

STAFF REPORT

SUBJECT: 2021 FTA Triennial Review

FROM: Tamara Edwards, Director of Finance

DATE: September 28, 2021

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**Action Requested**

Review the 2021 FTA Triennial report.

**Background**

As required by federal statutes, every three years transit agencies who are recipients of federal financial assistance are reviewed with respect to their compliance with federal rules and regulations. LAVTA's Triennial review was recently completed and a final report was issued on September 8, 2021. The review covers the period 2019, 2020, and 2021.

**Discussion**

FTA's final report is attached to this staff paper, and fully describes the 21 areas of interest to the federal government, and their report of LAVTA's compliance in each area. Of the 21 areas, 3 were not applicable. LAVTA was found to have no deficiencies in 16. FTA found deficiencies in two areas. The deficient areas were Financial Management and Capacity and Procurement.

LAVTA Staff has until October 8<sup>th</sup> to respond to the Final Report with their corrective actions.

All the requirements for resolution have been submitted to the FTA, and staff is waiting for the final closeout. Attachment 1 provides the summarized findings and LAVTA's actions taken.

Federal regulations continually change in the transit industry and the Triennial is a good mechanism to ensure that LAVTA is aware of all the changes. Additionally, with each review the expectations of the reviewers are not always the same as previous reviewers. In this year's review, the items that were brought to our attention were in areas that had been previously reviewed without any findings. The FTA and its reviewers were overall very pleased with LAVTA and the results of the Review.

**Next Steps**

LAVTA will work with the FTA on the closeout of the review.

**Recommendation**

Review the 2021 FTA Triennial report.

**Attachments:**

1. Triennial Summarized Response Chart
2. 2021 FTA Triennial Review – final report

## V. Summary of Findings

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	LAVTA's Response	Response Due Date(s)	Date Closed
1. Legal	ND					
2. Financial Management and Capacity	D	F4-1: ECHO documentation deficient	The recipient must submit to the FTA regional office approved procedures for documenting ECHO draws. The recipient must also document and work with the FTA regional office to reimburse FTA for ineligible expenses charged to awards, plus applicable interest based on the ECHO with a higher reimbursement percentage. The recipient must implement and submit to the FTA regional office documentation of training conducted of the appropriate staff on new policies and procedures. The recipient must also show documentation of the underlying expenditures for their next operating drawdown.	LAVTA has updated their procedures regarding echo drawdowns and the documentation associated with them especially in regard to grants for operating funds. Training was conducted on this new procedure in July, 2021. LAVTA did not charge any ineligible expenses to the grant, and once the documentation has been reviewed and accepted by FTA staff this finding should be closed.	October 8, 2021	
3. Technical Capacity – Award Management	ND					
4. Technical Capacity – Program Management and Subrecipient Oversight	NA					
5. Technical Capacity – Project Management	ND					
6. Transit Asset Management	ND					
7. Satisfactory Continuing Control	ND					
8. Maintenance	ND					
9. Procurement	D	P10-2: Lacking required cost/price analysis	The recipient must submit to the FTA regional office documentation that it has updated its procurement process to include performing applicable cost analysis for sole source procurements.  The recipient must also submit to FTA documentation that all staff involved in procurement activities have been training on the updated process.	The procurement manual has been updated to call out this requirement on sole source procurement. Additionally, a new Cost Analysis Form has been created and included in the procedures. The necessary staff has been trained on the changes.	October 8, 2021	

10. Disadvantaged Business Enterprise	ND					
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Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	LAVTA's Response	Response Due Date(s)	Date Closed
11. Title VI	ND					
12. Americans with Disabilities Act (ADA) – General	ND					
13. ADA – Complementary Paratransit	ND					
14. Equal Employment Opportunity	ND					
15. School Bus	ND					
16. Charter Bus	ND					
17. Drug-Free Workplace	ND					
18. Drug and Alcohol Program	ND					
19. Section 5307 Program Requirements	ND					
20. Section 5310 Program Requirements	NA					
21. Section 5311 Program Requirements	NA					

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



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

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September 8, 2021

Mr. Michael Tree  
Executive Director  
Livermore Amador Valley Transit Authority  
1362 Rutan Court  
Livermore, CA 94551

Re: Federal Transit Administration  
Fiscal Year 2021 Triennial Review  
Final Report

Dear Mr. Tree:

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

The Triennial Review focused on LAVTA's compliance in 21 areas. No deficiencies were found with the FTA requirements in 16 areas; three (3) areas were not applicable. Deficiencies were found in two (2) areas: (i) Financial Management & Capacity and (ii) Procurement. LAVTA had no repeat deficiencies from the 2018 Triennial Review.

Given the delay in completing the FY 2020 reviews until FY 2021 and the significant amount of additional federal financial support provided through CARES Act, FTA developed the [Public Health Emergency Supplement](#) to the [FY20 Comprehensive Review Contractor's Manual](#) to assist in the evaluation of how recipients have used CARES Act and Emergency Relief funding. This supplement details the specific flexibilities and administrative relief provided by FTA for the use of these funds.

### **Regulations and Guidance**

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

*Public Transportation Agency Safety Plan (PTASP) Regulation*

The PTASP regulation requires all operators of public transportation systems that are recipients and subrecipients of FTA's Urbanized Area Formula Grants (Section 5307) to develop safety plans that include the processes and procedures to implement Safety Management Systems (SMS).

As part of the annual Certifications and Assurances, recipients must certify they meet the requirements of the PTSAP regulation. All plans will be reviewed starting October 1, 2021 through FTA's oversight process. For guidance and updates to assist in the preparation and implementation of safety plans, please visit FTA's website at [www.transit.dot.gov/PTASP](http://www.transit.dot.gov/PTASP).

*Random Drug Testing Rate Increase*

On October 17, 2018, FTA published a Dear Colleague Letter "2019 Random Drug Testing Increase." In its letter, FTA notified recipients that effective January 1, 2019 and as mandated by its drug and alcohol regulation at 49 C.F.R. 655.45, the random drug testing rate will change. FTA increased the minimum rate of random drug testing from 25 percent to 50 percent of covered employees, for employers subject to FTA's drug and alcohol regulation. This increased random drug testing rate results from an uptick in the proportion of violations identified through random drug testing.

The 50 percent random drug testing rate applies to entities receiving federal assistance under 49 U.S.C. 5307, 5309, 5311 or 5339, including recipients, subrecipients, and safety-sensitive contractors. The required minimum rate for random alcohol testing is unaffected and remains at 10 percent.

Thank you for your cooperation and assistance during this Triennial Review. If you need any technical assistance or have any questions, please do not hesitate to contact Mr. Darin Allan, Director, Office of Financial Management and Program Oversight, at 415-734-9470, or by email at [darin.allan@dot.gov](mailto:darin.allan@dot.gov); or Ms. Ellen Harvey, your reviewer, at 617-577-0042, or by email at [eharvey@calyptusgroup.com](mailto:eharvey@calyptusgroup.com).

Sincerely,

Ray Tellis  
Regional Administrator

Enclosure

**FINAL REPORT**

**FISCAL YEAR 2021  
TRIENNIAL REVIEW  
of**

**Livermore Amador Valley Transit Authority  
(LAVTA)  
Livermore, CA  
ID: 5296**

*Performed for:*

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

*Prepared By:*

**Calyptus Consulting Group, Inc.**

**Virtual Site Visit Date: JULY 19-22, 2021  
Final Report Date: SEPTEMBER 8, 2021**

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## I. Executive Summary

This report documents the Federal Transit Administration’s (FTA) Triennial Review of the Livermore Amador Valley Transit Authority (LAVTA) of Livermore, California. FTA wants to ensure that awards are administered in accordance with the requirements of Federal public transportation law 49 U.S.C. Chapter 53. The review was performed by Calyptus Consulting Group, Inc. (the “reviewer”). During the virtual site visit, administrative and statutory requirements were discussed and documents were reviewed.

The Triennial Review focused on LAVTA’s compliance in 21 areas; three (3) areas were not applicable. Deficiencies were found in the areas listed below.

Review Area	Deficiencies	
	Code	Description
Financial Management & Capacity (F)	F4-1	ECHO documentation deficient
Procurement (P)	P10-2	Lacking required cost/price analysis

## II. Review Background and Process

### 1. Background

The United States Code, Chapter 53 of Title 49 (49 U.S.C. 5307(f)(2)) requires that “At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient’s program, specifically referring to compliance with statutory and administrative requirements...” This Triennial Review was performed in accordance with FTA procedures (published in FTA Order 9010.1B, April 5, 1993).

The Triennial Review includes a review of the recipient’s compliance in 21 areas; three (3) areas were not applicable. The basic requirements for each of these areas are summarized in Section IV.

This report presents the findings from the Triennial Review of LAVTA. The review concentrated on procedures and practices employed during the past three years; however, coverage was extended to earlier periods as needed to assess the policies in place and the management of award funds. The specific documents reviewed and referenced in this report are available through the FTA’s regional office or the recipient’s office.

### 2. Process

The Triennial Review process includes a pre-review assessment, a desk review and scoping meeting with the FTA regional office, and a virtual site visit (to the recipient’s location). In March 2020, all work on Reviews was halted due to the Public Health Emergency. A preliminary recipient information request was sent to LAVTA on February 13, 2021, indicating a review would be conducted during Fiscal Year 2021. A subsequent recipient information request was sent to LAVTA on May 24, 2021, advising that a virtual site visit would be taking place and indicating additional information that would be needed and issues that would be discussed. The desk review and review scoping meeting were conducted with the Region 9 Office on July 12, 2021. Necessary files retained by the regional office were sent to the reviewer(s) electronically. The virtual site visit to LAVTA occurred on July 19-22, 2021.

The virtual site visit portion of the review began with an entrance conference, at which time the purpose of the Triennial Review and the review process were discussed. The remaining time was spent discussing administrative and statutory requirements and reviewing documents *In addition, the reviewers evaluated how LAVTA has used CARES Act and ER funding and the impacts of COVID-19 Public Health Emergency on the agency by discussing a series of questions included in the [Public Health Emergency Supplement to the FY20 Comprehensive Review Contractor’s Manual](#). Additional documentation was requested for the Financial Management and Capacity and Procurement areas only.* The reviewer(s) examined a sample of maintenance records for FTA-funded vehicles and equipment.

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

### 3. Metrics

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

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

### III. Recipient Description

#### 1. Organization

The Livermore Amador Valley Transit Authority (LAVTA) is a joint powers authority established in 1986. It provides transit service to the Tri-Valley area 39 miles east of San Francisco and 28 miles north of Silicon Valley, serving the cities of Livermore, Pleasanton, Dublin, and unincorporated areas of eastern Alameda County. LAVTA contracts with MV Transportation, Inc. for its Wheels fixed route service and with Medical Transportation Management (MTM) (through March 2021), and County Connection beginning April 1, 2021 for complementary paratransit service. The population of LAVTA's service area is approximately 237,041. Prior to the onset of the COVID-19 pandemic, LAVTA operated a network of 29 fixed routes. At that time, service was provided seven days per week from 4:34 a.m. to 1:36 a.m. Monday-Friday, and from approximately 5:34 a.m. to 1:36 a.m. Saturday and Sunday. Shortly after the pandemic started, LAVTA began operating weekend schedules on most routes and discontinued service on five low ridership routes. Service after 11 pm was also temporarily discontinued. In June 2021, pre-COVID peak-hour service was resumed on several routes. LAVTA's complementary paratransit service, known as Dial-a-Ride, operates during the same days and hours of service as the fixed routes.

The basic adult fare for bus service is \$2.00. A reduced fare of \$1.00 is offered to seniors, persons with disabilities, and Medicare cardholders during all hours. The fare for Dial- a-Ride paratransit service is \$3.75. LAVTA offers monthly passes for Fixed Route.

Prior to the pandemic, LAVTA operated a fleet of 63 buses for fixed route service. Its bus fleet consists of standard and low floor 29, 35 and 40-foot transit coaches. The peak requirement at that time was 54 vehicles. LAVTA's spare ratio at that time was 18.5%. LAVTA's current peak requirement is 29, due to the reduced service levels resulting from the pandemic. The expectation is that with the start of school this fall, the recipient's peak requirement will increase to approximately 47 buses.

LAVTA operates from a single maintenance and administration facility at 1362 Rutan Court in Livermore. It maintains a bus storage, washing and fueling facility at 875 Atlantis Court. Service is oriented around a transit center at 2500 Railroad Avenue in downtown Livermore. All three facilities have an FTA interest.

The LAVTA's National Transit Database Report for fiscal year 2020 has been accepted by FTA.

## 2. Award and Project Activity

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

Award Number	Award Amount	Year Executed	Description
CA-2018-024	\$478,798	2018	Individualized Marketing Program
CA-2020-216	\$3,317,752	2020	FFY20 5307 CARES Act Grant-Operating Assistance second tranche
CA-2021-011	\$621,159	2021	Livermore Transit Center Rehabilitation and Improvement Project
CA-2019-100	\$1,224,168	2019	FY2018 5307 and 5339 Operating and Hybrid Bud Battery Pack Replacement
CA-2020-151	\$720,749	2020	FY2019 5307 and 5339 Operating and Hybrid Bus Battery Pack Replacement

### Projects Completed

Over the past few years, LAVTA completed the following noteworthy projects:

- Purchase of 40 buses: 20 purchased in 2016, and 20 purchased in 2017. Includes a mix of 29', 35' and 40' heavy-duty buses.
- Transit Performance Initiative (TPI) Project on Dublin Blvd: The project upgraded the traffic system to include adaptive signal technology to improve travel times, and three new bus queues jump lanes were installed. Additionally, the project brought a GTFS-Real time feed to the LAVTA bus system and now real time bus information is being made available on several phone apps.
- Implementation of major fixed route restructuring in August 2016: A comprehensive operational analysis (Wheels Forward) was conducted in 2015/16 and recommendations were implemented in August 2016 to streamline routes, reduce duplicative routes/route segments, eliminate unproductive routes/route segments, improve bus stop spacing, and increase frequency along major BART feeder lines.
- Resurfacing Rutan Parking Lot: A slurry seal was done on the Rutan Administration building parking lot in 2017, which also included several ADA upgrades.

### Ongoing Projects

LAVTA is currently implementing the following noteworthy projects:

- LAVTA is upgrading the Transit Signal Priority on the fleet of Rapid buses and along the Rapid corridors (Locally Funded). The project will be upgrading the Transit Signal Priority (TSP) along the Rapid BRT lines from infrared to GPS-based and will expand TSP to new corridors in Pleasanton.

- BRT Corridor Upgrade Project (North Canyons Federally Funded). The project will upgrade the bus stop amenities along the 30R line in Livermore to the Rapid branded-style including premium shelters, real time transit information, seating, bicycle storage, and lighting.
- Go Dublin TNC Pilot -A pilot partnership with TNCs (Uber, Lyft, De Soto cab) was launched in January 2017. The pilot was developed through the Wheels Forward study. The pilot includes a discount of up to \$5 for rideshare trips taken within the City of Dublin.
- Santa Rita Bus Stop Upgrade Project (Locally Funded). The project will upgrade the bus stop amenities along the 10R line in Pleasanton to the Rapid branded-style including premium shelters, real time transit information, seating, bicycle storage, and lighting.
- Historic Depot Project -The City of Livermore is relocating a Historic Train Depot to the Livermore Transit Center, which is owned by LAVTA. The existing ticket building was demolished, a temporary ticket office has been constructed, and the Depot building has been moved and is currently under renovation.
- Mobility Forward: Paratransit Assessment (Locally Funded). This study examined ways to enhance efficiency and improve service delivery for paratransit service(s) throughout the Tri- Valley.
- Shared Autonomous Vehicle Pilot (Locally Funded). This project will involve testing a level 4 Shared Autonomous Vehicle (SAV) in the City of Dublin on public roads and connecting with a mass transit (BART) station.
- Individualized Marketing (Federally Funded). This project, involving door-to-door travel training and marketing of Rapid services, was introduced along the 10R Santa Rita corridor in Spring 2017. This project expanded to the 30R Dublin Blvd corridor in Spring 2018.
- Renovation of the Livermore Transit Center (Federally Funded). This project will provide necessary repairs to the Transit Center passenger waiting area, including repainting the shade structure, lighting and security improvements, new street furniture, and a repair of the asphalt in the drive aisle.

## **Future Projects**

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

- Farebox Upgrade on the remaining fleet of buses (20).
- Completion of the SAV test and expansion of the SAV program.
- Upgrade of the non-revenue fleet.
- Atlantis Facility Phase III and IV design.



## IV. Results of the Review

### 1. Legal

Basic Requirement: The recipient must promptly notify the FTA of legal matters, include clauses in its third party and subrecipient agreements, and additionally notify the U.S. DOT Office of Inspector General (OIG) of any instances relating to false claims under the False Claims Act or fraud. Recipients must comply with restrictions on lobbying requirements.

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

### 2. Financial Management and Capacity

Basic Requirement: The recipient must have financial policies and procedures; an organizational structure that defines, assigns and delegates authority; and financial management systems in place to match, manage, and charge only allowable cost to the award. The recipient must conduct required single audits and provide financial oversight of subrecipients.

Finding: During this Triennial Review of LAVTA, one (1) deficiency was found with the FTA requirements for Financial Management and Capacity.

#### **ECHO documentation deficient (F4-1)**

LAVTA had one (1) ECHO drawdown for operating expenses related to ADA complementary paratransit operations that was processed as an ECHO drawdown with 80% eligibility. The invoices and other backup documentation submitted for this drawdown did not clearly indicate the method of calculating the amount of funds for which LAVTA requested reimbursement.

#### 2 CFR Part 200.306 Cost sharing or matching

*(b) For all Federal awards, any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the non-Federal entity's cost sharing or matching when such contributions meet all of the following criteria:*

- (1) Are verifiable from the non-Federal entity's records;*
- (2) Are not included as contributions for any other Federal award;*
- (3) Are necessary and reasonable for accomplishment of project or program objectives;*
- (4) Are allowable under Subpart E—Cost Principles of this part;*
- (5) Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available*

*for such program can be applied to matching or cost sharing requirements of other Federal programs;*

*(6) Are provided for in the approved budget when required by the Federal awarding agency; and*

*(7) Conform to other provisions of this part, as applicable.*

Corrective Action(s) and Schedule: By October 8, 2021, the recipient must submit to the FTA regional office approved procedures for documenting ECHO draws. The recipient must also document and work with the FTA regional office to reimburse FTA for ineligible expenses charged to awards, plus applicable interest based on the ECHO with a higher reimbursement percentage. The recipient must implement and submit to the FTA regional office documentation of training conducted of the appropriate staff on new policies and procedures. The recipient must also show documentation of the underlying expenditures for their next operating drawdown.

### **3. Technical Capacity – Award Management**

Basic Requirement: The recipient must report progress of projects in awards to the FTA timely.

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

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

Basic Requirement: The recipient must follow the public involvement process for transportation plans; develop and submit a State Management/Program Management Plan to the FTA for approval; report in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) on subawards; and ensure subrecipients comply with the terms of the award.

Finding: During this Triennial Review of LAVTA, the FTA requirements for Technical Capacity – Program Management & Subrecipient Oversight were found to be not applicable.

### **5. Technical Capacity – Project Management**

Basic Requirement: The recipient must be able to implement 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.

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

## 6. Transit Asset Management

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

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

## 7. Satisfactory Continuing Control

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

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

## 8. Maintenance

Basic Requirement: Recipients must keep federally funded vehicles, equipment, and facilities in good operating condition. Recipients must keep ADA accessibility features on all vehicles, equipment, and facilities in good operating order.

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

## 9. Procurement

Basic Requirement: The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, and conform to applicable Federal law and the standards identified in 2 CFR Part 200. State recipients can use the state's overall policies and procedures. When applied to Federal procurements, those policies and procedures must still be compliant with all Federal requirements as applied to non-state recipients. The flexibility afforded by 2 CFR Part 200 should not be misconstrued as absolving a state from Federal requirements. For example, FTA does not require each State DOT to have policies and procedures separate from the state education department.

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

*Deficiencies in review of procurement files*

During the LAVTA review, five (5) procurement files were reviewed: (1) sole source for farebox upgrade, (2) RFP for individualized marketing services, (3) sole source for transit signal priority upgrade, (4) IFB for TSP upgrade, and (5) RFP for preventative maintenance. The table below provides more details about these procurements.

Procurement #	1	2	3	4	5
<b>Goods/ Services Procured</b>	Farebox Upgrade	Individualized Marketing Services	Transit Signal Priority Upgrade	TSP Upgrade	Preventative Maintenance
<b>Date</b>	12/4/2019	12/2/2019	8/23/2019	1/6/2020	3/5/2018
<b>Dollar Value</b>	\$127,465	\$248,082.50	\$815,077.62	\$501,336	\$31,035,975
<b>Type</b>	Material	Services	Materials	Materials	Services
<b>Method</b>	Sole Source	RFP	Sole Source	IFB	RFP
<b>New Start or Small Start</b>	No	No	No	No	No
<b>Awarded by Contractors or Subrecipients</b>	No	No	No	No	No
<b>Change Order</b>	No	No	No	No	No
<b>DBE Goal</b>	No	No	No	No	No
<b>Protest</b>	No	No	No	No	No
<b>Deficiencies</b>	-	-	P10-2	-	-

The deficiencies identified for one (1) of the procurements is as follows:

- P10-2 Lacking required cost/price analysis: Procurement #3

### **Lacking required cost/price analysis (P10-2)**

LAVTA conducted a sole source procurement for the Transit Signal Priority Upgrade project. The staff report contains a statement that the price was determined to be reasonable; however, there is no documentation of the required cost analysis for this sole source procurement including an analysis of supplier profit.

#### 2 CFR 200.323

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

*(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.*

*(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices*

would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

*(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.*

FTA Circular 4220.1F Chapter VI 6. a. Cost Analysis

*The recipient must obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost. The recipient must obtain a cost analysis when the offeror submits elements (that is, labor hours, overhead, materials, and so forth) of the estimated cost, (such as professional consulting and A&E contracts, and so forth). The recipient is also expected to obtain a cost analysis when price competition is inadequate, when only a sole source is available, even if the procurement is a contract modification, or in the event of a change order. The recipient, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.*

FTA Circular 4220.1F Chapter VI 6. b. Price Analysis

*If the recipient determines that competition was adequate, a price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price. As discussed previously in subsection 3.a of this Chapter, the price analysis for micro-purchases may be limited. Similarly, the recipient may use an abbreviated price analysis for small purchases in most cases. One method to record this price analysis is through the use of a preprinted form on which a contracting officer (or other responsible person) can annotate a finding of fair and reasonable pricing and check off the most common reasons why this would be so, such as catalog or market prices offered in substantial quantities to the general public, regulated prices (for example, for many utilities purchases), or a comparison with recent prices for similar goods and services.*

Corrective Action(s) and Schedule: By October 8, 2021, the recipient must submit to the FTA regional office documentation that it has updated its procurement process to include performing applicable cost analysis for sole source procurements. The recipient must also submit to FTA documentation that all staff involved in procurement activities have been trained on the updated process.

## 10. Disadvantaged Business Enterprise (DBE)

Basic Requirement: Recipients must comply with 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. Recipients also must create a level playing field on which DBEs can compete fairly for US DOT-assisted contracts.

Finding: During this Triennial Review of LAVTA, no deficiencies were found with the US DOT requirements for DBE.

## 11. Title VI

Basic Requirement: The recipient must ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance without regard to whether specific projects or services are federally funded. The recipient must ensure that all transit services and related benefits are distributed in an equitable manner.

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

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

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

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

## 13. ADA – Complementary Paratransit

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

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

## 14. Equal Employment Opportunity

Basic Requirement: The recipient must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participating in, or denied the benefits of, or be subject to discrimination in employment under any project, program, or activity receiving Federal financial assistance under the Federal transit laws. (Note: Equal Employment Opportunity Commission's regulation only identifies/recognizes religion and not creed as one of the protected groups.)

Finding: During this Triennial Review of LAVTA, no deficiencies were found with the FTA requirements for Equal Employment Opportunity.

## 15. School Bus

Basic Requirement: Recipients are prohibited from providing school bus service in competition with private school bus operators unless the service qualifies and is approved by the FTA Administrator under an allowable exemption. Federally funded equipment or facilities cannot be used to provide exclusive school bus service.

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

## 16. Charter Bus

Basic Requirement: Recipients are prohibited from using FTA-funded equipment and facilities to provide charter service if a registered private charter operator expresses interest in providing the service. Recipients are allowed to operate community-based charter services pursuant to certain regulatory exceptions.

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

## 17. Drug Free Workplace Act

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

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

## 18. Drug and Alcohol Program

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

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

## 19. Section 5307 Program Requirements

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

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

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

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

## 20. Section 5310 Program Requirements

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

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

## 21. Section 5311 Program Requirements

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

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



## V. Summary of Findings

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
1. Legal	ND				
2. Financial Management and Capacity	D	F4-1: ECHO documentation deficient	The recipient must submit to the FTA regional office approved procedures for documenting ECHO draws. The recipient must also document and work with the FTA regional office to reimburse FTA for ineligible expenses charged to awards, plus applicable interest based on the ECHO with a higher reimbursement percentage. The recipient must implement and submit to the FTA regional office documentation of training conducted of the appropriate staff on new policies and procedures. The recipient must also show documentation of the underlying expenditures for their next operating drawdown.	October 8, 2021	
3. Technical Capacity – Award Management	ND				
4. Technical Capacity – Program Management and Subrecipient Oversight	NA				
5. Technical Capacity – Project Management	ND				
6. Transit Asset Management	ND				
7. Satisfactory Continuing Control	ND				
8. Maintenance	ND				
9. Procurement	D	P10-2: Lacking required cost/price analysis	The recipient must submit to the FTA regional office documentation that it has updated its procurement process to include performing applicable cost analysis for sole source procurements.  The recipient must also submit to FTA documentation that all staff involved in procurement activities have been training on the updated process.	October 8, 2021	
10. Disadvantaged Business Enterprise	ND				

Review Area	Finding	Deficiency Code(s)	Corrective Action(s)	Response Due Date(s)	Date Closed
11. Title VI	ND				
12. Americans with Disabilities Act (ADA) – General	ND				
13. ADA – Complementary Paratransit	ND				
14. Equal Employment Opportunity	ND				
15. School Bus	ND				
16. Charter Bus	ND				
17. Drug-Free Workplace	ND				
18. Drug and Alcohol Program	ND				
19. Section 5307 Program Requirements	ND				
20. Section 5310 Program Requirements	NA				
21. Section 5311 Program Requirements	NA				

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

## VI. Attendees

Name	Title	Phone Number	E-mail Address
<b><i>Livermore-Amador Valley Transit Authority (LAVTA)</i></b>			
Tamara Edwards	Director of Finance	925-455-7566	tedwards@lavta.org
Michael Tree	Executive Director	925-455-7564	mtree@lavta.org
Toan Tran	Director of Operations and Innovation	925-455-7562	ttran@lavta.org
Tony McCaulay	Director of Planning and Marketing	925-455-7553	tmccaulay@lavta.org
Dave Massa	Senior Fleet and Technology Management Specialist	925-455-7568	dmassa@lavta.org
Jennifer Yeamans	Senior Grants, and Management Specialist	925-455-7561	jyeamans@lavta.org
<b><i>MV Transportation</i></b>			
Christian Pereira	General Manager MV	925-455-7518	Christian.pereira@mvtransit.com
<b><i>FTA</i></b>			
Ray Tellis	Regional Administrator	415-734-9471	Ray.Tellis@dot.gov
Luis Rodriguez	Regional Civil Right Officer	212-668-2324	l.a.rodriguez@dot.gov
Darin Allan	Director, Office of Financial Management and Program Oversight	415-734-9470	Darin.Allan@dot.gov
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<b><i>Calyptus Consulting Group, Inc.</i></b>			
Ellen Harvey	Reviewer	617-577-0042	eharvey@calyptusgroup.com
Jameson Beekman	Reviewer	814-325-1747	Jameson.beekman@gmail.com

## **VII. Appendices**

No appendices included in this report.