

5. TECHNICAL CAPACITY – PROJECT MANAGEMENT

PURPOSE OF THIS REVIEW AREA

The recipient must be able to implement Federal Transit Administration (FTA)-funded projects in accordance with the award application, FTA Master Agreement, and all applicable laws and regulations, using sound management practices; and prepare force account plans.

QUESTIONS TO BE EXAMINED

1. For projects undertaken since the last Comprehensive Review, did the recipient ensure project schedules, budgets, and performance objectives are achieved; provide technical inspection and supervision of all projects in progress; ensure conformity and compliance with all applicable federal, state, and local regulations; and obtain all necessary approvals prior to incurring costs?
2. Since the last Comprehensive Review, if the recipient used force account labor for an FTA-funded capital project, did it comply with FTA requirements?
3. Since the last Comprehensive Review, if a subrecipient(s) implemented a capital or planning project, did the recipient provide technical inspection and supervision of the project(s)?
4. Since the last Comprehensive Review, if the subrecipient used force account labor for an FTA-funded capital project, did it comply with FTA requirements?

INFORMATION NEEDED FROM RECIPIENT

Recipient Follow-up

- Project management plans, if written
- Quality control procedures, if written
- Sample project progress meeting minutes/reports
- Procedures for administering and monitoring construction projects, bus procurements, and other capital projects, if written
- Force account work plan(s), for sample project(s)

TC-PjM1. For projects undertaken since the last Comprehensive Review, did/does the recipient ensure project schedules, budgets, and performance objectives are achieved; provide technical inspection and supervision of all projects in progress; ensure conformity and compliance with all applicable Federal, state, and local regulations; and obtain all necessary approvals prior to incurring costs?

BASIC REQUIREMENT

The recipient must ensure project schedules, budgets, and performance objectives are achieved; provide technical inspection and supervision of all projects in progress; ensure conformity and compliance with all applicable Federal, state, and local regulations; and obtain all necessary approvals prior to incurring costs.

APPLICABILITY

All recipients

EXPLANATION

The recipient must ensure continuous management of projects under an award. Recipients are required to have a formal Project Management Plan (PMP) for all major capital projects. A major capital project is a project that: involves the construction, extension, rehabilitation, or modernization of a fixed guideway or a New Starts project with a total project cost in excess of \$100 million, or has been determined to be a major capital project by the Administrator, based on criteria in 49 CFR Part 633.

Recipients with smaller capital projects, such as construction projects, rolling stock procurements, technology projects, and planning projects should have a mechanism for technical oversight of these projects. Regular meetings between the project manager and contractor(s) should be held to review project status. Even though not required, some recipients have project management plans, especially for construction projects.

Many recipients that do not have the technical expertise or internal resources to manage large projects hire an architectural and engineering (A&E) firm or other consultant to serve as project manager or provide technical oversight. A recipient that is a county or city may rely on the county or city engineer to manage a construction project. The transit system's own maintenance and operations directors typically oversee the inspection and acceptance of rolling stock, sometimes with consultant support. A recipient's information technology (IT) department may oversee technology projects, also sometimes with consultant support.

When projects are implemented by an entity on behalf of a recipient such as by a management contractor, the recipient is ultimately responsible for, and must ensure technical oversight of, the project. Monitoring mechanisms may include:

- Contracting with a consultant to provide project management oversight
- Reviewing requests for proposals and construction contracts
- Reviewing plans and drawings
- Conducting periodic site inspections
- Requiring progress reports
- Attending project review meetings
- Withholding payment of a portion of the award until final inspection and acceptance of the project

If project delays are the result of inadequate actions by the recipient or failure in performance by a contractor, there may be deficiencies in the recipient's technical oversight of projects. The recipient's organizational structure and actions may contribute to continuing problems with project delays. Note that delays are not unusual in major construction and technology projects. For construction projects, land acquisition, zoning changes, environmental studies, weather, and other factors not under the complete control of the recipient may cause the delay.

Many FTA requirements flow through the recipient to transit management or service contractors, and lessees. The recipient is responsible for ensuring that these entities are aware of and comply with the requirements. Before expending any FTA funds on projects, the recipient certifies to FTA that it and others operating on its behalf have met all statutory and program requirements. The recipient must have sufficient documentation to support the certifications to FTA.

The recipient must have an ongoing system to ensure that transit management or service contractors, and lessees adhere to Federal requirements. While FTA does not prescribe specific monitoring activities for ensuring compliance, it does expect the recipient to look behind certifications and assurances, contracts, and agreements. FTA relies on each recipient to develop and implement effective systems for monitoring and ensuring compliance with requirements.

The issue of monitoring compliance with Federal requirements is a continuing, critical theme throughout the Comprehensive Review. In each review area, the recipient is asked to provide information on the specific mechanisms in place for monitoring compliance with the Federal requirements in that area. The

examination under Project Management takes an overall look at the systems in place for monitoring compliance with a range of Federal requirements. Appropriate systems may include:

- Requests for proposals
- Monthly, quarterly or annual reports
- Meetings
- Site visits
- Vehicle/facility inspections

Once an issue is discovered, FTA expects the recipient to follow up with the transit management or service contractor, or lessee to ensure that corrective action is taken. Efforts, including the follow-up on deficiencies, should be documented. It is not necessary for the recipient to perform all of its monitoring functions in-house.

Large recipients may have written procedures for oversight of transit management or service contractors, or lessees. Smaller recipients may have informal oversight mechanisms, such as periodic meetings. FTA expects recipients with a significant number of transit management or service contractors, and/or lessees to have formal oversight mechanisms.

INDICATORS OF COMPLIANCE

- a. *How does the recipient provide administrative and management support of project implementation?*
- b. *How does the recipient provide technical inspection and supervision by qualified professionals of all work in progress?*
- c. *Did the recipient obtain all necessary prior approvals and/or waivers before incurring costs or taking any requested actions?*
- d. *How does the recipient ensure conformity to applicable statutes, codes, ordinances, and safety standards?*
- e. *Has the recipient had any fines, cease and desist orders, legal actions, or judgments for permit, zoning, safety, or other violations related to FTA-funded projects?*
- f. *How does the recipient monitor activities under the award to assure schedules are met and other performance goals are achieved? Has the recipient maintained project work schedules agreed to by FTA and the recipient? If projects are not on schedule, what are the reasons? What are the recovery plans for the schedules?*
- g. *How does the recipient keep expenditures within the latest approved award budget? If projects are not on budget, what are the reasons? What are the recovery plans for the budgets?*
- h. *For all FTA-funded projects, including those carried out by contractors and/or lessees, what is the recipient's process for determining the applicability of, and ensuring compliance with, all Federal requirements?*

DETERMINING COMPLIANCE

Review project management plans and quality control procedures to determine how the recipient provides directly or by contract, administrative support, technical inspection and supervision of work in progress, and ensures compliance with FTA and Federal requirements. Review a sample of contracts for delivery and acceptance clauses and determine how the recipient verified that all parties have complied with performance measures. Discuss administrative and technical resources dedicated to overseeing projects. If the recipient contracts for project management services, review the scope of work of these contracts along with progress reports from the contractors to ascertain the recipient's process for

overseeing projects. Onsite, review project management oversight files for documentation that the recipient has implemented its process and is actively participating in the oversight of projects.

Review procedures for oversight of transit management or service contractors and lessees, if written, for the recipient’s procedures for overseeing such projects. Review site visit checklist(s)/reports, and vehicle and facility checklists to ascertain what FTA requirements they address. Examine documented follow-up of corrective actions on any deficiencies discovered during the monitoring of a transit management or service contractor and/or lessee to determine how the recipient ensures issues are resolved and mitigated in future projects.

Onsite, discuss the resources the recipient dedicates or plans to dedicate to project management and how it mitigates/plans to mitigate any projected shortfalls in oversight. Confirm the use of specific monitoring mechanisms. Review the files for the contractor(s) and lessee(s) to be visited during the site visit to determine implementation.

Note: For management of transit operating contracts and leases, the recipient could be found deficient in its monitoring of a specific area but not deficient under Technical Capacity—Project Management. Similarly, it could be found deficient under Technical Capacity—Project Management, but not deficient in a specific area where it is effectively monitoring compliance with Federal requirements or if it does not monitor at all.

Type of Project	Comments
Construction	
Revenue rolling stock Bus Rail	
Technology	
Planning	
Design/build/operate/ maintain (DBOM)	
Operations/ maintenance	
Leases	

Discuss with the FTA regional office if any projects required prior approval and, if so, whether the approval was granted before the recipient incurred costs. Discuss with the regional office any requested or required waivers. Onsite, determine if the approvals or waivers were received before the recipient incurred costs. Confirm by reviewing backup documentation for initial project ECHO requests. (Use the Exhibit 2. Financial Management and Capacity.)

Discuss with the FTA regional office whether it is aware of any violations of statutes, codes, ordinances, or safety standards and if there are any legal actions or judgments against the recipient for permit, zoning, safety, or other violations. Perform a website search of the recipient for news reports on violations and legal actions or judgments. Discuss with the recipient onsite.

Review Milestone Progress Reports (MPRs) in the Transit Award Management System (TrAMS) for discussions of project status and delays and efforts to recover from the delays, and analyses of significant project cost variances and a discussion of costs incurred and required to complete the project(s). Review project management plans and quality control procedures to determine the procedures for maintaining project work schedules and monitoring project budgets, and the process implemented to mitigate the effect of unforeseen delays. Discuss project delays and budget revisions with the FTA regional office.

Onsite, discuss the efforts to maintain project work schedules and manage the project budgets. Review progress reports from contractors to determine if delays are due to poor performance by contractors and how the recipient has secured the Federal interest. Review change orders and the reason(s) for the change orders to ascertain if they were due to project delays within the recipient's control and if the FTA bore the cost of such. Examine how the recipient managed the delay and tried to improve performance by the contractor.

Project delays that are the result of inadequate actions by the recipient or failure in performance by a contractor may indicate deficiencies in the recipient's technical inspection and supervision of projects or inadequate resources or other actions that contribute to continuing problems with project delays. Determine if any of the delays were beyond the recipient's control, e.g., land acquisition, zoning changes, environmental studies, weather, or other factors, and what steps, if any, the recipient took to bring the project back on schedule.

Delayed Projects	Award Number(s)	Comments

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if it does not provide administrative and management support of project implementation; provide technical inspection and supervision by qualified professionals of work in progress; obtain all necessary permits, approvals and waivers for projects; or does not ensure projects conform to Federal, state, and local statutes, codes, ordinances, or safety standards.

DEFICIENCY CODE TC-PjM1-1: Insufficient project management

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office procedures for providing administrative and management support of project implementation; technical inspection and supervision by qualified professionals; obtaining all necessary permits, approvals and waivers; and ensuring projects conform to Federal, state, and local statutes, codes, ordinances, and safety standards. The recipient must submit documentation that such procedures have been implemented on all existing projects, including copies of missing permits, waivers, and/or approvals.

If the recipient has received any fines, cease and desist orders, legal actions, or judgments for permit, zoning, safety, or other violations related to FTA-funded projects, discuss appropriate corrective actions with the FTA regional office and Regional Counsel.

The recipient is deficient if it has project delays or budget overruns due to lack of technical inspection or supervision of a project(s).

DEFICIENCY CODE TC-PjM1-2: Excessive delay/cost overrun in project implementation

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office a recovery schedule for the delayed projects or a revised budget and cost containment plan and a process for reporting on progress against the schedule or budget in the quarterly MPRs for [list the award numbers].

The recipient is deficient if it does not ensure that transit management contractors and/or lessees comply with Federal requirements.

DEFICIENCY CODE TC-PJM1-3: Inadequate oversight of transit management contractor(s)/lessee(s)

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office procedures for ensuring that transit management contractors and/or lessees comply with Federal requirements.

GOVERNING DIRECTIVE

FTA Circular 5010.1E, Ch. II Section 3. Roles and Responsibilities of the Management of Awards.

Recipients are responsible for the day-to-day management of their Awards that provide assistance for eligible activities or projects.

- a. Recipient Role. In addition to FTA's responsibility to monitor FTA Awards and the federally assisted projects thereunder, recipients must monitor federally assisted activities to ensure compliance with applicable federal requirements. This includes the administration and management of the Award in compliance with federal regulations, the Grant or Cooperative Agreement, and applicable FTA circulars. A recipient is also responsible for federal assistance that "passes through" to a subrecipient. In general, submission of the annual Certifications and Assurances stands in lieu of detailed FTA oversight before approval of an Award; however, the results of ongoing or routine FTA oversight activities also will be considered as applicable. Annual, independent, organization-wide audits, 2 CFR part 200, subpart F, "Audits", audits of recipients, and other recurring and specialized reviews provide FTA an opportunity to verify the recipient's Certifications and Assurances (See Chapter V, "Oversight," of this circular). The recipient's responsibilities include, but are not limited to, actions that:
 - (1) Demonstrate the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;
 - (2) Provide administrative and management support of project implementation;
 - (3) Provide, directly or by contract, adequate technical inspection and supervision by qualified professionals of all work in progress;
 - (4) Ensure conformity to Grant Agreements and Cooperative Agreements, applicable statutes, codes, ordinances, and safety standards;
 - (5) Maintain project work schedules agreed to by FTA and the recipient and monitor activities under the Award to assure schedules are met and other performance goals are achieved;
 - (6) Keep expenditures within the latest approved Award Budget;
 - (7) Ensure compliance with FTA and federal requirements by agencies, consultants, contractors, and subcontractors working under approved third-party contracts or inter-agency agreements;....

- (16) Obtain all necessary prior approvals and/or waivers before incurring costs or taking any requested actions....”

TC-PjM2. Since the last Comprehensive Review, if the recipient used force account labor for an FTA-funded capital project, did it comply with FTA requirements?

BASIC REQUIREMENT

Recipients using their own work force on capital improvement projects are required to develop and submit to FTA a force account plan and justification prior to incurring costs when the project is greater than \$1,000,000 but less than \$10,000,000. For projects greater than \$10,000,000, recipients must obtain FTA approval of the force account plan before incurring costs.

APPLICABILITY

All recipients of FTA funds

EXPLANATION

Work performed by the recipient's work force on capital projects, other than grant administration, that is included in an approved award is “force account” work. Force account work may consist of design, construction, refurbishment, inspection, and construction management activities, if eligible for reimbursement under the award. Incremental labor costs from flagging protection, service diversions, or other activities directly related to a capital award may also be defined as force account work. Force account work does not include preventive maintenance, or award or project administration activities which are otherwise direct project costs. Force account includes major capital project work on rolling stock. One of four conditions may warrant the use of a recipient's own labor forces. These are: (1) cost savings, (2) exclusive expertise, (3) safety and efficiency of operations, and (4) union agreement.

When the cost of force account work for a project is greater than \$1,000,000 but less than \$10,000,000, the recipient is required to develop a force account plan and justification prior to incurring costs and submit the plan to FTA. Prior FTA approval is not required. When the cost of force account work to be performed equals \$10,000,000 or more, prior FTA approval is required before incurring costs.

Force account plans are prepared at the project level. If a recipient is using multiple awards for the same project, then the recipient should have only one force account plan for the project and distribute the costs among the different awards in a reasonable allocation method documented in the force account plan.

INDICATORS OF COMPLIANCE

- a. *Since the last Comprehensive Review, has the recipient had any force account work? If no, move to the next question.*
- b. *For force account work exceeding \$1 million but less than \$10 million, did the recipient submit a force account plan to FTA prior to incurring costs?*
- c. *For force account work of \$10 million or more, did FTA approve the plan prior to incurring costs?*

DETERMINING COMPLIANCE

Review awards in TrAMS for indications of force account work. Confer with the FTA regional office to ensure that the recipient submitted a force account plan for work that exceeds \$1 million. For force account work exceeding \$10 million, determine if the FTA regional office has approved the plan. If not submitted with the FTA regional office, obtain a copy of the force account plan(s) to ensure that the work is justified on the basis of cost, exclusive expertise, safety and efficiency of operations, or union agreement. Determine if costs were incurred prior to the submittal or approval of the justification or plan as part of the review of ECHO draws in the Financial Management and Capacity area. Follow up with the

recipient to ensure that it has a plan for all force account work that meets the threshold for a plan as identified in the recipient award application in TrAMS.

POTENTIAL DEFICIENCY DETERMINATIONS

For force account work greater than \$1 million but less than \$10 million, the recipient is deficient if it 1) did not develop a force account plan and/or 2) submit the plan to FTA prior to incurring costs.

DEFICIENCY CODE TC-PJM2-1: Force account plan not submitted

SUGGESTED CORRECTIVE ACTION: The recipient must cease incurring costs until a force account plan is submitted to FTA.

For force account work of \$10 million or more, the recipient is deficient if it did not receive FTA approval of the force account plan prior to incurring costs.

DEFICIENCY CODE TC-PJM2-2: No approval of force account plan

SUGGESTED CORRECTIVE ACTION: The recipient must cease incurring costs until a force account plan is approved by FTA.

GOVERNING DIRECTIVE

FTA Circular 5010.1E, Chapter IV, Section 5 Design and Construction of Facilities.

d. Force Account. Force account is the use of a recipient's labor force as a capital expense to carry out a capital project. Force account work may consist of design, construction, overhaul, inspection, and construction management activities, if eligible for reimbursement as a capital expense under the Award. Force account work does not include Award or project administration activities that are otherwise direct project costs. Force account also does not include preventive maintenance or other items under the expanded definition of capital (e.g., security drills, mobility management) that are traditionally not a capital expense. Incremental labor costs for flagging protection, service diversions, or other activities under FTA's expanded definition of capital also do not need to be included.

Based on the amount of Force Account work, recipients may be required to submit a justification to use force account and/or the Force Account Plan for FTA approval.

- (1) Force account work less than \$1,000,000 can be performed without justification or a force account plan.
- (2) Force account work \$1,000,000 or greater but less than \$10,000,000 requires submission of a force account justification prior to Award. A recipient must maintain a force account plan in its files prior to incurring costs.
- (3) Force account work at \$10,000,000 or greater requires submission of a force account justification, as well as prior FTA approval of the force account plan.

Note that a force account plan is prepared at the project level; it, therefore, may cover multiple Grants, Cooperative Agreements, or Amendments thereto. It may be prepared prior to or subsequent to Award, but must be in place before incurring costs.

- (4) Justification of Force Account work. A justification to undertake force account work is required to use the recipient's own labor force greater than \$1,000,000 on a project. One of four conditions may warrant the use of force account work. These are:
 - (a) Cost savings.

The justification documentation must include the following information to be justified based on cost savings:

- 1 A comparison of the present worth of the estimated cash drawdown for both the force account and private sector contract options;
 - 2 The recipient should use the current interest rate paid on one-year Treasury Bills as the discount rate;
 - 3 The recipient should include the cost of preparing documents, cost of administration, and inspection, cost of labor, materials and specialized equipment, cost of overhead, and profit for private contract;
 - 4 Unit prices for labor; materials and equipment; overhead; and profit, if applicable for private contract;
 - 5 Certification that costs presented are fair and reasonable; and
 - 6 The present value calculation based on the midpoint of construction, and if the time for completion of the work differs for force account and a private sector contract, include an estimate of the cost of not using the completed improvement in the present worth calculation. For example, if the work is to replace leased facilities, the cost of continuing the lease until the work is complete should be taken into account in the cost estimate for each option considered.
- (b) Exclusive expertise. The justification documentation must be based on exclusive expertise, and must include documentation equivalent to a sole source justification stating the basis for a determination that no private-sector contractor has the expertise to perform the work.
- (c) Safety and efficiency of operations.

The justification documentation must include the following information to be justified based on safety and efficiency of operations:

- 1 Safety considerations, which may be addressed by a statement of the transit operator's safety officer that performing the work with private-sector contractors would have an adverse effect on employee or public safety;
- 2 Efficiency concerns, which may be addressed by a present worth calculation, including an estimate of the value of lost transit operation efficiency; and
- 3 In emergency situations where the recipient uses its own workforce, the recipient may submit a waiver to the Emergency Relief docket.

(d) Union Agreement.

The justification documentation must be based on exclusive expertise, and must include documentation equivalent to a sole source justification stating the basis for a determination that no private-sector contractor has the expertise to perform the work.

- (5) Force Account Plans. Prior to incurring costs, a recipient must develop force account plans if it intends to use its own labor force in amounts greater than \$1,000,000 on a project and retain the plan in its files. If the amount is \$10,000,000 or greater, the force account plan

must be submitted to FTA for approval, including the following information and must be approved by FTA prior to incurring costs:

- (a) A description of the scope of work;
- (b) A copy of the construction plans and specifications which includes a detailed estimate of costs and a detailed schedule and budget; and
- (c) A copy of the proposed Agreement when another public agency is involved.

Special care must be taken to ensure that requirements of 2 CFR part 200 are followed, especially for charging expendable property to force account projects and making sure that allowable costs are assigned to the correct activity code.

TC-PjM3. Since the last Comprehensive Review, if a subrecipient(s) implemented a capital or planning project, did the recipient provide technical inspection and supervision of the project(s)?

BASIC REQUIREMENT

The recipient must provide technical inspection and supervision of projects undertaken by subrecipients.

APPLICABILITY

All recipients with subrecipients

EXPLANATION

Recipients are responsible for federal assistance that “passes through” to a subrecipient. The recipient’s responsibilities include, but are not limited to, providing, directly or by contract, adequate technical inspection and supervision of all subrecipient projects. Monitoring mechanisms may include:

- Contracting with a consultant to provide project management oversight
- Reviewing requests for proposals and construction contracts
- Reviewing plans and drawings
- Conducting periodic site inspections
- Requiring progress reports
- Attending project review meetings
- Withholding payment of a portion of the award until final inspection and acceptance of the project

See question TC-PjM1 above for a more detailed explanation of project management requirements.

INDICATOR OF COMPLIANCE

- a. *How does the recipient ensure technical inspection and supervision of construction projects, bus and revenue rolling stock procurements, technology projects, and planning projects undertaken by subrecipients?*

DETERMINING COMPLIANCE

Review copies of project management plans, quality control procedures state/program management plan(s) and the subrecipient agreement(s) for procedures for administering and monitoring projects. If the recipient contracts for such services, review the scope of work of these contracts along with progress reports from the contractors to ascertain the recipient’s process for overseeing projects. Select a sample of subrecipient files (agreements) in accordance with the Records Selection Procedures in the Comprehensive Review Standard Operating Procedures Attachment to review for the contractual obligations placed upon the subrecipient for compliance with FTA requirements.

During the site visit, discuss the recipient's quality control procedures for projects. Discuss monitoring activities and the resources the recipient dedicates or plans to dedicate to project management and how it mitigates/plans to mitigate any projected shortfalls in oversight. Review project management oversight files for documentation that the recipient has implemented its process and is actively participating in the oversight of projects.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it did not ensure technical inspection and supervision of projects undertaken by subrecipients.

DEFICIENCY CODE TC-PJM3-1: Continuing oversight of subrecipient projects lacking

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office procedures for providing adequate technical oversight of projects undertaken by subrecipients along with evidence of implementation.

GOVERNING DIRECTIVES

49 CFR 200.331 Requirements for pass-through entities.

"All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision."

FTA Circular 5010.1E, Ch. II Section 3. Roles and Responsibilities of the Management of Awards."

Recipients are responsible for the day-to-day management of their Awards that provide assistance for eligible activities or projects.

- b. Recipient Role. In addition to FTA's responsibility to monitor FTA Awards and the federally assisted projects thereunder, recipients must monitor federally assisted activities to ensure compliance with applicable federal requirements. This includes the administration and management of the Award in compliance with federal regulations, the Grant or Cooperative Agreement, and applicable FTA circulars. A recipient is also responsible for federal assistance that "passes through" to a subrecipient. In general, submission of the annual Certifications and Assurances stands in lieu of detailed FTA oversight before approval of an Award; however, the results of ongoing or routine FTA oversight activities also will be considered as applicable. Annual, independent, organization-wide audits, 2 CFR part 200, subpart F, "Audits", audits of recipients, and other recurring and specialized reviews provide FTA an opportunity to verify the recipient's Certifications and Assurances (See Chapter V, "Oversight," of this circular). The recipient's responsibilities include, but are not limited to, actions that:

- (8) Demonstrate the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;
- (9) Provide administrative and management support of project implementation;
- (10) Provide, directly or by contract, adequate technical inspection and supervision by qualified professionals of all work in progress;
- (11) Ensure conformity to Grant Agreements and Cooperative Agreements, applicable statutes, codes, ordinances, and safety standards;
- (12) Maintain project work schedules agreed to by FTA and the recipient and monitor activities under the Award to assure schedules are met and other performance goals are achieved;
- (13) Keep expenditures within the latest approved Award Budget;
- (14) Ensure compliance with FTA and federal requirements by agencies, consultants, contractors, and subcontractors working under approved third-party contracts or inter-agency agreements;....
- (17) Obtain all necessary prior approvals and/or waivers before incurring costs or taking any requested actions..."

TC-PjM4. Since the last Comprehensive Review, if the subrecipient used force account labor for an FTA-funded capital project, did it comply with FTA requirements?

BASIC REQUIREMENT

Subrecipients using their own work force on capital improvement projects are required to develop and submit to the FTA a force account plan and justification prior to incurring costs when the project is greater than \$1,000,000 but less than \$10,000,000. For projects greater than \$10,000,000, subrecipients must obtain FTA approval of the force account plan before incurring costs.

APPLICABILITY

Recipients with subrecipients

EXPLANATION

Many FTA requirements flow through the recipient to subrecipients. The recipient is responsible for ensuring that these entities are aware of and comply with FTA force account requirements. The recipient must have sufficient documentation to support subrecipient compliance. See force account explanation under question TC-PjM2 for more information.

INDICATORS OF COMPLIANCE

- a. *For force account work exceeding \$1 million but less than \$10 million, did the recipient submit a force account plan to FTA prior to allowing the subrecipient to incur costs?*
- b. *For force account work of \$10 million or more, did the recipient submit a force account plan to FTA and did FTA approve the plan prior to allowing the subrecipient to incur costs?*

DETERMINING COMPLIANCE

Review awards in TrAMS for indications of force account work. Confer with the FTA regional office to ensure that the recipient submitted a force account plan for subrecipient work that exceeds \$1 million. If not submitted with the FTA regional office, obtain a copy of the force account plan(s) to ensure that the

work is justified on the basis of cost, exclusive expertise, safety and efficiency of operations, or union agreement. Determine if costs were incurred prior to the submittal or approval of the justification or plan. Review the state/program management plan(s) for discussion of requirements for subrecipients to develop force account plans and to submit to the recipient, as applicable and how the recipient ensures this is done.

During the site visit, review ECHO draws for subrecipients to ensure that costs were incurred only after submittal of the plan. Follow up with the recipient to ensure that it has a plan for all force account work by subrecipients that meets the threshold for a plan.

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if it did not submit a subrecipient's force account plan to FTA for force account work exceeding \$1 million prior to allowing the subrecipient to incur costs.

DEFICIENCY CODE TC-PJM4-1: Incurred costs prior to submittal/approval of force account plan

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office procedures for ensuring that subrecipients do not incur costs before the recipient submits the plan to FTA or obtains prior FTA approval.

For subrecipient force account work greater than \$1 million but less than \$10 million, the recipient is deficient if the subrecipient 1) did not develop and submit to the recipient a force account plan and/or 2) the recipient did not submit the plan to FTA prior to subrecipient incurring costs.

DEFICIENCY CODE TC-PJM4-2: Subrecipient force account plan not submitted

SUGGESTED CORRECTIVE ACTION: The recipient must direct the subrecipient to cease incurring costs until a force account plan is submitted to FTA.

For subrecipient force account work of \$10 million or more, the recipient is deficient if it did not receive FTA approval of the subrecipient force account plan prior to subrecipient incurring costs.

DEFICIENCY CODE TC-PJM4-3: No approval of subrecipient force account plan

SUGGESTED CORRECTIVE ACTION: The recipient must direct the subrecipient to cease incurring costs until a force account plan is approved by FTA.

GOVERNING DIRECTIVE

49 CFR 200.331 Requirements for pass-through entities.

"All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.”

ISSUES/AREAS OF CONCERN FOR FTA AWARENESS

1. Is this the first Comprehensive Review for the recipient?
2. Is the recipient embarking on a type of FTA-funded project that is new to it?
3. Does the recipient have subrecipients or transit contractors?
4. Have any oversight reviews, audits, or investigations of the recipient conducted since the last Comprehensive Review (including the most recent Comprehensive Review) identified significant deficiencies, material weaknesses, and/or repeat deficiencies in the area of technical capacity or project management?
5. Did the recipient experience difficulty resolving or closing any oversight review, investigation, or audit deficiencies or findings? Are any deficiencies or findings currently open?
6. Are any issues related to technical capacity and/or project management indicated in the FTA's Oversight Assessment Tool (OAT)?
7. Are there indications in the MPRs (such as a high number of milestone revisions) or from the FTA regional office that FTA-funded projects are not being delivered on time or within budget?
8. Do MPRs contain reasonable explanations and/or recovery plans for budget and/or schedule variances?
9. Has the recipient contracted out project management responsibilities to a third party?
10. Are there concerns about the recipient's project management oversight of subrecipients?
11. Did background research or site visit observations reveal any other potential issues or concerns about the recipient's technical capacity to manage projects or oversee subrecipient projects not covered previously in this section?

REFERENCES

1. 49 U.S.C. Chapter 53, Federal Transit Laws
2. 2 CFR Parts 200 and 1201, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
3. FTA Circular 5010.1E, "Award Management Requirements"

USEFUL WEBLINKS

1. Construction Project Management Handbook (2009 Update)
2. Project and Construction Management Guidelines (2003 Update)
3. Project Management Oversight Lessons
4. Quality Management System Guidelines

5. State Transit Program Manager's Guide on Administration and Oversight of FTA Grant Programs
6. National Cooperative Highway Research Program (NCHRP) Research Results Digest 341: Compliance Monitoring Tools

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