
Office of Inspector General

Audit Report

IMPROVEMENTS NEEDED IN FTA'S GRANT OVERSIGHT PROGRAM

Federal Transit Administration

Report Number: MH-2012-168

Date Issued: August 2, 2012





Memorandum

U.S. Department of
Transportation

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION:** Improvements Needed In FTA's Grant Oversight Program
Federal Transit Administration
Report No. MH-2012-168

Date: August 2, 2012

From: Joseph W. Comé 
Assistant Inspector General for
Highway and Transit Audits

Reply to
Attn. of: JA-40

To: Federal Transit Administrator

The Federal Transit Administration (FTA) provides funding to more than 1,200 State and local grantees to enhance the effectiveness and efficiency of the Nation's transit systems. From fiscal year 2006 through fiscal year 2010, FTA awarded over \$57 billion in grants. To establish proper stewardship over these Federal investments, FTA has an Oversight Program covering 15 review areas, focusing on grantee compliance in specific areas, including civil rights, as well as broader areas, such as management of Federal funds. FTA's regional offices, as well as its contractors play an important oversight role in ensuring that grantees spend funds effectively; comply with Federal laws and regulations; and prevent fraud, waste, and abuse.

At FTA's request, we examined its regional oversight efforts, focusing on FTA's Region III, based in Philadelphia, Pennsylvania. Our objectives were to assess whether: (1) FTA Headquarters provides its regions and contractors with adequate guidance and oversight for key reviews and audits¹ to accurately identify and track grantee deficiencies, (2) Region III effectively follows up on grantee deficiencies, and (3) FTA has clear criteria to assess Region III's use of remedies or sanctions to address deficiencies.²

To conduct our work, we reviewed guidance and oversight tools FTA Headquarters applied across all regions and documentation related to the fiscal

¹ Key reviews were Triennial Reviews, State Management Reviews, Financial Management Oversight reviews, Procurement System Reviews, and Office of Management and Budget Circular A-133 single audits.

² 49 U.S.C. requires grantees to meet certain conditions to be eligible to receive Federal funds and prescribes remedies and sanctions for grantees' programs that fail to comply with Federal administrative or statutory requirements.

year 2011 Department of Transportation (DOT) consolidated financial statement audit.³ We selected a random sample of 18 of 60 Region III grantees and reviewed Region III's grantee files, findings from key reviews conducted from fiscal year 2006 through fiscal year 2010, and A-133 (single) audits for fiscal year 2010. We also interviewed FTA Headquarters and Region III staffs. Exhibit A provides more detail on our audit scope and methodology. We conducted this audit from March 2011 through June 2012, in accordance with generally accepted Government auditing standards. Exhibits B and C provide more information on FTA's 15 oversight review areas and regional office locations, respectively. Exhibit D provides a list of the 18 grantees selected.

BACKGROUND

FTA Headquarters shapes the direction of FTA's oversight efforts by providing agencywide policies, guidance, and tools to its regions and contractors. FTA uses contractors to conduct the vast majority of grantee oversight reviews in each region, but retains the responsibility to oversee the work performed by its contractors. FTA contractors document the results of their reviews in written reports and by entering review finding data into FTA's oversight tracking system (OTrak).⁴ FTA's internal control process for closing out review findings requires regions to monitor grantee compliance with resolving review findings and implementing corrective actions that result from key reviews and audits and to close out the review findings in OTrak.

From fiscal year 2006 through fiscal year 2010, FTA obligated approximately \$75 million nationally to contractors for review areas in its Oversight Program. Table 1 shows the amount obligated by review area.

³ U.S. Department of Transportation, "Agency Financial Report Fiscal Year 2011," November 2, 2011.

⁴ OTrak is the official record keeping system for FTA's oversight program. OTrak is designed to assist in planning, tracking, and monitoring the follow-up activities for post-grant award reviews on FTA recipients. FTA contractors and regional staff are required to use OTrak to enter, track, and close every finding from each of the key reviews and audits.

Table 1. FTA Oversight Obligations from Fiscal Year 2006 through Fiscal Year 2010

Review Area	Totals
Triennial Review ^a	18,082,769
State Management Review ^a	6,122,092
Procurement System Review ^a	9,850,133
Financial Oversight ^a	32,731,993
Civil Rights Oversight ^b	8,219,834
TOTAL	\$75,006,821

Source: FTA

^a Denotes one of the key reviews for the purposes of this audit.

^b Civil Rights Oversight encompasses four different review areas—Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, Disadvantaged Business Enterprise, and Equal Employment Opportunity.

In February 2012, FTA announced that it conducted a top-to-bottom review of its oversight practices, including a review of FTA’s statutory and regulatory requirements and an assessment of its current oversight products and practices to determine whether they are relevant and effective in meeting those requirements. FTA stated it would be implementing some improvements to its oversight procedures in fiscal year 2012 and fiscal year 2013.

RESULTS IN BRIEF

FTA Headquarters does not provide its regions or contractors with adequate guidance or oversight to ensure they consistently identify and accurately track deficiencies found during key reviews and audits of FTA grantees. We identified three key areas in which Headquarters’ guidance or oversight was not sufficient. First, FTA’s guidance does not provide consistent standards for data collection and reporting across the key review types, which hinders FTA’s ability to identify repeat findings, compare findings across review types, conduct trend analysis, and evaluate outcomes from the overall Oversight Program. For example, Financial Management Oversight reviews and Triennial Reviews name similar findings differently, even for the same grantee, which makes it difficult for FTA to identify findings that recur across these review types. Second, FTA Headquarters’ oversight of its regions or contractors is not adequate to ensure they accurately enter data in OTrak, FTA’s oversight tracking system. Our statistical sample of 368 Region III key review findings determined that the review contractor did not enter data in OTrak in the required “Discussion” and “Recommendation” fields in 69 instances (nearly 19 percent). Third, FTA does not emphasize the importance of quality in its performance measures and assessments. For example, FTA established performance measures for the Triennial Review and State Management Review programs that focused solely on timeliness, such as closing findings within 30 days of their due date, not quality. The guidance and oversight deficiencies we identified impede FTA’s ability to fully assess grantees’

compliance with Federal program requirements and call into question the return on investment of its Oversight Program.

FTA's Region III has not effectively followed up on grantee deficiencies identified through key reviews. FTA requires its regional staff to follow up on findings for key reviews and to obtain documentation from grantees and maintain files to show that those findings have been resolved fully before closing them in OTrak. However, we estimated through statistical projection that almost 24 percent of the key review findings for all Region III grantees lacked sufficient documentation that grantees took the prescribed corrective actions to support closure.⁵ This lack of support was primarily attributable to Region III's practices of closing findings before they were resolved, poor recordkeeping, or both. Closing findings before they are resolved inhibits FTA's ability to know whether a grantee completely addressed a deficiency and distorts FTA's performance measure for the Triennial Review and State Management Review programs, which is based on timeliness of finding closure.

FTA does not have clear guidance on how and when regional offices should use remedies and sanctions to encourage grantees to address deficiencies.⁶ In addition, FTA Headquarters does not systematically track their use across its regions. FTA's existing guidance generally describes actions that regions can take, but does not establish clear criteria for when they should be used. For the 5-year period we analyzed, Region III reported using sanctions against 1 of the 18 grantees in our sample. This one grantee had 26 findings in a single review. Region III did not implement sanctions for another grantee that had 33 findings in one Triennial Review—the most of any selected grantee in a single review over the same period—even though it had similar deficiencies as the sanctioned grantee. We could not determine whether Region III should have taken action in the latter situation because FTA lacks definitive guidance on when to use remedies or sanctions. While we recognize that the number of findings is only an indicator of problems, FTA has not instituted a risk-based approach to using remedies and sanctions that would emphasize those findings that could place Federal funds at risk or lead to safety consequences, if preventive maintenance issues are not addressed. In the absence of clear guidance or a tracking process, FTA has an insufficient basis to determine whether regions appropriately use remedies and sanctions.

We are making a series of recommendations to enhance the overall effectiveness of FTA's regional oversight of transit grants.

⁵ Our estimate has 90 percent confidence limits ranging from 19 percent to 29 percent.

⁶ Remedies include letters to grantees documenting noncompliance and follow-up reviews or contractor support. Sanctions include suspending Electronic Clearing House Operation system (ECHO) draw down privileges and delaying or denying grant funds. ECHO processes draw down requests from and makes payments to FTA grantees.

FTA LACKS ADEQUATE GUIDANCE AND OVERSIGHT TO IDENTIFY AND TRACK GRANTEE DEFICIENCIES

FTA Headquarters does not provide its regions or contractors with adequate guidance or oversight to ensure they consistently identify and track grantee deficiencies.⁷ Specifically, FTA has inconsistent standards for data collection and reporting. Further, FTA Headquarters does not adequately oversee its regions or contractors to determine whether they are accurately entering data in OTrak. Because the guidance and oversight practices apply to all FTA regions, this finding is not unique to Region III. Finally, FTA's performance measures and assessments focus on the timeliness, not the quality of regional and contractor oversight efforts. The guidance and oversight deficiencies we identified impede FTA's ability to fully assess grantees' compliance with Federal program requirements and call into question the return on investment of its Oversight Program.

FTA Does Not Have Sufficient Guidance To Ensure Consistency and Accuracy in Regional or Contractor Oversight Efforts

FTA Headquarters does not provide its regions or contractors with sufficient guidance to ensure they consistently identify and accurately track deficiencies found during key reviews and audits. For example, of the four key reviews we assessed, only Triennial Reviews and State Management Reviews have succinct and conventional naming guidelines for each finding, which promote consistency and enable FTA to analyze findings in OTrak across fiscal years and grantees. For the Financial Management Oversight reviews and Procurement System Reviews, similar review findings are named differently in each review report and in OTrak. To illustrate, one Financial Management Oversight review finding that a contractor entered in OTrak had the lengthy title, "The tests of fixed asset maintenance procedures, indicates that approximately 58 percent of preventive maintenance inspections were either performed late, or were not performed at all." Another Financial Management Oversight review titled a similar finding "Preventative Maintenance Not Performed Timely." In contrast, any Triennial Review would title a similar finding, "04—Late Vehicle Preventive Maintenance." An FTA official acknowledged the difficulties posed by the lack of standardization in the OTrak finding language, stating that it led to problems in developing a list of top 10 findings to use in identifying common or systemic findings.

Because key reviews do not present similar findings in a standardized way and OTrak lacks a data field to identify repeat findings, FTA cannot readily search for

⁷ Examples of reported deficiencies include: improper advance or progress payments, ineligible expenses charged to a grant, inactive grants or untimely closeouts, and outstanding annual audit deficiencies.

trends or recurring findings across various review types and fiscal years. Identifying common or systemic findings is critical in determining a grantee's "risk" level in FTA's annual grantee oversight assessment process and for identifying instances of continued noncompliance with certain Federal program requirements.

FTA Headquarters Does Not Provide Adequate Oversight of Data Entered into OTrak

FTA Headquarters does not provide adequate oversight of its regions and contractors to determine whether they are accurately entering data into OTrak, after completing reviews or follow-up activities. Despite the importance of having accurate information in OTrak, we found errors in data for both single audits and key reviews. For example, for fiscal year 2010, Region III incorrectly entered 4 of 16 (25 percent) of the single audit findings in OTrak. Three of the findings entered did not relate to FTA programs and one was from a Triennial Review, not a single audit. In addition, our statistical sample of 368 Region III key review findings found that the review contractor did not enter data in the required "Discussion" field in 46 instances (12.5 percent) and did not enter data in the "Recommendations" field in 23 instances (6.25 percent). FTA's checks on data accuracy were insufficient to identify the omissions we found. According to FTA officials, Headquarters program managers performed limited quality assurance checks on all data elements from 10 percent of the reports issued in a fiscal year and did not select the reports using a statistical sample, but judgmentally selected the reports. FTA subsequently reported that, in December 2011, it began identifying and reconciling reviews in OTrak with incomplete data and that this process was ongoing as of July 2012.

These vulnerabilities are not unique to Region III. For example, in a fiscal year 2011 review, DOT's financial statement auditor found that FTA Regions VI (Fort Worth, Texas) and X (Seattle, Washington) were not complying with FTA's standard operating procedures for OTrak data entry. For example, in Region VI, the auditor reviewed all open findings from prior oversight reviews (approximately 270 findings) and found that OTrak did not contain clearly documented data on the status of the prior year's findings or entries on whether follow up actions were conducted. The financial statement auditor also found that both regions have not complied consistently with FTA's April 2010 guidance requiring regions to enter all single audit information into OTrak. Based on these findings, FTA concurred with the financial statement auditor's recommendation that FTA management perform oversight ensuring its regional offices comply with FTA's procedures to document in OTrak review and audit findings.

While FTA agreed to address the OTrak issues that the financial statement auditor identified, OTrak will not function effectively as a "system of record" for

monitoring review findings until it contains complete and accurate data. As a result, FTA's ability to accurately assess a grantee's overall compliance and determine how it allocates oversight resources within regions for the next fiscal year is impeded. Without using a statistical sample, FTA does not have a representative assessment of the results of contractor omissions or the ability to make projections for the Oversight Program's overall quality of data.

FTA's Performance Measures and Assessments Focus on Timeliness, Not the Quality of Regional and Contractor Oversight

FTA's performance measures and assessments for its Triennial Reviews and State Management Reviews focus on completing reviews and closing findings in a timely manner. The measures do not relate to the quality of the oversight efforts of the regions and contractors. Only two reviews—Triennial and State Management Reviews—have performance measures, which FTA uses to assess the performance of regions and contractors.⁸ FTA Headquarters is responsible for reviewing contractor performance and taking appropriate action to resolve outstanding issues. Yet, FTA's assessment of contractors' performance on the Triennial and State Management Reviews is limited, focusing primarily on contractors' completion of their reports within 30 days of the exit conference with a grantee.

Additional FTA contractor performance assessment efforts are informal and do not occur regularly. FTA Headquarters has not systematically collected contractor performance information from the regions, even though regional staff interact with the contractors on a regular basis. FTA's Region III staff stated that they raised concerns to FTA Headquarters about the quality of some FTA contractors' performance, including their concern that some contractors misunderstood FTA requirements. An FTA official stated that FTA evaluates contractors' technical abilities during the contract solicitation phase. In addition, FTA Headquarters officials stated that program managers do not evaluate contractors' technical capabilities as part of their performance assessment and that the availability of travel funds determines whether these managers perform random site visits to evaluate contractors' performance. According to FTA, it is developing a contractor assessment form to more systematically collect the contractor performance information from its regions.

In a June 2009 report, the Government Accountability Office (GAO) made recommendations to improve FTA's performance measures for the Triennial

⁸ FTA's two performance measures to assess timeliness of steps in Triennial Review and State Management Review programs are: (1) 80 percent of Triennial Review and State Management Review findings are to be closed within 30 days of their due date ("Close Findings Timely") and (2) 95 percent of the final Triennial Review and 100 percent of the final State Management Review reports are to be issued within 30 days of the completion of the review ("Issue Reports Timely").

Review program consistent with our findings.⁹ The report included recommendations for developing performance measures to assess the outcomes of the Triennial Review program, such as the development of a method for evaluating improvements in grantee performance in meeting more Federal requirements over time and the quality of the Triennial Reviews through improved contractor oversight, testing, or inspection. As of March 22, 2012, FTA had not addressed these recommendations. In our opinion, these recommendations would also apply to the State Management Review program because it uses measures similar to those GAO identified. Additionally, the recommendations could be expanded to other FTA key review programs and its overall Oversight Program, which currently lack performance measures.

The weaknesses in the guidance and oversight practices that we found, which apply to all FTA regions and contractors, point to overall limitations in FTA's ability to fully assess grantee compliance with Federal program requirements. The limitations also impede FTA's ability to assess the results of its Oversight Program, which cost \$60.4 million for the key reviews alone from fiscal year 2006 through fiscal year 2010.

FTA REGION III HAS NOT EFFECTIVELY FOLLOWED UP ON GRANTEE DEFICIENCIES

FTA Region III has not effectively followed up on grantee deficiencies identified through key reviews, a central responsibility of each FTA regional office. Region III staff sometimes closed findings before they were resolved or did not maintain documentation supporting the closure in the grantee files, contrary to FTA guidance. These practices inhibit FTA's ability to determine whether grantees sufficiently addressed identified deficiencies. Further, Region III's practices could distort FTA's performance measure for the Triennial Review and State Management Review programs, which is based on timeliness of finding closure.

Region III has not consistently followed FTA's established guidance for following up on grantee deficiencies. According to FTA Order 5400.1, "Oversight Reviews," all regions are to obtain documentation from grantees to show that key review findings were fully resolved before closing them. However, FTA Region III did not follow this guidance consistently. For example, one grantee was instructed to submit documentation that all of its procurement staff either had received or was scheduled to receive the necessary training on FTA procurement requirements. Even though the grantee advised that it had not yet selected a training program to initiate the training, Region III officials closed the recommendation. Region III

⁹ GAO Report Number GAO-09-603, "Public Transportation: FTA's Triennial Review Program Has Improved, But Assessments of Grantees' Performance Could Be Enhanced," June 30, 2009.

staff requested that another grantee develop and maintain an inventory of real property purchased with Federal funds. In response, that grantee submitted a draft inventory that it acknowledged was incomplete, but Region III closed the finding anyway—noting that the grantee needed to take additional follow-up steps on the finding.

Based on our analysis of the 368 key review findings that the 18 grantees in our sample had from fiscal year 2006 through fiscal year 2010, we estimated through statistical projections that almost 24 percent (199 of 842) of the key review findings for all Region III grantees lacked documentation or sufficient support to justify closure.¹⁰ This lack of support primarily was attributable to Region III's practices of closing findings before they were resolved, poor recordkeeping, or both.

In Region III, review contractors identified a significant number of grantees in our sample that had repeat findings in subsequent reviews, indicating that the corrective actions were ineffective or that FTA did not properly close the findings the first time. The recurring findings related to various policy, financial management, and maintenance issues. We determined that 10 of the 14 grantees in our sample that had multiple reviews in fiscal year 2006 through fiscal year 2010 had identical findings. For example, two grantees had two or more reviews that identified "Late Vehicle Preventive Maintenance" as a finding. A third grantee had deficient documentation for FTA's ECHO system transactions in its 2006 Triennial Review, which the review contractor labeled as a high impact finding. We reviewed the documentation submitted to close this finding and determined that it was insufficient to address the recommendation. The contractor reported the same deficiency in the grantee's 2009 Triennial Review, demonstrating that the issues had not been satisfactorily resolved. Closing findings before they are resolved provides little assurance that the grantees are being held accountable for taking the necessary actions to resolve deficiencies and, therefore, allowed to continue with patterns of noncompliance with Federal requirements.

Region III staff stated that FTA Headquarters pressured them to close findings by their due date, which could have led staff to close findings before they were resolved. FTA Headquarters confirmed that FTA holds regional administrators responsible for closing findings within 30 days after their due date and periodically reports each region's progress in meeting this measure. Despite the agencywide focus on timeliness, FTA Headquarters stressed that it expects the regions to obtain evidence from the grantees showing that the findings have been

¹⁰ Our estimate is based on our analysis of 368 findings wherein we found that Region III's grantee files did not contain any documentation showing that these grantees took the prescribed corrective actions before 42 findings were closed, and did not contain sufficient support to justify closing an additional 34 findings. Our estimate has 90 percent confidence limits ranging from 19 percent to 29 percent.

fully resolved before closing them. However, FTA Headquarters does not have a process to verify that the regions actually obtained the necessary documentation to support closure. As a result, FTA runs the risk that regions will prematurely close findings in an effort to meet the performance measure. GAO's work has raised similar concerns. In June 2009, GAO reported that inaccuracies in data for past Triennial Reviews raised questions about whether "close findings timely" was a reliable performance measure.

FTA DOES NOT HAVE CLEAR GUIDANCE FOR USING AND TRACKING REMEDIES AND SANCTIONS

FTA does not have clear guidance that spells out how and when regional offices should use remedies and sanctions. Our review found that Region III rarely used remedies and sanctions. FTA's guidance, which is under review by the agency, generally describes actions that can be taken by regions, but does not establish clear criteria regarding when regions should use remedies or sanctions for certain types of review findings. In addition, FTA Headquarters does not systematically track the use of remedies and sanctions. In the absence of clear guidance or a central process for tracking their use, FTA is impeded in its ability to assess whether regions' use of these measures was successful in encouraging grantees to address deficiencies identified in key reviews.

FTA's Guidance for Identifying When Regions Should Use Remedies or Sanctions Lacks Specificity

FTA has not given its regional offices clear guidance defining when staff should use remedies and sanctions. Instead, FTA Order 5400.1, issued in 1994 and applicable to all regions, outlines a general process for using remedies and sanctions for noncompliant grantees. The process identifies three levels of noncompliance, encompassing eight phases—six for remedies and two for sanctions, as shown in table 2. Although the Order provides examples to help regional staff determine which noncompliance level to place a grantee in, it does not clearly link types of findings to particular remedies and sanctions—such as indicating that certain recurring findings or certain types of findings would warrant a particular remedy or sanction.

Table 2. FTA Order 5400.1's Process for Remedies and Sanctions

Level I Noncompliance – Remedies

First time or one-time violation of Federal administrative requirements, such as delinquent or incomplete quarterly progress reports, failure to request required FTA concurrence, inadequate financial reporting, or failure to keep complete property records.

Phase 1 – Notify the grantee of the noncompliance finding, the required remedial action, and provide technical assistance.

Phase 2 – Determine acceptability of the resolution plan, monitor grantee progress, and validate corrective action.

Phase 3 – Grantee failure to take corrective action within 1 year moves the noncompliance or deficiency issue to Level II.

Level II Noncompliance – Remedies

Grantees who have posed a “history” of unsatisfactory performance through Level I, or grantees identified as “high risk” for violating FTA written policies, such as known non-competitive procurements or sole source procurements, or failure to adequately resolve compliance findings.

Phase 4 – Notify the grantee of the “high risk” determination, the special conditions that apply and the reasons for imposing them, required corrective actions, and time allowed for completing them, and the method of requesting reconsideration.

Phase 5 – Review grantee progress for compliance on no less than a monthly basis, and provide oversight resources to define more specific recommendations.

Phase 6 – A letter detailing the nature of the outstanding issues, providing a formal warning, and the intent to impose sanctions if corrective actions are not taken.

Level III Noncompliance – Sanctions

FTA has worked with the grantee for more than 2 years to achieve compliance. The grantee has shown little willingness or ability to take corrective actions.

Phase 7 – Place restrictions on future grant approvals involving the area of noncompliance and restricts receipt of funds in existing grants until corrective measures are taken, remove grantee's access to ECHO payments or prohibit fund drawdowns, and disallow all or part the activity not in compliance.

Phase 8 – Suspend in whole or part or terminate the current grant award for cause, or withhold further grant awards until full compliance.

Source: FTA Order 5400.1

For the 5-year period we analyzed, Region III reported using a sanction for 1 of the 18 grantees in our sample, and reported using no remedies during this period. The grantee for which the Region acknowledged implementing a sanction—the City of Winchester, Virginia—had 26 findings in its first Triennial Review. The

grantee was required to submit manual payment requests with supporting documentation, in order to receive payments, until the numerous findings were satisfactorily addressed. FTA grantees normally draw down funds from ECHO without providing documentation. In contrast, Region III did not implement sanctions against another grantee, the Borough of Pottstown, Pennsylvania, which had 33 findings in one Triennial Review—the most of any selected grantee in a single review over the 5-year period we analyzed. This grantee had a drawdown-related deficiency. For the remaining 15 grantees in our sample that had a Triennial Review from 2006 through 2010,¹¹ another grantee had a lower number of findings than the City of Winchester, but its findings from two Triennial Reviews were for insufficient documentation supporting its ECHO drawdowns. We could not determine whether Region III should have taken action in the latter two cases because FTA does not provide clear guidance as to when regions should use remedies and sanctions. While the guidance for using remedies and sanctions would not necessarily need to identify a specific number of findings that would trigger a remedy or sanction, a risk-based approach could place greater emphasis on using remedies or sanctions for those findings that might put Federal funds at greater risk of inefficient or inappropriate expenditure or lead to safety consequences, such as those stemming from preventive maintenance issues, if they are not timely corrected.

In October 2011, FTA informed us that it was no longer using the remedies and sanctions process outlined in FTA Order 5400.1, pending an internal evaluation, even though the Order is technically still in effect. FTA expects to develop new standard operating procedures for the use of remedies and sanctions and revise the Order to incorporate these procedures in fiscal year 2013. However until the Order is revised, FTA Headquarters cannot systematically assess whether regions are appropriately using remedies and sanctions to resolve grantee deficiencies.

FTA Headquarters Does Not Systematically Track the Use of Remedies and Sanctions

FTA Headquarters does not systematically track regional use of remedies and sanctions. We identified instances where Region III had actually used remedies but neither Region III nor FTA Headquarters had tracked them. Region III provided us with information indicating that it used sanctions in only one instance and did not use any remedies during the 5-year period covered in our review. However, in applying FTA's guidance, we found remedies that Region III did not identify, indicating that FTA's definition of what constitutes a remedy may not have been clear to the Region. For example, as a result of the Maryland Department of Transportation Maryland Transit Administration's fiscal year 2006 combined State Management Review and Triennial Review, Region III requested

¹¹ One selected grantee did not have a Triennial Review performed during the period we audited.

a follow-up Triennial Review for fiscal year 2007. These reviews typically are conducted every 3 years, not annually, so the fiscal year 2007 Triennial Review would be considered a follow-up review and, therefore, a remedy. We also identified five more potential remedies where a Financial Management Oversight review was performed in the same or following year of a Triennial Review or State Management Review. However, neither Region III nor FTA Headquarters tracked these actions as a remedy.

FTA Headquarters provided examples of other regions' use of sanctions, but FTA officials stated FTA does not systematically track their use and that the regions do not notify FTA Headquarters of all sanctions. FTA acknowledged that its regions notify Headquarters only when they use certain significant sanctions, such as suspending ECHO privileges or denying a grant. We reviewed the documentation FTA provided but could not determine whether these examples represented a consistent application of sanctions due to the lack of a tracking process. Because FTA Headquarters does not have processes for systematically tracking remedies and sanctions, it does not have a sufficient basis to assess whether regions appropriately and consistently use these measures to resolve grantee deficiencies and ensure compliance with Federal requirements.

CONCLUSION

FTA awards billions of dollars in grant funds each year to more than 1,200 grantees across its 10 regions. However, insufficient guidance and oversight from FTA Headquarters, as well as the number of specific deficiencies in Region III, demonstrate that a more robust Oversight Program is needed to ensure that Federal funds are used efficiently and effectively. According to FTA, it recognizes these vulnerabilities and is conducting a comprehensive review of its Oversight Program. These efforts could go far in providing FTA additional insight into how its Headquarters, regional staff, and review contractors, are operating and identify opportunities to improve the consistency and results of its numerous oversight reviews, including the effectiveness of follow-up actions. Keeping those efforts on track is critical to improve its oversight of transit grantees and ensure appropriate stewardship of Federal funds.

RECOMMENDATIONS

We recommend that the Federal Transit Administrator:

1. Develop guidance with uniform review data collection and reporting procedures that, at a minimum, will enable FTA to identify common or systemic findings and compare findings across reviews for a particular grantee, conduct trend analysis, and evaluate outcomes from the overall Oversight Program.
2. Establish more robust methods for assessing contractor performance by:
 - a. Using a statistically valid quality assurance process for reviewing the data in contractors' reports and OTrak to determine whether contractors meet quality level acceptance requirements.
 - b. Completing the development of a contractor assessment form for the systematic collection of contractor performance information from regional staff, which, at a minimum, addresses contractor technical expertise, and use the information collected when procuring future oversight reviewers.
3. Develop performance measures to assess the effectiveness of the outcomes of its overall Oversight Program, in addition to the timeliness of program outputs currently measured.
4. Develop policies and procedures, including oversight mechanisms, to verify that regions do not close findings before they receive documentation showing that a finding has been resolved fully.
5. Revise and finalize policies and procedures for using remedies and sanctions, including application of a risk-based approach for their use.
6. Require FTA Headquarters staff to track and oversee each region's use of remedies and sanctions.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided FTA with our draft report on June 6, 2012. FTA provided technical comments on July 18, 2012, and its formal response on July 20, 2012. FTA's formal response is included in its entirety as an appendix to this report, and we incorporated FTA's technical comments where appropriate. FTA fully concurred with all six of our recommendations and provided appropriate planned actions and target dates for their completion.

FTA's actions, both those taken and planned, are responsive to our recommendations and we consider all six recommendations resolved but open pending completion of all planned actions.

ACTIONS REQUIRED

In accordance with follow-up provisions in Department of Transportation Order 8000.1C, we request that FTA provide our office documentation demonstrating completion of its planned actions within 30 days after they are completed. Accordingly, all six recommendations will remain open pending receipt of this documentation.

We appreciate the courtesies and cooperation of the Federal Transit Administration's representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5630 or Wendy M. Harris, Program Director, at (202) 366-2794.

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cc: Angela Dluger, FTA Audit Liaison (TBP-30)
Martin Gertel, DOT Audit Liaison (M-1)

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted our work from March 2011 through June 2012 in accordance with generally accepted Government auditing standards as prescribed by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To assess whether FTA Headquarters provided its regions and contractors with adequate guidance and oversight for key reviews and audits to ensure grantee deficiencies are consistently identified and accurately tracked, we obtained and reviewed key documentation from FTA including FTA's formal guidelines (such as FTA Circular 5010.1D, Grant Management Requirements, and FTA Order 5400.1, Oversight Reviews), internal FTA guidance provided to the regional offices from FTA Headquarters, and internal FTA correspondence that apply to all of FTA's regions. We also reviewed documentation related to the fiscal year 2011 DOT consolidated financial statement audit, which included assessments of oversight in FTA Regions VI and X, and relevant GAO reports. In addition, we interviewed FTA Region III and Headquarters staffs to gain a better understanding of their roles and responsibilities, their use of FTA documents that guide their activities, and the extent to which FTA Headquarters oversees regional and contractor oversight efforts.

To assess whether Region III effectively followed up on grantee deficiencies, we worked with the OIG statisticians to select a probability proportional to size sample of 20 out of 60 Region III grantees stratified by size (based on the amount of total obligations, as of April 12, 2011) and region-assigned oversight level, weighted by the number of key review and audit findings conducted from fiscal year 2006 through fiscal year 2010. Due to our sample design, 2 grantees were selected twice, which reduced the number of unique grantees selected from 20 to 18. For each selected grantee, we reviewed documentation from OTrak, the Single Audit Clearinghouse (if applicable), and the grantee's file from Region III regarding regional efforts to follow up on each of the 368 findings that the selected grantee had from reviews conducted from fiscal year 2006 through fiscal year 2010 and findings from 16 single audits in fiscal year 2010. We also determined whether any of the findings for these grantees were repeat findings during this time period. For closed findings, we determined whether the support the grantee provided was sufficient for FTA to close the finding. We also interviewed FTA Region III staff to enhance our understanding of the Region's follow-up efforts. The sampling allowed us to estimate the percentage of Region III's key review

findings that did not have support for closure, with 90 percent confidence and +/- 5 percent precision for the 842 findings in our universe.

To assess whether FTA has clear criteria to assess Region III's use of remedies or sanctions to address deficiencies, we identified FTA guidance for using remedies or sanctions, such as FTA Order 5400.1. We also interviewed FTA Region III staff and collected supporting documentation to determine whether the Region used any remedies or sanctions in response to the deficiencies identified, and interviewed FTA Headquarters staff members to get a better understanding of FTA's remedies and sanctions policies.

EXHIBIT B. FTA'S 15 OVERSIGHT REVIEW AREAS

Review Area	Responsible FTA Office	Description
1. Grant Oversight Assessment	Office of Program Management (TPM)	FTA completes Grantee Oversight Assessment Questionnaires, which serve as baseline information for each grantee's capacity and determine the risk the grantee's program may represent for the Federal program. Based on this information, FTA makes decisions about which grantees receive oversight reviews during the coming year. Regional staff uses the information to develop oversight plans and to allocate oversight resources within the region for the upcoming fiscal year.
2. Triennial Review	TPM	Evaluates Urbanized Area Formula Program grantees' grant management performance and compliance with current FTA requirements. The reviews must be conducted for each formula grant recipient at least once every 3 years. When appropriate, corrective actions are recommended to resolve a grantee's program management deficiencies. FTA monitors the grantee's actions until compliance with identified program requirements is achieved. If needed, FTA can invoke sanctions to ensure that the grantee acts to correct any noted program deficiencies.
3. State Management Review	TPM	Assesses a State's implementation and management of the Elderly Individuals and Individuals with Disabilities and the Non-Urbanized Area Formula Programs to ensure the programs meet FTA requirements and program objectives. The review follows a format similar to the Triennial Review and is conducted every 3 years.
4. Financial Management Reviews	TPM	FTA has several types of Financial Management reviews including: (1) a Full Scope Systems review that determines whether the grantee has in place proper financial controls and checks and balances to manage and track Federal funds and (2) a follow-up to a Full Scope review primarily to ensure that recommendations resulting from full scope reviews are implemented and working properly.
5. Procurement System Review	TPM	Ensures that Federal procurement requirements and standards for grants are met.
6. Americans with Disabilities Act	Office of Civil Rights (TCR)	Assesses civil rights compliance, which is required by recipients and subrecipients of Federal

Review Area	Responsible FTA Office *	Description
7. Title VI of the Civil Rights Act of 1964		assistance. FTA retains the right to review grantee compliance status at any time during the life of the project.
8. Disadvantaged Business Enterprise		
9. Equal Employment Opportunity		
10. State Safety Oversight Program	TPM	Monitors and evaluates compliance with FTA's State Safety Oversight Rule as part of FTA's triennial audits of rail transit agencies. These audits provide in-depth reviews of each State's program, and provide a forum to recommend improvements to the effectiveness of the State's oversight program.
11. Planning Certification Review	Office of Planning and Environment (TPE)	Provides guidance and assistance to and evaluates grantees considering projects seeking New Starts and Small Starts program funding.
12. Safety and Security Industry Guidance	TPM	Monitors and evaluates a rail transit agency's compliance with FTA's State Safety Oversight Rule and assesses grantee activities to enhance the personal security of passengers and employees and to support core emergency response capabilities.
13. Drug and Alcohol Audit	TPM	In-depth reviews of grantee and State programs, including a detailed examination of records and interviews with grantee personnel, contractors, and service agents, such as collection sites, medical review officers, substance abuse professionals, and third-party administrators.
14. Research, Demonstration, and Cooperative Agreements	Office of Research and Innovation (TRI)	Reviews grant recipient's compliance with the requirements of the cooperative agreements for research projects.*
15. Oversight Guidance	TPM	Specialized reviews of a grantee that needs additional oversight or is designated as high-risk.

Source: Unless otherwise noted, FTA Circular 5010.1D, Grant Management Requirements, dated November 1, 2008

* Administration and Management of Oversight Programs Standard Operating Procedures Manual, October 2008.

EXHIBIT C. FTA'S REGIONAL STRUCTURE



STATES COVERED BY FTA REGION III

Delaware
Maryland
Pennsylvania
Virginia
West Virginia

District of Columbia, including the D.C. Metropolitan Office

EXHIBIT D. 18 SELECTED REGION III GRANTEES

GRANTEE	LOCATION	TOTAL OBLIGATIONS (as of April 12, 2011)
Washington Metropolitan Area Transit Authority	Washington, DC	\$ 1,838,993,779
Port Authority of Allegheny County	Pittsburgh, PA	\$ 1,144,118,869
Maryland Department of Transportation - Maryland Transit Administration	Baltimore, MD	\$ 892,961,813
Delaware River Port Authority	Camden, NJ	\$ 175,454,834
Virginia Department of Rail and Public Transportation	Richmond, VA	\$ 137,848,617
Delaware Department of Transportation	Dover, DE	\$ 80,870,310
City of Richmond	Richmond, VA	\$ 42,871,564
Lehigh and Northampton Transportation Authority	Allentown, PA	\$ 28,845,440
Town of Blacksburg	Blacksburg, VA	\$ 18,531,854
Williamsburg Area Transit Authority	Williamsburg, VA	\$ 16,000,854
City of Charlottesville	Charlottesville, VA	\$ 10,709,221
Southwestern Pennsylvania Commission	Pittsburgh, PA	\$ 9,303,679
City of Philadelphia	Philadelphia, PA	\$ 6,926,171
Beaver County Transit Authority	Rochester, PA	\$ 6,371,620
Borough of Pottstown	Pottstown, PA	\$ 4,646,001
Tri-State Transit Authority	Huntington, WV	\$ 3,360,663
City of Winchester	Winchester, VA	\$ 2,138,970
Hazleton Public Transit	Hazleton, PA	\$ 1,541,904

EXHIBIT E. MAJOR CONTRIBUTORS TO THIS REPORT

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APPENDIX. AGENCY COMMENTS



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

Memorandum

Subject: **INFORMATION:** Management Response to the Office of Inspector General Draft Report on FTA's Grant Oversight Date: July 20, 2012

From: Peter M. Rogoff *Peter Rogoff* Administrator Reply to Attn. of: Angela Dluger (202) 366-5303

To: Calvin L. Scovel III
Inspector General

The Federal Transit Administration (FTA), responsible for investing billions each year in safe and effective public transportation across the Nation, works hard to ensure that each dollar invested is done so wisely and effectively. A critical part of FTA's work involves providing effective oversight for all aspects of recipients' programmatic and financial management where Federal funds are involved. As Administrator, I believe it is important to periodically take a hard, objective look at the systems, processes, and practices in place to ensure they are functioning as intended and to identify areas for further improvement. For this reason, in 2011, I directed FTA senior management to perform a nation-wide, top-to-bottom review of our Oversight Program. As a result, FTA is making critical improvements to its oversight processes, including more specific standardization of processes across regions, enhanced performance measures, and a more risk-based approach that will provide greater visibility into and more forward-looking feedback to recipients. To ensure that no stone is left unturned, I also requested the Office of Inspector General (OIG) to conduct this review to dig deeply into the operation of a single region. We appreciate the OIG's efforts and will carefully consider the results of this draft report as we continue to strengthen FTA's Oversight Program.

FTA Review Will Result in Targeted, Risk-based and Forward Looking Oversight

FTA established a working group chaired by the Deputy Administrator to see how well our Oversight Program's established processes were working and to ensure that the processes in place will serve FTA well in the future. We were particularly interested in determining whether changes were needed to ensure

FTA oversight processes are risk-based, forward-looking and targeted to recipients' particular oversight review needs.

As a result of the review, FTA introduced a revised State Management Review for Fiscal Year 2012. The changes incorporate greater risk-based analysis by strengthening questions in high risk areas such as procurement, program management, and financial management, and streamlining questions in other review areas. At the conclusion of the review cycle, we will seek feedback from the State Departments of Transportation and their sub-recipients about the changes and will make additional improvements in Fiscal Year 2013 based on what we learn.

More improvements to FTA's oversight processes are underway that will better focus oversight and enhance consistency. We are revising our oversight assessment and review processes to provide more consistent and useful information focused on high impact areas and to anticipate where recipients may need technical assistance as they implement new programs. To improve internal processes, FTA is developing Oversight Program Standard Operating Procedures (SOPs) to provide more consistent practices across regions and implementing new and better performance measures that will further emphasize quality outcomes. FTA is also enhancing our oversight data tracking system (OTrak). Finally, FTA is preparing to introduce a transformed Triennial Review process for Fiscal Year 2013.

RECOMMENDATIONS AND RESPONSE

Recommendation 1: Develop guidance with uniform review data collection and reporting procedures that, at a minimum, will enable FTA to identify common or systemic findings and compare findings across reviews for a particular grantee, conduct trend analysis, and evaluate outcomes from the overall Oversight Program.

FTA Response: Concur. FTA is developing Oversight Program SOPs, including one specifically related to data collection and reporting. These SOPs will clarify existing procedures and strengthen direction to FTA staff and contractors as to the data to be entered into the system, the parties responsible for data entry and monitoring, and the timelines for data entry and updates. To the extent possible, this will include tracking types of findings across review programs for a particular recipient. FTA expects to implement the SOPs by September 30, 2013.

Recommendation 2: Establish more robust methods for assessing contractor performance.

FTA Response: Concur. In February 2012, FTA initiated work on a SOP for Performance Evaluation of Oversight Contractors. The SOP will include

performance monitoring, documentation, and timeliness requirements for the FTA Regional Offices and the Headquarters-based Oversight Program Contracting Officer's Representatives. Under the SOP, FTA will make more systematic use of the Contractor Performance Assessment Reporting System. FTA expects to complete implementation of this process by September 30, 2012.

Recommendation 3: Develop performance measures to assess the effectiveness of the outcomes of its overall Oversight Program, in addition to the timeliness of program outputs currently measured.

FTA Response: Concur. During Fiscal Year 2013, FTA will implement performance measures that assess the effectiveness of the Oversight Program outcomes qualitatively, as well as quantitatively. FTA will use its fiscal year-end reports, which already include findings and deficiencies by region, when considering various performance measures. FTA expects to implement these by September 30, 2013.

Recommendation 4: Develop policies and procedures, including oversight mechanisms, to verify that regions do not close findings before they receive documentation showing that a finding has been resolved fully.

FTA Response: Concur. FTA is developing a set of Oversight Program SOPs which will clarify the requirements for closing findings. FTA will also consider how best to leverage Headquarters resources to perform a random sample-based verification of closed findings and supporting documentation. FTA expects to implement the procedures and review by September 30, 2013.

Recommendation 5: Revise and finalize policies and procedures for using remedies and sanctions, including application of a risk-based approach for their use.

FTA Response: Concur. FTA expects to complete the revision of its oversight procedures by September 30, 2013, which will include guidelines for the use of remedies and sanctions. FTA is preparing a more rigorous risk-based approach which will yield results not only in terms of the quality and depth of the evaluations themselves, but in the identification of appropriate remedial actions and sanctions. While the required follow-up actions will be based on the specific findings of each individual case, we expect that the general nature of the remedy, urgency of response, and expectations of the recipients for compliance will be applied more consistently under the clarified procedures.

Recommendation 6: Require FTA Headquarters staff to track and oversee each region's use of remedies and sanctions.

FTA Response: Concur. FTA expects to revise its oversight procedures by September 30, 2013, which will include a process for documenting the use of remedies and sanctions. This will allow us to track actual remedies and sanctions.