

Module 4

Federal Regulatory Framework

FEDERAL REGULATORY FRAMEWORK

Introduction

The Transit Finance Learning Exchange (TFLEx) – created and run by your transit finance colleagues – exists as a strategic alliance of transit agencies. TFLEx has developed a body of reference material (“TFLEx Guide for Transit Newbies”) to educate finance staff in the field of transit without extensive costs. This coursework can be accessed at www.TFLEx.org.

Welcome to Module 4, the Federal Regulatory Framework module.

Every public transit agency is faced with regulations from local, state and federal sources. While every agency must deal with different regulations from their local and state governments, all agencies must abide by the same federal regulations. This module will deal with federal regulatory issues.

When you've completed this module, you will be able to:

- Describe the history of federal oversight in transit
- Identify the major elements of the Federal Transit Administration (FTA) Triennial Reviews
- Discuss what is involved in supplemental reviews (Financial Management Oversight, Procurement System Reviews and Project Management Oversight) should they be necessary.
- Discuss additional federal regulations

Additional Information

Field of Study:	Finance
Prerequisites:	None
Advanced Preparation:	None
Program Level:	Basic
Program latest review date:	Delivery Method: QAS Self-study September 22, 2026

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CPE Credits

TFLEEx members will earn 1.0 CPE credit upon successfully completing a knowledge test (qualified assessment) for this module (Bus and Rail Operations & Maintenance).

Upon gaining an understanding of the material in this coursework and completing the included review questions, contact Joe Costello, TFLEEx Executive Director, at CostelloConsultingCorporation@gmail.com. He will provide you with a final knowledge test. You will have 30 days to send your answers to Mr. Costello. Upon answering at least 70% of these questions correctly, you will receive a certificate of completion for the 1.0 CPE credit, as well as evaluative feedback.

Not a member of TFLEEx? Please reach out to Joe Costello, TFLEEx Executive Director, at CostelloConsultingCorporation@gmail.com to find out how your agency can join. We encourage you to do so. We know you would get great value in being part of this organization!

About TFLEEx

The Transit Finance Learning Exchange was founded in 1999 by a number of transit agencies and continues to be run by your transit agency colleagues.

TFLEEx offers semi-annual workshops, Forum and Special Interest Group Calls, training and professional development, comparative metrics, and, of course, invaluable networking. Of note, TFLEEx members meet twice annually to explore topics of mutual interest, share relevant experiences, and develop best practices. These are facilitated workshops where all attendees participate in the discussions. As TFLEEx is run by your transit finance colleagues, the workshops offer an opportunity for further follow up at the next workshop and Forum and SIG (special interest group) calls – Zoom calls on topics of interest held between workshops. The workshops and calls provide continuing education credits.

Visit www.tflex.org for more information and dates of upcoming calls and workshops.

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OVERVIEW

Public transportation agencies operate in one of the most heavily regulated environments in the public sector. Every day, transit systems make decisions involving safety, security, accessibility, environmental compliance, labor relations, procurement, finance and civil rights, all while attempting to provide efficient, effective, reliable service to the public. Whether a transit agency operates a small rural bus network or a large multimodal urban system carrying millions of passengers annually, its operations are shaped by an extensive regulatory framework. This framework exists at multiple levels – federal, state, and local.

These regulations are more than just a collection of rules, reporting requirements, and oversight procedures. The regulatory framework serves a much broader purpose. It establishes the legal authority under which transit agencies exist, defines how public funds may be used, creates accountability for taxpayer funds, and helps ensure that transportation services are safe, equitable, and accessible for the communities they serve.

The complexity of this framework has increased substantially over time. Early transit systems in the United States were often privately owned streetcar and rail companies with limited government oversight. As urban populations expanded and public mobility became increasingly important to economic growth and social equity, governments became more directly involved in transportation planning, funding, and operations. By the mid-twentieth century, many transit systems had transitioned from private ownership to publicly governed agencies, bringing with them new forms of political oversight and administrative accountability. Federal involvement expanded significantly during the 1960s and 1970s, particularly with the establishment of dedicated federal transit funding programs and the creation of the Federal Transit Administration (FTA).

Today, transit agencies operate within a layered regulatory structure that affects nearly every aspect of their activities. Federal laws establish broad national requirements involving civil rights, labor laws, environmental protections, procurement practices, drug and alcohol testing, safety management systems, and accessibility for individuals with disabilities. State governments impose additional legal, financial and reporting requirements, while local governments often influence transit policy through planning, budgeting, and political oversight.

Transit agencies themselves must also develop internal policies and procedures designed to maintain compliance with these many and overlapping requirements.

Public transportation regulations must effectively balance operational flexibility with public accountability. Transit agencies are expected to function as efficient service providers while also fulfilling broader public policy goals. Unlike private businesses that primarily

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answer to shareholders or customers, public transportation agencies must respond to multiple stakeholders simultaneously, including elected officials, regulatory agencies, labor unions, advocacy groups, funding partners, riders and taxpayers. Regulatory systems attempt to manage these competing interests while maintaining transparency and responsible stewardship of public resources.

Federal oversight plays a particularly important role because many transit agencies rely heavily on federal grant funding to support both capital and operating expenses. The Federal Transit Administration serves not only as a funding agency, but also as a major oversight body responsible for ensuring compliance with numerous federal requirements. Programs, such as the Triennial Review process, enable the FTA to evaluate transit agencies across a broad range of compliance areas involving financial management, procurement, civil rights, maintenance, safety, ADA accessibility, Title VI requirements, and grant administration. Regulatory compliance is not simply a legal obligation for transit agencies; it is directly connected to their ability to secure and retain critical funding.

And regulations are not static. Public transportation agencies continue to face new challenges that existing regulatory systems were not originally designed to address. Emerging technologies such as autonomous vehicles, digital fare payment systems and cybersecurity protections are changing how transit services are delivered and managed. Concerns about climate change, sustainability, and environmental justice are also reshaping transportation policy and regulatory priorities. As a result, public transit agencies must continually evolve their processes, procedures and technologies in response to the dynamic regulatory environment as well as changing customer needs.

This module examines the federal regulatory framework governing public transportation agencies in the United States. It will also touch on the roles of state and local regulations in limited detail because these regulations will obviously differ depending on the state and area in which the transit agency operates.

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Historical Development of Transit Regulation

Understanding the history of transit regulation is important because it explains why modern transit agencies are governed the way they are.

The regulatory structure that governs public transportation agencies today did not appear overnight. It developed gradually over more than a century as cities expanded, transportation technologies evolved, and governments became increasingly involved in the planning and operation of transit systems. Current regulatory systems often reflect solutions to problems that emerged decades earlier, including financial instability, inadequate service, safety failures, labor disputes, and unequal access to transportation.

Early Private Transit Systems

During the late nineteenth and early twentieth centuries, most urban transit systems in the United States were privately owned and operated. Streetcar companies, interurban rail operators, and early bus companies were generally established by private investors seeking to profit from rapidly growing urban populations. Transit service was viewed primarily as a commercial enterprise rather than a public utility or government responsibility. As such, early regulation focused largely on franchise agreements and oversight typical of any other business. Municipal governments typically granted companies permission to operate along certain streets or corridors in exchange for commitments regarding fares, service levels, and infrastructure maintenance. In many cities, transit operators were granted monopoly rights within their service areas, which reduced competition but increased the need for government oversight.

Local governments began regulating fares and service standards fairly early in transit history. Fixed fare requirements, limiting fares that operators could charge for streetcar rides became politically popular. However, inflation, rising labor costs and infrastructure maintenance expenses, combined with the inability to raise fares due to political resistance and regulatory restrictions eventually created major financial problems for private operators in the 1920s and 1930s.

At the same time, safety concerns and labor issues began attracting greater regulatory attention. Urban transit accidents, equipment failures, and labor strikes demonstrated that public transportation had become too important to local economies and daily life to operate without substantial government involvement. Even during the early private era, transportation was increasingly being viewed as a public necessity rather than simply a private business.

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The Transition to Public Ownership

As discussed in Module 1, The History and Benefits of Transit, The Great Depression and the rise of the automobile dramatically changed the economics of public transportation. Ridership declined in many cities as private vehicle ownership expanded and suburban development patterns spread populations farther from traditional urban centers. Many private transit operators could no longer generate sufficient revenue to maintain infrastructure or continue operations profitably.

By the mid-twentieth century, governments increasingly stepped in to preserve failing transit systems. Cities and states recognized that the collapse of public transportation networks would create serious economic and social consequences, particularly for workers who relied on transit to reach jobs and services.

Public ownership fundamentally changed the regulatory environment. Once transit systems became government entities, they were no longer regulated solely as businesses. Instead, they became subject to broader public administration requirements involving budgeting, procurement, labor law, open meetings, accountability, and transparency.

The creation of regional transit authorities also expanded the scope of regulation. Many metropolitan areas established independent transit agencies governed by appointed boards rather than direct municipal departments. These authorities often crossed city and county boundaries, requiring coordination between multiple jurisdictions and levels of government. As transit systems became regional rather than purely local operations, regulatory complexity increased significantly. Even still, federal involvement in public transportation remained relatively limited and regulation of public transportation remained primarily a state and local issue until the 1960s.

Expansion of Federal Involvement

In the first half of the 20th century, federal transportation policy focused heavily on highways, particularly following passage of the Federal-Aid Highway Act of 1956, which funded the Interstate Highway System. Public transportation received comparatively little direct federal support nor regulatory attention during this period.

This began to change as urban congestion, environmental concerns, and declining transit infrastructure became national issues. Policymakers increasingly recognized that public transportation was essential not only for mobility, but also for economic development, urban planning, air quality, and social equity.

A major turning point occurred with the passage of the Urban Mass Transportation Act of 1964. This legislation established significant federal funding for public transit capital

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projects and created the Urban Mass Transportation Administration (UMTA), the predecessor to today's Federal Transit Administration (FTA). For the first time, the federal government became a major financial partner in public transportation development.

Federal funding brought federal oversight. Transit agencies receiving federal grants were required to comply with detailed regulations governing procurement, financial management, labor protections, civil rights, and project administration. This represented the beginning of the modern federally driven regulatory environment that continues today.

Subsequent legislation expanded federal involvement even further. Laws such as the National Environmental Policy Act (NEPA), the Americans with Disabilities Act (ADA), the Clean Air Act, and Title VI of the Civil Rights Act imposed additional responsibilities on transit agencies. Over time, transit systems became subject to increasingly comprehensive compliance requirements tied directly to federal funding eligibility.

And federal funds are critical to the financial health and stability of most transit agencies as they contribute 20% - 25% of over all US transit agency spending.

Growth of Administrative and Compliance Requirements

By the late twentieth century, public transportation agencies were required to operate under extensive administrative oversight. Transit agencies were no longer evaluated solely on whether they provided transportation service. They were also expected to demonstrate compliance with a broad range of legal and policy requirements, in four predominant areas:

- Accountability and transparency
- Civil rights, accessibility and environmental justice
- Safety and risk management
- Environmental impact and sustainability

In recent years, there has also been an increased emphasis on transit asset management.

As a result, transit agencies developed large internal compliance structures involving legal departments, grant administration staff, procurement specialists, safety officers, civil rights personnel, and auditors. Regulatory compliance became embedded in nearly every aspect of transit operations.

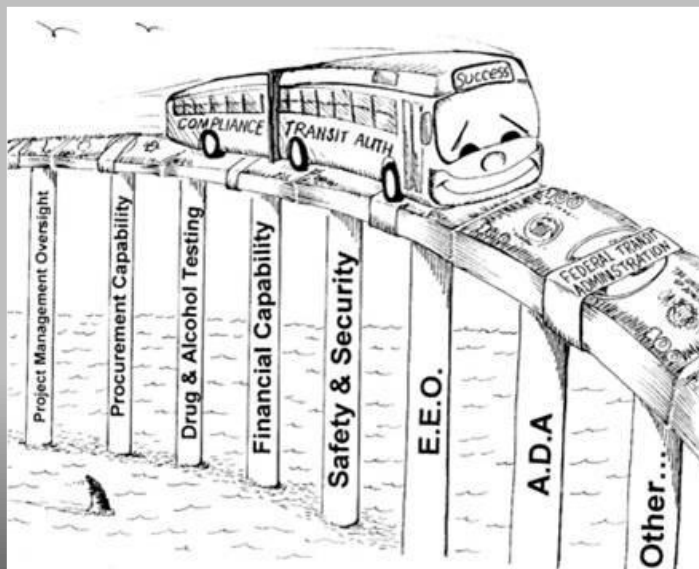
Modern transit agencies now operate under overlapping systems of federal, state, and local oversight. A single transit project may involve environmental review requirements,

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labor compliance standards, procurement regulations, accessibility standards, safety certification procedures, and detailed financial reporting obligations simultaneously. While this complexity can create administrative burdens, it also reflects the growing recognition that public transportation serves broad public interests extending far beyond mobility alone.

Federal Transit Administration



<http://www.fta.dot.gov>

Once your transit authority has directly received FTA funds your transit property is then an "FTA grantee" and then some or all FTA regulations apply to you, whether your agency operates transit routes, or provides only oversight functions. To gain more insight into the FTA, go to the FTA website at www.fta.dot.gov.

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The FTA is 1 of 11 operating administrations within the U.S. Department of Transportation. It employs over 500 people located in Washington, DC and 10 regional offices across the nation. As authorized by the periodic multi-year federal legislation, and associated extensions, the FTA provides stewardship of combined formula and discretionary grant programs totaling multiple billions of dollars to support a variety of locally planned, constructed, and operated public transportation systems throughout the United States.

The Federal Transit Act, as amended, directs the FTA to rely on individual grantee certifications of compliance with many FTA requirements. For all FTA grants, it also establishes a statutory scheme of:

- Grantee self-certifications at the grant award phase,
- Annual audits to ascertain that grantees are carrying out their proposed programs of projects, and
- FTA Triennial reviews (reviews every three years) also address grantee performance regarding self-certifications, planned projects and implementation, and compliance with statutory and administrative requirements.

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Review Questions

1. Which of the following was the precursor to the Federal Transit Administration (FTA)?
 - a. The Federal Department of Motor Vehicles
 - b. The American Railway Operators Association
 - c. The Urban Mass Transit Administration
 - d. The Department of Public Transportation

2. Which of the following has become more of an area of emphasis in recent years?
 - a. Accountability and transparency
 - b. Transit asset management
 - c. Civil rights, accessibility and environmental justice
 - d. Safety and risk management

3. Which of the following was NOT one of the contributors in the transition of transit providers from primarily private enterprises to more government-run transit agencies?
 - a. The oil embargo in the 1970s
 - b. Declining ridership
 - c. Increasing government regulation
 - d. Inflation

Answers

1. The correct answer is c. The Urban Mass Transit Administration was the precursor to the FTA.

2. The correct answer is b. Transit asset management has become more of an area of emphasis in the last 10-20 years. The other areas mentioned all became areas of emphasis earlier than that.

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3. The correct answer is a. The transition from private to public ownership generally occurred before the oil embargo of the 1970s.

The Triennial Review

The centerpiece of regulatory compliance is the Triennial Review. Every FTA grantee is subject to it. These reviews are comprehensive and time-consuming. It takes a large amount of staff time to gather the necessary data and provide it to the FTA in the required format. Typically, agency IT systems are designed to gather and format the data in the FTA-required format. The data is provided to the FTA in advance for a “desk review.” That review generates questions for clarification and completeness by the FTA.

The FTA hires contractors, to perform these reviews to ensure compliance with its regulations.

The Comprehensive Review covers the following 23 review areas within six broad categories:

General & Financial Management

1. Legal
2. Financial Management and Capacity

Technical & Operational Capacity

3. Technical Capacity: Award Management
4. Technical Capacity: Program Management & Subrecipient Oversight
5. Technical Capacity: Project Management
6. Transit Asset Management
7. Satisfactory Continuing Control
8. Maintenance
9. Procurement

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Civil Rights & Public Protections

- 10. RESERVED (Formerly Disadvantaged Business Enterprise (DBE))
- 11. Title VI
- 12. Americans with Disabilities Act (ADA)
- 13. ADA: Complementary Paratransit
- 14. RESERVED (Formerly Equal Employment Opportunity (EEO))

Specialized Program Areas

- 15. School Bus
- 16. Charter Bus
- 17. Drug-Free Workplace Act
- 18. Drug and Alcohol Program

Funding-Specific Mandates

- 19. Section 5307 Program Requirements
- 20. Section 5310 Program Requirements
- 21. Section 5311 Program Requirements

Safety & Infrastructure Security

- 22. Public Transportation Agency Safety Plans (PTASP)
- 23. Cybersecurity

Additional details can be found in the FY26 Comprehensive Review Contractor's Manual found here: [FY26 Comprehensive Review Contractor's Manual](#).

Here is a more detailed look at each of the 23 areas of examination.

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General & Financial Management

Legal – This area focuses on any legal developments since the last review, verifies compliance with lobbying laws.

Grant recipients are required to promptly notify the FTA of any legal matters that may affect the FTA, any instances of fraud, waste abuse or false claims under the False Claims Act.

Required documentation will include items such as:

- List of major disputes, breaches, defaults, litigation or instances where the Federal government was named as a party to litigation or a legal disagreement since the last Comprehensive Review
- List of false claims received or criminal violation committed related to Federal assistance since the last Comprehensive Review
- List of law enforcement investigations concerning the recipient's federally funded projects, to the extent known to the recipient
- List of lobbying activities conducted since the last Comprehensive Review

Financial Management and Capacity – This section checks financial systems, internal controls, and overall solvency. Examiners will review items such as:

- Reviews of organizational structure
- Qualifications of finance employees
- Proper segregation of duties
- Proper tracking and draw down of Federal funds
- Compliance with requirements for calculating and charging indirect costs
- Verification of financial sustainability including the financial resources to operate and maintain FTA-funded assets
- Verification that the recipient has adequate financial management systems oversight of its subrecipients

Required documentation covering the last three years include such items as:

- Financial statements or Annual Comprehensive Financial Reports
- Itemization of transit funding sources
- Organization chart for the Agency and the Finance Department

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- Resumes of key financial personnel
- A long-range financial plan, including a list of assumptions used to build the plan
- A comparison of budget to actual for both capital and operating programs

Technical & Operational Capacity

Technical Capacity: Award Management – Ensures completeness and accuracy of progress reporting and timely close outs of open grants. It includes reviews of Milestone Progress Reports (MPR), Federal Financial Reports (FFR) and Program of Project (POP) status reports, looking for completeness, accuracy and timeliness of reporting and close-outs.

Technical Capacity: Program Management & Subrecipient Oversight – Assesses the agency's involvement in the state's long-transit plans and how it monitors third-party sub-recipients.

Required documentation includes such items as:

- Documentation of the public involvement process for the development of the long-range statewide transportation plan and State Transportation Improvement Program (STIP).
- Standard subrecipient application and award document for each program
- List of all subrecipients within the past three years
- Subrecipient oversight schedule for the past three and the next three years
- FY2026 Contractor Manual – TC Program Management and Subrecipient Oversight 4-2
- Oversight procedures including sample reports, oversight checklists/monitoring materials, and training materials/manuals for subrecipients

Technical Capacity: Project Management – Reviews active major capital projects for scope, cost management and compliance with all applicable laws and regulations.

Required documentation includes such items as:

- List of FTA-funded capital projects undertaken during the past three years, including project type, budget and project management plans
- Quality control procedures

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- Identify FTA-funded capital projects and/or subrecipients with significant (33%) delays and/or cost increases
- Procedures for administering and monitoring construction projects, bus procurements, and other capital projects, if written
- List of transit service contractors and lessees
- Oversight procedures including sample oversight checklists/monitoring materials for transit management or service contractors/lessees

Transit Asset Management (TAM) – Ensures the agency has a formal plan to keep its capital assets in a state of good repair, operational and fit for purpose.

This element includes a review of the TAM plan and supporting documentation and schedules for accuracy and completeness, processes for managing and changing the plan, and the reporting of actual results vs. prior year's targets.

Satisfactory Continuing Control – Checks that federally-funded property is properly secured and used for its originally authorized purpose throughout its useful life until disposition. It will look at physical security, utilization and new acquisitions and dispositions since the previous review. It also includes the review of fleet management plans and the maintaining of proper spare ratios.

Required data will include items such as:

- Real property status reports
- Property management procedures
- Asset schedules including percentage of federal participation in each asset
- Evidence of insurance protection against floods and other hazards
- Schedules of acquisitions and disposals of federally funded assets

Maintenance – Reviews maintenance protocols for federal funded assets to ensure they are kept in good working order inclusive of all Americans with Disabilities Act (ADA) accessibility features.

The review will look at written maintenance policies and procedures, compliance with those procedures, specific programs to address ADA components, warranty procedures and whether there are procedures in place to monitor the same for subrecipients and contractors.

Procurement – Assesses procurement policies and procedures and whether these comply with all applicable federal laws and regulations applying to areas such as:

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- Written policies and procedures
- Retention of records
- Provision of full and open competition
- Use of independent cost estimates
- Maintenance of a written standards of conduct policy
- Inclusion of applicable federal clauses in contract for goods and services utilizing federal funds

Civil Rights & Public Protections

Legislation behind the FTA requires non-discriminatory use of Federal funds by recipients of FTA assistance, including their sub-recipients and contractors. Non-discrimination on the grounds of race, color, creed, national origin, sex, age, or disability is ensured through oversight of each grantee's implementation of required civil rights regulations and policy. Reviews and assessments determine if an agency complies with all programs. Every agency receiving federal funds must have a Title VI coordinator, and that person must participate in Service Planning.

Item 10, Disadvantaged Business Enterprise (DBE) is now listed as “RESERVED” and has been eliminated from the Triennial review. Several years ago, the FTA moved this item, along with Item 14 (EEO) out from the Triennial review process and are administered separately by the FTA Office of Civil Rights.

Title VI – Monitors compliance with nondiscrimination based on race, color, or national origin in service delivery.

Examiners will look at items such as:

- Did the recipient prepare and submit a Title VI Program?
- Does the recipient implement complaint procedures as described in its Title VI Program?
- Has the recipient implemented the public participation plan from its Title VI Program in its public participation activities?
- Does the recipient monitor its subrecipients and service provided under contract for compliance with Title VI requirements?
- Has the recipient conducted the required equity analysis for any new transit facilities sited since the last Comprehensive Review?

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- Has the recipient evaluated fare and major service changes and monitored transit service?
- Does the recipient identify the needs of minority populations in planning activities; document that it passes Federal Transit Administration (FTA) funds through to subrecipients without regard to race, color, or national origin; and assure that minority populations are not being denied the benefits of or excluded from participation in FTA-funded programs?

Americans with Disabilities Act (ADA): General – Ensures that there is no discrimination of access against an individual with a disability across facilities and services.

Examiners will look at areas including:

- Does the recipient track, resolve, and respond to ADA-related complaints, and publicize the complaint process?
- Do all vehicles acquired since the last review and/or used in fixed-route service provided under contract or other arrangement or relationship, including microtransit and commuter bus service, meet the requirements under 49 CFR Part 38?
- Are facilities for providing public transportation that were constructed since the last Comprehensive Review, or transit stops within the public right of way established since January 17, 2025, readily accessible to and usable by individuals with disabilities, according to the DOT standards for transportation facilities or public rights of way?
- Are facilities that were altered since the last Comprehensive Review, or transit stops within the public right of way established since January 17, 2025, readily accessible to and usable by individuals with disabilities, according to the DOT standards for transportation facilities or public rights of way?
- Are the various transportation services provided directly or via contract open to the general public and usable by persons with disabilities?
- Does the recipient monitor service provided under contract or other arrangement or relationship, or service provided by another public entity on the recipient's behalf, for compliance with the U.S. Department of Transportation (US DOT) ADA regulations?
- Does the recipient monitor service provided by subrecipients for compliance with the US DOT ADA regulations?

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ADA: Complementary Paratransit – Evaluates compliance with 49 CFR 37.121(a), ensuring that each public entity operating a fixed-route system provides paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed-route system.

Agencies will be asked to provide:

- Recipient Information Request
- Paratransit rider's guide
- Paratransit application form
- Operations, dispatch, scheduling or reservation procedures
- Sample notification letter templates for conditional eligibility, temporary eligibility, and denials
- ADA complementary paratransit service contracts
- Oversight tools for service provided under contract or other arrangement or relationship (including, but not limited to, an award, subaward or cooperative agreement), including required reports, questionnaires, and checklists for ADA complementary paratransit service
- For contracts or other arrangements, samples of completed oversight tools such as completed check lists, meeting minutes, reports, or summaries, and in particular, evidence of responsiveness to issues identified during analysis of service criteria outlined in 49 CFR 37.131 analysis
- Copies of contracts or other agreements, or terms of other relationships (including, but not limited to, awards, subawards or cooperative agreements) with private entities to operate ADA complementary paratransit service
- Oversight tools for subrecipients, including required reports, questionnaires, and checklists for ADA complementary paratransit service
- For subrecipients, samples of completed oversight tools such as completed check lists, meeting minutes, reports, or summaries, and in particular, evidence of responsiveness to issues identified during analysis of service criteria outlined in 49 CFR 37.131 analysis

Item 14, Equal Employment Opportunity (EEO) is now listed as “RESERVED” and has been eliminated from the Triennial review. Several years ago, the FTA moved this item, along with Item 10 (DBE) out from the Triennial review process and are administered separately by the FTA Office of Civil Rights.

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Specialized Program Areas

School Bus – Enforces prohibitions against using FTA-funded equipment for exclusive school bus routes unless it meets one of the exemptions.

These exemptions are:

- **Tripper Service:** The most common exemption allows agencies to operate regularly scheduled public transit routes that are modified, redesigned, or augmented to accommodate student demand (e.g., adding extra buses during school dismissal times). Tripper buses must be open to the general public, marked as such, and must not carry "school bus" or "school special" signage.
- **Private Operator Agreement:** An agency may provide exclusive school bus service if it enters into an agreement with all private, registered school bus operators in the service area that do not object to the service.
- **Lack of Willing/Able Operator:** An exemption is granted if there is no willing and able private school bus operator available to provide the requested service.
- **Written Notice and Certification:** If no private operators operate in the service area, the transit agency can provide exclusive service by submitting a formal certification to the FTA in lieu of the standard private operator notification.
- **Administrator Exception:** Transit agencies may petition the FTA Administrator for a special exemption based on regional/national emergencies or severe operational hardships.

Examiners will review for compliance in the following areas:

- If the recipient operates school bus service, does it meet one of the exemptions, have FTA approval, and use only locally-funded assets?
- If the recipient operates tripper service, does it meet FTA requirements?
- Does the recipient ensure that subrecipients, contractors and lessees that operate school bus service, do so in accordance with FTA regulations?
- Does the recipient ensure that subrecipients, contractors, and lessees that operate tripper service do so in accordance with FTA regulations?

Charter Bus – Restricts agencies from undercutting private charter bus operators using federal assets except when the service meets one of the defined exceptions.

These exemptions are:

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- **Qualified Human Service Organizations (QHSOs):** Agencies can provide service to registered QHSOs serving individuals with mobility limitations related to advanced age, disabilities, or low income.
- **No Registered Provider Available:** Agencies can operate the charter if they send a notice to registered private operators and no qualified charter provider responds or provides a commercially reasonable quote.
- **Government Officials:** Service can be provided if an elected or appointed official is a passenger and the trip is for official government business.
- **Agreements:** The transit agency operates under an explicit, mutually agreed-upon contract with all registered private charter providers in the area.
- **Leasing:** Agencies may lease their vehicles to private operators, provided they have fully exhausted their own available vehicles for standard transit service.
- **Petitions to the Administrator:** Agencies can petition the FTA for an exception in the case of events of regional/national significance, public interest/unique events (e.g., funerals), or extreme hardship.

Examiners will review for compliance in the following areas:

- Does the recipient operate or maintain charter bus service outside of an exemption or exception?
- If the recipient operates charter bus service under an authorized exception, does it maintain notices and records and has it reported charter bus service to the Federal Transit Administration (FTA) on time?
- Does the recipient ensure subrecipient, contractor, or lessee compliance with charter bus service and records requirements?

Drug-Free Workplace Act – Confirms policies are in place to maintain a drug-free employment environment.

Examiners will review for compliance in the following areas:

- Does the recipient have a written policy as prescribed in the Drug Free Workplace Act (DFWA) that is distributed to all award-related employees?
- Does the recipient have an on-going drug free awareness program?
- Did the recipient report to FTA all criminal convictions of award-related employees for a Federal or State drug statute violation that occurred in the workplace since the last Comprehensive Review?

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Drug and Alcohol Program – Mandates drug testing and safety protocols for safety-sensitive transit employees.

Examiners will review for compliance in the following areas:

- Does the recipient have a board-adopted drug and alcohol misuse policy?
- Does the recipient provide the minimum required training for all covered employees and supervisors/officers?
- Does the recipient obtain drug and alcohol testing records from employees' previous DOT employers and are all records stored in a secure location with controlled access?
- Do all medical review officers, substance abuse professionals, breath alcohol technicians, and collectors in the drug and alcohol testing program have the required qualifications?
- Does the recipient ensure that subrecipients, contractors, subcontractors, and lessees with safety-sensitive employees administer their drug and alcohol programs in accordance with 49 CFR parts 40 and 655?

Funding-Specific Mandates

Section 5307 Program Requirements – Validates compliance with Urbanized Area Formula Grant conditions.

Compliance with these conditions includes answering these questions in the affirmative:

- Does the recipient have a written agreement with the metropolitan planning organization (MPO), the state(s), and any other local or regional providers of public transportation that identifies their mutual responsibilities in carrying out the metropolitan transportation planning process and do they jointly agree upon and develop specific written provisions for the development and sharing of performance information?
- Does the recipient provide information about its available funding under Section 5307 to the public and provide for public involvement in the development of the Program of Projects (POP) it proposes to undertake?
- Does the recipient have a written policy that describes the public comment process on increases in the basic fare structure or implementing a major service reduction that addresses the required elements?

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- For Section 5307-funded fixed-route service, does the recipient charge no more than half the peak-hour fare for seniors, persons with disabilities, and individuals presenting Medicare cards during off-peak hours?
- Does the recipient ensure that subrecipients, contractors, and lessees that receive Section 5307 funds or use Section 5307-funded property comply with Section 5307 half-fare and public-comment requirements?

Section 5310 Program Requirements – Covers funding specific to seniors and individuals with disabilities.

Compliance with these conditions includes answering these questions in the affirmative:

- Does the distribution of Section 5310 funds meet program requirements?
- Are Section 5310 apportionments applied to eligible projects and awarded to subrecipients eligible to receive this funding?
- Are all Section 5310 projects included in a locally developed, coordinated public transit-human service transportation plan?
- Are all Section 5310 funds used for services that meet the specific needs of seniors and individuals with disabilities?
- Does the recipient comply with Section 5310 vehicle lease requirements?

Section 5311 Program Requirements – Oversees formula grant criteria for rural and non-urbanized areas.

Compliance with these conditions includes answering these questions in the affirmative:

- Are all Section 5311 funds used for public transportation projects, including job access and reverse commute projects, in rural areas?
- Does the state allow Indian tribes, even those that participate in the Tribal Transit Program, to participate in its Section 5311 program?
- Has the state programmed at least 15 percent of its apportionment on eligible intercity bus projects?
- Does the state use RTAP funding to support nonurbanized transit activities in transportation research, technical assistance, training, and related support services?

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Safety & Infrastructure Security

Public Transportation Agency Safety Plans (PTASP) – Examines systematic execution of safety management systems.

Recipients must comply with the Public Transportation Agency Safety Plan (PTASP) regulation (49 CFR Part 673) to ensure public transportation providers develop and implement an Agency Safety Plan (ASP).

Examiners will ensure that:

- The recipient has an ASP
- The recipient established required roles and responsibilities.
- The ASP include the required elements.
- The recipient maintains its PTASP documents for a minimum of three years.
- The recipient monitor subrecipients for compliance with PTASP requirements.
- The State recipient developed and certified ASPs on behalf of small public transportation providers.

Cybersecurity – Ensure compliance with 49 U.S.C. § 5323(v) for all agencies that operate fixed guideway public transportation systems and ensure that the recipient has certified that it has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks.

Deficiencies in the Comprehensive Review

If an area is found to be deficient, additional audits or reviews are triggered such as:

- Financial Management Oversight
- Procurement Systems Oversight Review
- Project Management Oversight

Each of these will be looked at in further detail later in this module.

Financial Management Oversight

Grantees are selected for financial management oversight (FMO) reviews by FTA to provide FTA an oversight tool and provide the grantees with technical assistance on

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financial management systems issues. FTA contractors conduct a series of interviews, a review of grantee transactions, and several additional process and procedural tests.

After the review, the contractor expresses an objective, external, independent professional opinion to FTA on the effectiveness of the grantees' internal control environment and FTA decides whether the grantee's financial management systems meet Federal requirements. An average FMO review takes three to four weeks, and is conducted at the grantee's site.

Things an FMO review looks for the ability of the grantee to:

- Match and manage FTA grant funds,
- Cover cost overruns,
- Cover operating deficits (stable, reliable sources of revenue), and
- Maintain, operate federally-funded facilities & equipment.

Procurement System Reviews

In general, agencies must have robust and reliable contracting processes and systems that ensure “contractor performance” in general, and more specifically, to expenditures of federal funds.

Per the FTA website: The FTA has a vested interest in assisting recipients to maintain efficient and effective procurement systems as well as a responsibility to ensure that its recipients expend their funds in accordance with FTA regulations, the Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards at 2 CFR Part 200 (Uniform Guidance), and contractual/grant agreements with the FTA. The Procurement System Review (PSR) determines if recipients are meeting these requirements and identifies any necessary corrective actions. In addition to helping evaluate recipients, the PSR program’s objectives also include:

- Encouraging and facilitating improved recipient procurement operations
- Fostering the use of industry best practices
- Identifying technical assistance needs, at the recipient level and at the national level, and delivering technical assistance to meet those needs
- Spotting emerging issues with recipients in a forward-looking fashion

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- Identifying recipients with recurring or systemic issues
- Highlighting policy issues and informing policy development
- Understanding trends and cross-cutting issues at the national level
- Informing curriculum development of FTA-sponsored technical training courses
- Aiding in the development of reports to FTA and DOT leadership, Congress, other oversight agencies, and the transit community in general.

Project Management Oversight

The FTA defines oversight as a continuous review and evaluation of grantee and FTA processes to ensure compliance with statutory, administrative, and regulatory requirements. Oversight of grantee project management focuses this review on the management of major investments in transit projects such as: constructing transit stations, laying fixed guideways such as track, building a new bus garage.

PMO contractors are external companies that undertake a review on behalf of the FTA. They monitor billions of dollars worth of capital projects, following guidelines established by the FTA. They serve to supplement the FTA technical staff by evaluating grantee project management and technical capacity and ensuring the agency has the capability to successfully implement these major transit projects.

Contractors doing Project Management Oversight are likely to be engineers, who will look for:

- A Project management plan, covering 12 points, including how the project is staffed monitored, how labor relations are handled, what the design is, how procurement will be managed, and real estate acquired.
- Is the project on time?
- Is it within budget?
- Is the project proceeding according to the approved plan and specifications?
- Can the design be constructed?
- Are engineering change orders properly controlled?
- Is value engineering being used?

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Review Questions

1. Which of the following items falls under Civil Rights and Public Protections?
 - a. Transparency and the Freedom of Information Act
 - b. ADA Complementary Paratransit
 - c. The Urban Mass Transit Administration
 - d. The Department of Public Transportation
2. Specialized Programs contains all but which of the following items of review?
 - a. School Bus Service
 - b. Charter Bus Service
 - c. Commuter Bus Service
 - d. Drug and Alcohol Programs
3. Which of the following is NOT one of the six broad categories covered by the Triennial Review?
 - a. Project Progress Reports
 - b. Civil Rights and Public Protections
 - c. Funding-Specific Mandates
 - d. Safety & Infrastructure Security
4. Which of the following documents would be reviewed as part of the Technical Capacity: Program Management & Subrecipient Oversight item review?
 - a. Financial Statements or Comprehensive Annual Reports
 - b. List of all subrecipients within the past three years
 - c. Real property status reports
 - d. Reports on compliance with federal non-discrimination laws

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5. Oversight of which of the following areas has been moved out of the Triennial review process?
- a. Transit Asset Management
 - b. ADA Complementary Paratransit
 - c. Equal Employment Opportunity (EEO)
 - d. Cyber Security

Answers

1. The correct answer is b. ADA Complementary Paratransit falls under the Civil Rights and Public Protections section of the Triennial Review.
2. The correct answer is c. Commuter Bus Service is not one of the Specialized Programs reviewed under the Triennial Review
3. The correct answer is a. Project progress reports are part of item #3, Technical Capacity: Award Management under the broad category of Technical & Operational Capacity.
4. The correct answer is b. Financial Statements or the comprehensive Annual Reports are part of the Financial & Management Capacity portion of the review, Real property status reports are part of Satisfactory Continuing Control and discrimination topics are covered in the Title VI area of the review.
5. The correct answer is c. Oversight of both Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE) were moved out of the Triennial Review process. The oversight responsibility now rests with the FTA Office of Civil Rights.

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OTHER FEDERAL REGULATIONS

Federally Funded Equipment – Both maintenance and control are required for any equipment and facilities acquired with Federal funds. FTA requires each agency have a written maintenance plan and records of maintenance performed for all vehicles. Of course, if maintenance is performed by contractors, the agency must provide oversight. Likewise, equipment records and physical inventories must be kept; every agency must also maintain an adequate spare ratio.

National Transit Database (NTD) – FTA requires submission of financial and non-financial data in accordance with requirements for a National Transit Database.

Planning and Public Comment – When service and fare changes are planned, there must be public participation in the process. Beyond making fare changes, an agency must communicate its transportation planning of projects (POP) to the public according to procedures established by the FTA and the Federal Highway Administration (FHWA).

Lobbying – Agencies must certify compliance with prohibitions against using Federal funds for lobbying purposes. The certification has to be included in solicitations. If non-Federal funds are used for lobbying or influencing any Federal agency, member of Congress, or employee of Congress in connection with application for FTA funds, the agency must submit an annual disclosure form about the lobbying activity.

Half-fare – Any facility or project funded by "Section 5307" monies must ensure that elderly persons and persons with disabilities or an individual presenting a Medicare card will be charged during non-peak hours not more than 50 percent of the peak hour fare.

Build America, Buy America (BABA) – BABA are federal mandates requiring the use of domestically produced goods in federally funded projects.

BABA passed under the Infrastructure Investment and Jobs Act, and represents a sweeping update to domestic sourcing. The rule requires all iron/steel, manufactured products, and construction materials used in federally funded public infrastructure projects to be produced in the United States. It applies to roads, bridges, public transit, water systems, and broadband projects.

Specific to the FTA, the rule requires 100% domestic iron and steel for public transit projects, and at least a 70% domestic component threshold for "rolling stock" (e.g., buses and trains) with final assembly in the U.S.

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Review Questions

1. Which of the following is NOT included in Other Federal Regulations and is part of the Triennial Review:
 - a. Buy America
 - b. The National Transit Database
 - c. Lobbying
 - d. ADA compliance
2. All but which of the following are part of the federal regulatory environment outside of the Triennial Review process?
 - a. Buy America
 - b. Half-fare
 - c. National Transit Database
 - d. Materials Reclamation and Reuse Program

Answers

1. The correct answer is d. ADA Compliance is included in the Triennial Review and therefore not part of Other Federal Regulations.
2. The correct answer is d. There is no such thing as the Materials Reclamation and Reuse Program.

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Finish

Congratulations! You have completed the **Federal Regulatory Framework** module. You should now know how to:

- Describe the history of federal oversight in transit
- Identify the major elements of the Federal Transit Administration (FTA) Triennial Reviews, and
- Discuss what is involved in supplemental reviews (Financial Management Oversight, Procurement System Reviews and Project Management Oversight) should they be necessary.
- Discuss additional federal regulations

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GLOSSARY FOR FEDERAL REGULATORY FRAMEWORK MODULE

Americans with Disabilities Act (ADA): Passed in 1990, this Act mandates that grantees cannot discriminate against persons with disabilities in providing transit service.

Build America, Buy America (BABA) – federal mandates requiring the use of domestically produced goods in federally funded projects.

Disadvantaged Business Enterprise (DBE) Program: Every grantee that receives at least \$250,000 in FTA funds in a federal fiscal year must have a written DBE program. An agency cannot be penalized, or treated by the FTA as being in noncompliance with this rule because its DBE participation falls short of its overall goal, unless it has failed to administer its program in good faith.

Drug and Alcohol Abuse Prevention Program: All agencies must have a Drug and Alcohol abuse prevention program that flows down to its contractors and sub-contractors.

Equal Employment Opportunity (EEO): Every agency must have a written EEO plan that provides that no-one is subjected to discrimination in employment. This applies to subcontractors also.

Federal Financial Reports (FFR): the financial reports submitted by agencies receiving federal grants that are currently in a processing or review stage between the recipient and the federal awarding agency.

Financial Management Oversight (FMO) Review: Conducted by the FTA to provide an oversight tool and provide grantees with technical assistance on financial management systems issues.

Federal Transit Administration (FTA): an agency within the U.S. Department of Transportation that provides financial and technical assistance to public transit systems.

Lobbying Disclosure Form: Recipients of Federal grants and contracts exceeding \$100,000 must certify compliance (using Standard Form LLL) with restrictions on lobbying before they can receive Federal funds.

Milestone Progress Reports (MPR): Mandatory written updates submitted by public transit agencies or grant recipients to funding bodies like the Federal Transit Administration (FTA). They track the ongoing schedule, implementation, and financial status of federally funded transit projects, such as bus purchases, infrastructure construction, or software rollouts.

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National Transit Database (NTD): Agencies must submit both financial and non-financial data annually for inclusion in the FTA's NTD. This data is used in part to assist in determining the amount of Section 5307 formula grant funds the agency will receive.

Program of Projects (POP): a prioritized, budgeted list of proposed transit projects—such as purchasing buses, building stations, or funding maintenance—that will receive funding from Federal Transit Administration (FTA) formula grants.

Procurement Systems Oversight (PSO) review: Conducted by the FTA to review the grantees annual List of Certifications and Assurances, procurement policies and procedures, solicitations, and contract files.

Project Management Oversight (PMO) Review: This review focuses on the grantees' compliance with statutory, administrative, and regulatory requirements in the management of major investments in transit projects.

State Transportation Improvement Program (STIP): a federally mandated, multi-year, multimodal planning document that lists prioritized transportation projects such as highways, transit systems, etc. that are slated to receive federal, state, and local funding.

TAM Plan: Transit Asset Management Plan – a strategic, data-driven business model used by public transportation agencies to monitor, maintain, and replace capital assets throughout their lifecycles. Its primary goal is to ensure transit system assets are kept in a State of Good Repair (SGR).

Title VI: This section of the Civil Rights Act of 1964 mandates that transit services must be provided with no discrimination on the grounds of race, color, creed, national origin, sex, age, or disability. Every agency receiving federal funds must have a Title VI coordinator, and that person must participate in Service Planning.

Triennial Review: The triennial review is one of the FTA's management tools for examining grantee performance and adherence to current FTA requirements and policies. Mandated by Congress in 1982, it examines how recipients of Urbanized Area Formula Program funds meet statutory and administrative requirements.

UMTA: Urban Mass Transportation Administration – The federal transportation oversight agency prior to the FTA.