Numbers of Trip Denials or Missed Trips

Requirements: Under 49 CFR § 37.131(f)(3)(i)(b), transit agencies must provide complementary paratransit service without substantial numbers of trip denials or transit agency missed trips. A denial occurs whenever a transit agency is unable to provide a trip on a next-day basis as requested by an eligible passenger between points within the complementary paratransit service area, at a time when the fixed route system is operating, subject to the limitations on trip time negotiation. Under 49 CFR § 37.131(b), transit agencies may negotiate pickup times with a passenger, but cannot require the passenger to schedule a trip to begin more than one hour before or after his or her desired departure time. If the trip cannot be arranged within this timeframe, a denial has occurred whether or not the passenger accepts a departure time of more than one hour earlier or later. In addition, when a denied trip makes a subsequent requested trip impossible, as could occur in the case of an individual taking a round trip to and from a specific location, two trips have been denied.

Discussion: During this compliance review, no deficiencies were found with the requirement to provide complementary paratransit service without substantial numbers of trip denials.

CMRTA's policy prohibits denials. As discussed above, if reservationists cannot identify a ride within 60 minutes of the time callers request, they appropriately confirm the trip (providing the scheduled pickup time and window), and pass on the trip details to the scheduler, who accommodates the trip request, even if it requires using drivers from the extraboard. The review team observed this in practice during the site visit.

No Substantial Numbers of Trips With Excessive Trip Lengths

Requirement: Under 49 CFR § 37.131(f)(3)(i)(c), transit agencies must provide complementary paratransit service without substantial numbers of trips with excessive trip lengths. Comparability is based on the length of time required to make a similar trip between the same two points using the fixed route system, including time spent traveling to and from a boarding point and waiting for the fixed route vehicle to arrive. FTA recommends basing complementary paratransit travel time on the comparable fixed route travel time, plus 20–30 minutes to allow for a reasonable estimate of time spent walking to and from a bus stop, waiting for the bus to arrive, and making any necessary transfers from one vehicle to another.

Discussion: During this compliance review, deficiencies were found with CMRTA's performance standard for long DART trips.

No deficiencies were found limiting the availability of DART service due to an operational pattern of trips with excessive trip lengths for certain riders.

CMRTA's standard for excessively long trips is that no trips should exceed 90 minutes in length. An appropriate operational trip-length standard must address the comparability of paratransit trip length with the corresponding fixed route trip length, allowing time for fixed route riders making the same trips to walk to and from bus stops and wait for transfers. CMRTA does not monitor DART trip lengths. (See Section 5.12 for a discussion of deficiencies with respect to monitoring service that private entities provide under contract.)

The review team calculated the trip lengths for the 914 sample week trips. Of these, 806 trips (88.1 percent) took 60 minutes or less, while 25 trips (2.7 percent) exceeded 90 minutes. Overall, 109 trips (11.9 percent) took longer than 60 minutes.

The review team compared DART trips to fixed route trips between the same origins and destinations, taking place at the same time of day. The review team further analyzed 14 of the 109 trips that were longer than 60 minutes, including six trips longer than 90 minutes. This analysis used COMET bus schedules to construct itineraries for these trips, using an average walking speed of three miles per hour (20 minutes per mile) to account for the time between actual origins and destinations and the nearest bus stops. (See Table 5.3.)

Table 5.3 – Comparison of DART and Fixed Route Travel Times

Comparison	Trips	Percent of Sample Trips	Average Time Difference (minutes)
DART longer than fixed route			
By less than 20 minutes	1	8.3%	+15
By 20 minutes or more	2	16.7%	+38
DART shorter than fixed route	9	75%	-22
Total	12	100%	

Note: excludes two DART trips not feasible via The COMET fixed route

Because schedules were limited for several routes on The COMET, two of the 14 sampled DART trips were not feasible using The COMET because schedules and limited runs (one trip in the morning and one

trip in the afternoon) prevented a transfer. These two trips had the longest trip times in the sample. (For this same reason, several other relatively long trips in the sample week would also not have been possible.)

For the remaining 12 trips in the sample, nine took less time on DART than a comparable trip would on The COMET; the average time difference for these trips was 22 minutes shorter on DART. Two trips would have been longer on DART by an average of 38 minutes, and one trip would have been 15 minutes longer on DART. Such results do not indicate a pattern or practice of excessively long trips.

The review team also analyzed all 109 trips longer than 60 minutes from the sample week to determine a discernible pattern or practice leading to excessively long trips for particular individuals or geographic origins/destinations. No such pattern was observed in the data.

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must establish a DART trip-length standard based on the length of comparable fixed route trips, e.g., “DART trips should not exceed the length of the comparable fixed route trip.” CMRTA may include walking time to and from bus stops in its comparison standard.

No Operational Patterns or Practices Limiting the Availability of Service to ADA Paratransit Eligible Individuals – Telephone Hold Times

Requirement: Under 49 CFR § 37.131(f), transit agencies may not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any operational patterns or practices that significantly limit availability of service to ADA paratransit eligible people. Examples of such operational patterns or practices include insufficient capacity to take reservations, long telephone hold times, and untimely drop-offs for appointments.

Discussion: During this compliance review, no deficiencies were found with policies limiting the availability of DART service due to long telephone hold times.

The CMRTA telephone hold time standard is three minutes. During review team observations of DART calls on three separate periods during the site visit, the call volume was very light. The review team observed no telephone holds.

Neither CMRTA nor its contractor regularly reviews telephone hold time performance. (See Section 5.12 for a discussion of deficiencies with respect to monitoring service that private entities provide under contract.)

The review team analyzed telephone hold time data for the periods of April 8–10, 2013 and October 21–25, 2013. The reports showed the longest hold time for each hour of the day on each day covered by the report. There were no holds longer than three minutes for any hour in the sample reports. This is because the telephone system is configured so that when the hold time for any call reaches three minutes, the call is rerouted for immediate pickup by a DART dispatcher or a DART supervisor.

For the period of October 21–25, 2013, 15 calls (3.8 percent of the total of 385 calls) had hold times exceeding three minutes. Nine of these calls were during the 2 p.m. hour on Friday, October 25. The other six calls with hold times exceeding three minutes were scattered among five other hours during the week. Hold times reached three minutes in six of the 40 reservations hours covered by the report (15 percent). Hold times between one and three minutes were reported in eight separate hours (20 percent).

Based on these data, no pattern or practice significantly limits the availability of prompt access to DART reservations.

No Operational Patterns or Practices Limiting the Availability of Service to ADA Paratransit Eligible Individuals – Untimely Drop-offs for Appointments

Requirement: Under 49 CFR § 37.131(f), transit agencies may not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any operational patterns or practices that significantly limit availability of service to ADA paratransit eligible people. Examples of such operational patterns or practices include insufficient capacity to take reservations, long telephone hold times, and untimely drop-offs for appointments.

Discussion: During this compliance review, deficiencies were found with the prohibition against operational practices related to untimely drop-offs for appointments.

Although CMRTA’s paratransit software permits reservationists to enter appointment times during trip requests, reservationists rarely enter this information. Accordingly, rider appointment times, and associated drop-off times, are rarely printed on driver manifests.

In addition, without properly recording usable appointment data in the paratransit software, CMRTA has no means to measure or monitor drop-off performance. (See Section 5.12 for a discussion of deficiencies with respect to monitoring service that private entities provide under contract.)

Without the appropriate data, the review team was unable to measure on-time drop-off performance.

According to a DART reservationist, when they enter requested appointment times into the paratransit software, they enter the appointment time into a special notes field and not an appointment time field, which prevents the software from scheduling trips based on appointment times. The paratransit manager said that drivers and dispatchers “know” the appointment times of those trips. Because of the relatively low volume of calls each day from a relatively small pool of riders, reservationists can schedule trips that most likely result in on-time drop-offs. Such practices presume that all drivers and dispatchers know the schedules for all riders.

Given the prior lower volume of DART service owing to resource constraints, informal scheduling may very well have resulted in timely drop-offs for appointments. However, as demand increases, entering appointment times into appointment fields in the paratransit software can help ensure high service quality.

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must establish standards for timely drop-offs for DART trips that have requested appointment times.

CMRTA must also modify its operational practices to ensure timely drop-offs for appointments. This could include recording appointment times in the proper field in the paratransit software, instructing schedulers to account for requested appointment times when scheduling DART trips, and could include requested appointment times on driver manifests.

5.7 Subscription Service

Requirement: Under 49 CFR § 37.133, transit agencies are permitted (but not required) to provide subscription service (pre-arranged trips at a particular time not requiring individual trip reservations for each trip). If provided, however, subscription service may not comprise more than 50 percent of the available trips at any given time unless the system is experiencing no capacity constraints.

Discussion: During this compliance review, no deficiencies were found with CMRTA’s policy offering DART subscription service. An advisory comment is made regarding subscription service practices.

Although CMRTA does not have any trip denials or other constraints to its service capacity, DART schedulers limit the number of subscription trips. Page 6 of the DART Guide states, “DART reserves the right to maintain a maximum level of 50% as required by the ADA, when there is no excess demand

capacity available.” At the time of the site visit, CMRTA was maintaining a subscription service waiting list.

Advisory Comment: DART schedulers may consider reviewing the existing subscription service waiting list and accommodate more subscription trips—unless this minimizes service for other riders. Subscription trips can lead to operations that are more efficient without compromising service quality. Moreover, since subscription riders receive trips without having to make reservations, subscription service reduces telephone call volume.

5.8 Reasonable Policies for Proposed Service Suspensions for Missing Scheduled Trips and the Right to Appeal

Requirements: Section 37.125(h) of the DOT ADA regulations states that transit agencies “may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips.” FTA has permitted transit agencies to regard late cancellations as no-shows if and only if they have the same operational effect on the system as a no-show, generally within less than 1–2 hours of the scheduled trip time. If riders do not show up for the outgoing portions of round trips, transit agencies cannot automatically assume that the return trip is not needed.

Under 49 CFR § 37.125(h)(1), trips missed by riders for reasons beyond their control, including trips missed due to operator or transit agency error, must not form a transit agency’s basis for determining that such a pattern or practice exists. The transit agency’s policies must therefore distinguish between no-shows that are within the rider’s control and those that are not, and propose sanctions only on the basis of the former. In order to establish whether a rider has engaged in a pattern or practice of missing scheduled trips, the transit agency must also account for a passenger’s frequency of use. The appeal process required under § 37.125(g) must be available to an individual on whom sanctions have been imposed, and the sanction must be stayed pending the outcome of the appeal.

Discussion: During this compliance review, deficiencies were found with CMRTA’s definition of a “late cancellation” that can potentially lead to a suspension of DART service.

Deficiencies were also found with:

- Not accounting for a DART rider’s frequency of use in determining a suspension
- The severity of the penalty for excessive no-shows and late cancellations
- The requirement for DART riders to pay fares for no-shows and late cancellations

Furthermore, CMRTA does not monitor how the DART staff codes no-shows. (Section 5.12 discusses CMRTA’s requirement to monitor how its private service provider documents no-shows.)

No deficiencies were found with CMRTA’s policies to distinguish between no-shows that are within the rider’s control and those that are not.

In practice, CMRTA has not suspended DART riders for excessive no-shows or late cancellations.

The No-show Brochure defines a late cancellation “as an ADA eligible person who fails to cancel their pick-up at least twenty-four (24) hours before the scheduled pick-up time.”

A transit agency may treat a late cancellation as a no-show only if the late cancellation is the operational equivalent of a no-show. For most transit agencies, the threshold may be two hours ahead; other transit agencies have a lower threshold. CMRTA’s threshold of 24 hours is inconsistent with FTA policy. Further, because transit agencies must provide complementary paratransit service on a next-day basis (i.e., riders must be able to make a reservation during normal business hours today for a trip taken at any

time tomorrow), requiring 24-hour notice means that riders would be expected to cancel trips before reserving them.

Furthermore, the No-show Brochure states:

Passengers will receive three late cancels and/or no shows free each month...

If an individual has four no-show/late cancellations, The COMET shall contact the individual by telephone to determine if there was a reason the reserved trip was missed. If contact cannot be made The COMET may mail a letter to the individual emphasizing the lack of consideration to others when cancellations are not made within the proper timeframe or a passenger fails to take the trip altogether.

The use of language that suggests that riders are inconsiderate, irresponsible or costly to the transit agency is inappropriate. Both the brochure and the letters should reflect a policy that is customer-friendly and respectful of the rider. Emphasizing a perceived “lack of consideration to others” is likely to prompt a negative public response, and unlikely to resolve the problem.

According to the No-show Brochure, “[CMRTA] may impose a suspension on a DART rider for the fifth no-show/late cancellation in 30 days.” The policy does not account for the frequency of the rider’s use of DART service. For frequent riders, five no-shows in a 30-day period may reflect a small percentage of trip requests and may not reflect abuse of the service. For example, a rider who requests 80 trips in one month and no-shows five times has a no-show rate of 6.3 percent, which may approximate the DART systemwide average and therefore not reflect service abuse.

The No-show Brochure also states that for the fifth no-show/late cancellation in 30 days, “the individual may be subject to suspension for thirty (30) days.” A suspension of 30 days for the first offense (when confirmed) is excessive. Transit agencies often have a suspension period of 7–10 days for a first offense. CMRTA may choose to impose suspensions longer than 7–10 days for repeated violations of the no-show/late cancellation policy.

The Brochure also states that CMRTA will charge the rider the DART fare (\$3.00) for the fourth and subsequent no-shows/late cancellations. A transit agency cannot require riders to pay for no-shows or late cancellations. A transit agency may have a policy that allows riders to pay the fares for no-shows and late cancellations in lieu of serving a suspension.

Using trips from the sample week, the review team analyzed nine trips coded as rider no-shows to determine if drivers:

- Arrived within the 30-minute pickup window and waited at least five minutes before departing without picking up the rider (a no-show)
- Arrived before the 30-minute window and departed before waiting at least five minutes within the 30-minute pickup window without picking up the rider (a missed trip)
- Arrived after the 30-minute window without picking up the rider (a missed trip)

The review team found that two of the nine trips coded as no-shows lacked sufficient documentation to justify their being coded as no-shows.

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must:

- Revise its definition of “late cancellation” to count only late cancellations that have the same operational effect on the system as a no-show (i.e., one to two hours before the rider’s negotiated trip time)
- Revise the language in letters to riders who have no-shows and exclude references to “lack of consideration to others”

- Revise its no-show suspension policy to emphasize the percentage of no-shows relative to the rider's frequency of travel rather than just the number of no-shows
- Decrease the severity of a rider's first suspension due to excessive no-shows and late cancellations
- Revise its policy so that riders no longer have to pay fares for no-shows and late cancellations
- Regularly review the coding of no-shows to ensure that they do not improperly charge riders with no-shows. Before suspending riders for excessive no-shows, CMRTA must verify that all no-show charges are justified

5.9 Complaint Resolution and Compliance Information

Requirements: Under 49 CFR § 27.13(b), transit agencies must have administrative procedures in place that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints. Under 49 CFR § 27.121(b), transit agencies must keep all complaints of noncompliance on file for one year and a record of all such complaints (which may be in summary form) for five years.

Discussion: During this compliance review, deficiencies were found with CMRTA's complaint resolution and recordkeeping procedures.

The review team interviewed the DART paratransit manager and CMRTA's customer service manager (CSM) to learn about how they resolve complaints and maintain complaint records. At the time of the site visit, the CSM, who is a contractor employee, was responsible for handling complaints. According to the CSM, she received only one DART-related complaint in 2013. This complaint alleged that a driver used racist language toward the complainant. As part of her investigation, the CSM communicated with the paratransit manager, who provided additional information to the CSM and then spoke with the involved driver. According to the CSM, the issue was resolved. However, no records exist of any follow-up correspondence with the complainant to demonstrate timely or proper resolution. No documentation was placed in the driver's file.

While the low number of complaints on file may indicate acceptable service quality, the lack of proper documentation prevented the review team from making any definitive findings on this topic. Furthermore, assigning contractor employees to investigate complaints and keep records without corresponding grantee oversight is a compliance issue. (See Section 5.12 for a discussion of deficiencies with respect to monitoring service that private entities provide under contract.)

According to CMRTA's executive director, plans are in place to hire a compliance officer as an agency employee who will resolve complaints and keep records, among other duties.

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must modify its complaint resolution process to ensure prompt and equitable resolution. This includes recording all dates to facilitate compliance reporting. CMRTA must keep all complaints of noncompliance on file for one year and a record of all such complaints (which may be in summary form) for five years.

5.10 Nondiscrimination

Requirement: Under 49 CFR § 37.5, transit agencies are prohibited from discriminating against an individual with a disability in connection with the provision of transportation service, or deny any individual with a disability the opportunity to use the transportation services it provides to the general public. Discriminatory practices include and are not limited to requiring the use of alternate transportation services, requiring persons with disabilities to be accompanied by an attendant, imposing user fees or special charges upon people with disabilities and requiring people with disabilities to use designated priority seating.

Discussion: During this compliance review, no deficiencies were found related to nondiscrimination and the review team did not identify any discriminatory policies or practices.

5.11 Training Requirements

Requirement: Under 49 CFR § 37.173, each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Discussion: During this compliance review, no deficiencies were found with the requirement to train personnel to proficiency as appropriate to their duties, or with how CMRTA communicates, manages and/or oversees training requirements with respect to staff or its service provider.

The DART contractor is responsible for training its drivers, schedulers, dispatchers, reservationists, customer service staff, and other staff. The review team met with and observed reservationists, schedulers, dispatchers, and drivers.

The review team observed how reservationists accept ADA trip requests and observed 29 trip requests during three separate periods covering five hours. They also observed additional calls from riders to confirm or cancel trips or to get information about DART service. Reservationists did not deny any trip requests and confirmed trip details with each caller before ending the call. Based on review team observations, the schedulers and dispatchers were properly trained to assist and treat individuals with disabilities with respect.

The review team also evaluated the contractor's training program and curriculum, which includes at least 40 hours in the classroom and 80 hours of hands-on and road training. Both the classroom and road training cover ADA topics. It includes eight hours of ADA classroom training conducted by Able South Carolina, as well as extensive role playing and vehicle boarding simulations in which pairs of students board vehicles with manual and power wheelchairs and use blindfolds to train for boarding individuals with visual disabilities. The training provides sufficient information and practice to train drivers to operate vehicles and equipment safely, and to assist and treat individuals with disabilities respectfully and courteously. During review team interviews with six drivers, the drivers said that they received enough training to carry out their jobs properly. Scheduled refresher training for drivers is provided on a quarterly basis.

5.12 Service Under Contract with a Private Entity

Requirements: Under 49 CFR § 37.23, transit agencies must ensure that any private entity with which it has entered into a contract or other arrangement to provide complementary paratransit service meets all the obligations of the DOT ADA regulations, including those for service provision and vehicle acquisition, that the transit agency would be required to meet, if it provided the service directly.

Transit agencies must have policies and procedures in place to monitor contractors' performance and ensure that contractors meet the requirements. Transit agencies are not permitted to neglect monitoring or to limit their monitoring to the terms and conditions of contract or other arrangements with the private entity or entities.

Discussion: During this compliance review, deficiencies were found with how CMRTA monitors its contracted service provider (with respective report sections noted) as follows:

- CMRTA does not monitor on-time pickup performance (See on-time performance in Section 5.6 above.)

- Because reservationists do not record requested appointment times, CMRTA is unable to monitor on-time drop-off performance (See untimely drop-offs in Section 5.6 above.)
- CMRTA does not monitor telephone hold times (See telephone hold times in Section 5.6 above.)
- CMRTA does not monitor trip lengths (See excessive trip lengths in Section 5.6 above.)
- CMRTA does not review the coding of rider no-shows and operator missed trip. (See reasonable policies for proposed service suspensions for missing scheduled trips and the right to appeal in Section 5.8 above.)

Corrective Action Schedule: Within 60 days of the issuance of the final report, CMRTA must:

- Begin monitoring and measuring on-time pickup performance
- Begin monitoring and measuring on-time drop-off performance
- Review telephone performance on a regular basis, at least every week and adjust staffing to meet future changes in the volume and patterns of telephone calls
- Regularly review the trip requests that contractor staff classifies as no-shows to ensure proper distinctions between rider no-shows and missed trips
- Begin monitoring trip length performance

5.13 Service Provided by Another Public Entity

Requirements: 49 CFR Part 37 applies to any public entity that provides designated public transportation or intercity or commuter rail transportation. Under 49 CFR § 37.21(b), for entities receiving Federal financial assistance from the Department of Transportation, compliance with the applicable requirements of 49 CFR Part 37 is a condition of § 504 of the Rehabilitation Act of 1973 and of receiving financial assistance. Where a transit agency relies on another public entity to provide complementary paratransit service on its behalf, the transit agency remains responsible for meeting the requirements of 49 CFR Part 37. In other words, a transit agency must ensure that the service provided on its behalf meets all of the requirements that the transit agency would be required to meet, if the transit agency provided the service directly.

Transit agencies must have policies and procedures in place to monitor the performance of such service to ensure that these requirements are met; transit agencies are not permitted to defer to the public entity operating the service.

Discussion: During this compliance review, no deficiencies were found with how CMRTA monitors another public entity to provide complementary paratransit service on its behalf. CMRTA does not contract with or have an agreement with another public entity to provide complementary paratransit service on its behalf.

5.14 Coordination of Service

Requirement: Under 49 CFR § 37.139(g), public transit operators were required to address efforts to coordinate service with other fixed route operators with overlapping or contiguous service areas or jurisdictions when developing their complementary paratransit plans. Coordination is an ongoing process; while these efforts are likely to have evolved over time, it is expected that such transit systems will have a mechanism in place to ensure that complementary paratransit riders have an ability to make interjurisdictional trips on a comparable basis to individuals using the fixed route system.

Discussion: During this compliance review, no deficiencies were found with how CMRTA coordinates service with other fixed route operators with overlapping or contiguous service areas. No other fixed route

transit system's complementary paratransit service area overlaps with or is contiguous to CMRTA's complementary paratransit service area. Therefore, CMRTA has no such coordination obligations.

Summary Table of Compliance Review Findings

Item	Part 27 or 37 or 38 Requirement	Reference	Site Visit Finding deficiency/no deficiency or advisory comment	Finding(s) of Deficiency	Response Days/Date*
1	Comparable complementary paratransit service	37.121	No deficiencies		
2	Absence of administrative burden	37.125 & 37.5	No deficiencies 1 advisory comment		60/8-29-14
3	ADA paratransit eligibility standards	37.123(e) (1)-(3)	No deficiencies		
4	Accessible information	37.125(b)	No deficiencies		
5	Eligibility determinations within 21 days	37.125(c)	2 deficiencies	CMRTA does not adequately communicate to DART applicants their right to presumptive eligibility for determinations not made within 21 days CMRTA does not confer presumptive eligibility beginning on the 22nd day to DART applicants for whom it has not made an eligibility determination within 21 days	60/8-29-14
6	Written eligibility determinations including specific reasons for denials or temporary or conditional	37.125(d)(e)	1 deficiency 2 advisory comments	CMRTA's eligibility determination letters do not include certain required information and some included information is unclear	60/8-29-14
7	Recertification of eligibility at reasonable intervals	35.125(f)	No deficiencies		

Item	Part 27 or 37 or 38 Requirement	Reference	Site Visit Finding deficiency/no deficiency or advisory comment	Finding(s) of Deficiency	Response Days/Date*
8	Administrative appeals process for denials and conditional eligibility	37.125(g)	2 deficiencies	CMRTA's requirement to file an appeal within 14 calendar days is inconsistent with the DOT ADA regulations, which permit transit agencies to establish a 60-day "statute of limitations" on filing of appeals CMRTA's requirement to provide "a statement concerning the basis upon which the appeal is being made," and its requirement to provide any additional information or documentation, is not permitted	60/8-29-14
9	Complementary paratransit for visitors	37.127	1 deficiency	CMRTA does not have procedures for eligible visitors who do not have eligibility from another transit agency to use DART service	60/8-29-14
10	Types of service	37.129	No deficiencies		
11	Service area	37.131(a)	No deficiencies		
12	Response time	37.131(b)	1 deficiency	The DART reservations line is closed on Sundays and holidays; as a result, callers are unable to reserve next-day trips for Mondays and days following holidays	60/8-29-14
13	Fares	37.131(c)	No deficiencies		
14	No trip purpose restrictions	37.131(d)	No deficiencies		
15	Hours and days of service	37.131(e)	No deficiencies 1 advisory comment		

Item	Part 27 or 37 or 38 Requirement	Reference	Site Visit Finding deficiency/no deficiency or advisory comment	Finding(s) of Deficiency	Response Days/Date*
16	Absence of capacity constraints	37.131(f)	(See items 17–22 below)		
17	No restrictions on the number of trips provided to an individual	37.131(f)(1)	No deficiencies		
18	No waiting list for access to the service	37.131(f)(2)	No deficiencies		
19	No substantial numbers of significantly untimely pickups for initial or return trips	37.131(f)(3)(i)(a)	No deficiencies		
20	No substantial numbers of trip denials or missed trips	37.131(f)(3)(i)(b) 37.131(3)(1)(b)	No deficiencies		
21	No substantial numbers of trips with excessive trip lengths	37.131(f)(3)(i)(c)	1 deficiency	CMRTA does not have a trip length standard for DART trips.	60/8-29-14
22a	No operational patterns or practices significantly limiting service availability (telephone hold times)	37.131(f)	No deficiencies		

Item	Part 27 or 37 or 38 Requirement	Reference	Site Visit Finding deficiency/no deficiency or advisory comment	Finding(s) of Deficiency	Response Days/Date*
22b	No operational patterns or practices significantly limiting service availability (untimely drop-offs)	37.131(f)	1 deficiency	CMRTA does not have operational practices in place to prevent untimely drop-offs for DART trips with appointment times	60/8-29-14
23	Subscription Service	37.133	No deficiencies 1 advisory comment		
24	No-show, late cancel and reasonable service suspension & appeal policies	37.125(h) (1)-(3)	5 deficiencies	<p>CMRTA’s “late cancellation” definition (24 hours before the scheduled pickup time) is inconsistent with FTA policy and DOT ADA regulations concerning next-day service</p> <p>The no-show suspension policy does not consider the percentage of no-shows relative to the rider’s frequency of travel</p> <p>The current 30-day suspension for the first offense (when confirmed) is excessive</p> <p>The language in no-show letters referring to riders’ “lack of consideration to others” is not appropriate</p> <p>CMRTA improperly requires DART riders to pay fares for no-shows and late cancellations</p>	60/8-29-14
25	Complaint Resolution & Compliance Information	27.13(b) & 27.121	2 deficiencies	<p>CMRTA does not have a process in place to ensure prompt and equitable resolution of complaints related to DART service</p> <p>CMRTA does not keep all DART-related complaints on file for one year, nor does it keep a record of all such complaints (which may be in summary form) for five years</p>	60/8-29-14

Item	Part 27 or 37 or 38 Requirement	Reference	Site Visit Finding deficiency/no deficiency or advisory comment	Finding(s) of Deficiency	Response Days/Date*
26	Non-discrimination	37.5	No deficiencies		
27	Training	37.173	No deficiencies		
28	Service under contract with a private entity	37.23	5 deficiencies	CMRTA does not monitor: <ul style="list-style-type: none"> • DART's on-time pickup performance • DART's on-time drop-off performance • DART trip lengths • DART's telephone hold times CMRTA does not review the coding of DART rider no-shows and operator missed trips	60/8-29-14
29	Service provided by another public entity	37.21(b)	No deficiencies		
30	Coordination of service	37.139(g)	No deficiencies		