

DARTS COMPLIANCE REPORT

PROGRAM EVALUATION AND AUDIT



September 18, 2014

INTRODUCTION

Background

Metropolitan Transportation Services (MTS) partnered with the office of Program Evaluation and Audit (Audit) in 2010 to assist in the review of MTS' contracted transit providers and the suburban transit providers for compliance with Federal Transit Administration (FTA) regulations. Audit established a three year cycle of reviews of contractors and suburban transit providers for operational compliance with FTA regulations. The first cycle of reviews were completed in mid-2014. The second cycle of reviews began in the summer of 2014.

In addition to Audit's oversight MTS assigns staff to manage its contracts. The project manager has responsibility for oversight of the vendor's performance and compliance with the provision of the contract. Project managers review service performance, such as number of passengers, number of cancellations, and on-time performance. Periodic visits to the sites of transit providers and direct observation of transit services are also performed. MTS staff monitor compliance with certain FTA and contractual requirements. For example, there is a fleet manager that has responsibility for inspecting Met Council-owned vehicles operated by transit providers. Additionally, there is a staff person that has responsibility for monitoring compliance with FTA's drug and alcohol regulations.

Audit conducted a review of DARTS' operations during the summer of 2014. Audit conducted the review following the guidance provided by the FTA in its Triennial Review Workbook. A triennial review is a comprehensive review of a transit agency's policies and operations conducted by auditors contracted by the FTA. The intent by Audit is to provide a review more limited in scale as compared to the FTA's triennial review.

DARTS has a long relationship with the Met Council providing transit services for its clients and residents of Dakota County. DARTS currently has two contracts with MTS, one to provide Transit Link service and the other to provide Metro Mobility service. In addition, there is a vehicle lease agreement. DARTS has a wholly owned subsidiary, DARTS Vehicle Maintenance Service (VMS), which DARTS utilizes for the majority of maintenance of the vehicles they lease from the Met Council.

The Transit Link contract is to provide Dakota Country Transit Link Dial-a-Ride Service. Transit Link provides transit in areas where there is no fixed route option. DARTS must schedule rides, sell Transit Link fare coupon booklets, and collect fares for service. DARTS must collect and report specified data on trips to the Council. The Council agrees to lease 15 buses to DARTS over the term of the agreement. That term is made up of 5 contract years, beginning May 1, 2010, and ending April 30, 2015. DARTS is to be compensated on the basis of Dial-a-Ride revenue hours provided during each month. The maximum amount to be paid under the contract shall not exceed \$5,467,534. DARTS provided 3,044 Transit Link trips in July 2014.

The Metro Mobility contract is to provide Americans with Disabilities Act (ADA) and special transportation services in the areas of Lilydale, West St. Paul, South St. Paul, Mendota, Mendota Heights, Sunfish Lake, Burnsville, Eagan, Inver Grove Heights, Apple Valley, and Rosemount. DARTS must implement and administer the reservation and scheduling system for trips that fall under the contract. DARTS agrees to meet the regional performance standards, and collect and report specified data on trips to the Council, including collecting and reporting fares. Under this contract, the Council agrees to lease up to 37 vehicles to DARTS over the term of the agreement. The term of the agreement began July 1, 2013, and ends June 30, 2015. DARTS is to be compensated on the basis of vehicle

revenue hours utilized to provide the Metro Mobility service. The maximum operating amount to be paid under the contract shall not exceed \$8,176,120. DARTS provided 16,559 trips in July 2014.

Purpose

The purpose of this review was to ensure the compliance of the Council's contracted paratransit and Dial-A-Ride provider, DARTS, with U.S. Department of Transportation (DOT) and FTA requirements with regards to policies, documented processes, transit operations, and procurement contracts content.

Scope

The review included an assessment of DART's compliance with FTA regulations (see Appendix C) associated with operations and documented policy requirements in the following areas:

- Americans With Disabilities Act
- Buy America
- Drug and Alcohol
- Financial
- Lobbying
- Maintenance
- Procurement
- Safety and Security
- Satisfactory Continuing Control
- Suspension and Debarment
- Technical
- Title VI

During the course of the review additional compliance areas were reviewed with regards to use of a publicly leased facility, subcontract provisions, and U.S. Occupational Safety and Health Administration regulations.

Methodology

To evaluate DARTS' compliance with federal regulations and Met Council contractual requirements, the audit was conducted in three parts:

1. A desk review of all written plans, policies, training materials and other required documentation.
2. A questionnaire covering standard practices and procedures.
3. An onsite review consisting of questions of various staff and physical verification of documents and condition of property.

The following methods of inquiry were used:

- Review FTA regulations and Triennial review guidance.
- Review documentation provided by DARTS administration with regard to FTA regulations
- Inspect FTA funded buses to substantiate bus maintenance records
- Interview DARTS staff to better understand documentation and inquire about any discrepancies

- Review Metropolitan Council contracts with DARTS
- Review previous Council written correspondence regarding DARTS
- Review previous MTS audits of DARTS
- Interview MTS staff about previous DARTS audits

Assurances

This audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and the U. S. Government Accountability Office's *Government Auditing Standards*.

OBSERVATIONS

In July 2014 Audit staff conducted a desk review of various documents related to policies and operations of DARTS. Audit staff corresponded with DARTS' staff through email messages with questions about the information received.

Audit staff visited the campus of DARTS and DARTS Vehicle Maintenance Services (VMS) on Monday, August 11. Various records were randomly selected for review by Audit staff. Six buses were inspected during that time. Audit staff identified issues with three of the buses that were inspected and recommended to MTS' fleet manager that three of the buses be removed from service until repairs are made. The fleet project manager concurred and removed the buses from service. Audit staff returned on Wednesday, August 13 to inspect a larger number of buses for the purpose of better assessing the state of maintenance. Twelve buses were inspected that evening with four buses being removed from service by DARTS' fleet coordinator. Audit requested and received additional records pertaining to maintenance and the qualifications of maintenance staff.

Audit presented the draft findings to DARTS and VMS management on Thursday, September 4. DARTS and VMS management concurred to the accuracy of the facts presented. A letter with the findings was sent to DARTS' management on Monday, September 8. The letter is Appendix A of this report.

Performance data was falsified in order to improve on-time performance reporting.

A Metro Mobility manager found six instances where edited arrival time in Trapeze (a transportation management software system) did not appear to have a justification. DARTS Customer Service Manager admitted to MTS staff that the edits he made were for the purpose of improving the on-time performance. Further analysis by Metro Mobility staff found other examples where time edits were made to show earlier arrivals for trip in July when, in fact, Global Positioning System (GPS) data shows that the buses were not at the claimed locations at the edited time. This falsification of records to improve DARTS on-time performance reporting also resulted in inappropriate billings to customers. Customers are not required to pay fares when a ride is late by 30 minutes or more. When DARTS falsified the arrival time to improve its on-time performance reporting, customers paid fares that should have been exempted.

DARTS Customer Service Manager edited the arrival times to "make the numbers better," in other words, to improve the on-time performance of the buses.

The falsification of this data makes it difficult to accurately determine whether DARTS is compliant with 49 CFR §37.131 Service Criteria for Complementary Paratransit. This is also a violation of subsection 6.4 of the contract with the Met Council for ADA service and subsection 6.04 of the contract with the Met Council for Transit Link service. Falsification of data raises the question of the integrity of any data provided.

Buses were inadequately maintained

Audit visually inspected 18 Council-owned buses. Almost all of the buses inspected presented cleanliness and maintenance issues that represent the Council poorly to customers and the general public. Interiors of buses were dirty. Floors needed to be swept, windows were smudged, and seats were torn and stained. Drivers were keeping boxes of papers, cleaning supplies, and what appeared to be trash or other personal effects out in the open where it would be the first thing a customer sees upon entering the bus. On the exterior, Audit found several buses with Metro Mobility and other identifying signage peeling or missing completely. Additionally, many buses had repairs made with silicone caulking that was dirty and did not match the exterior color of the bus. There were many easily repairable chips, rust, and dents on bus exteriors that had not been addressed. Appendix B includes summaries of the bus inspections and maintenance records.

In addition to aesthetic issues with bus maintenance, Audit found several serious safety hazards or issues related to the Americans with Disabilities Act (ADA), resulting in a request to remove seven of the 18 buses inspected from service. One was removed from service because of a lift door that wouldn't open without excessive force. Three were removed from service because the wheelchair lifts would not deploy correctly. Two were removed from service because the panel above the driver's foot pedals was missing, and there were exposed wires hanging down. One was removed from service because the latches on the back emergency exit window were so corroded that the window could not be opened.

The intervals between oil changes from October 2013 to the first week of August 2014 were analyzed for 52 buses. Only 75.7% of the oil changes observed occurred on time, which is below the 80% mandated by the Federal Transit Administration. Since the fourth quarter of 2013 and through August 6, 2014 the on-time rate of oil changes fluctuated between 77% and 63%. A trend analysis indicated a general decline in the rate of on-time oil changes from April 2014 to August 2014.

Quarter	Number of oil changes observed	Number of oil changes over 5,500	On-time Percentage
Q4 2013	93	21	77%
Q1 2014	96	23	76%
Q2 2014	87	21	76%
Q3 2014	38	14	63%

Note: Q3 2014 data from July 1 to August 6, 2014

To determine the cause of the inadequate maintenance, Audit randomly selected and analyzed maintenance records for ten Council-owned buses. Audit found a clear pattern of general neglect to respond in a timely manner to driver reported issues on pre-trip and post-trip check-lists. This spanned from minor issues to issues that were much more serious, including those that could lead to engine failure and other costly repairs, and issues that could threaten the safety of the driver, passengers or the public. Review of these records resulted in a Council-owned bus being removed from service out of concern that the engine could fail due to neglected maintenance.

During the document review, Audit found that VMS was generally good about servicing buses the same day that DARTS submitted a work order. It appeared that DARTS staff was largely the cause of the deferred maintenance. The DARTS Fleet Manager was waiting between several days to several months to authorize service for issues that drivers reported. The DARTS Fleet Manager was also documented as rejecting service that was recommended by VMS and telling drivers to wait for the next preventive maintenance appointment to deal with their requests for service. Audit also discovered that most VMS maintenance technicians were not certified, and were performing service on Council-owned vehicles that they were not qualified to perform – a violation of the Council's contract.

Overall, the inadequate maintenance, especially of safety-related issues, also poses a great risk, as it can lead to the serious injury of a driver, passenger, or member of the public.

The poor maintenance of Council-owned vehicles also poses a great financial risk to the Council. Deferred maintenance can result in buses not fulfilling their expected life-span, leading to costly overhauls or replacements. It can also result in voiding warranty protection for the vehicles. The Council is at also at risk of litigation when ADA accessibility features of buses are not maintained and do not operate correctly.

VMS facility use not in accordance with conditions of grant

During the on-site review, the records of service in the VMS garage for the last three months were requested. This list was reviewed on site, and several services from one for-profit company were noted. The names of several private individuals were also noted.

Audit also analyzed all VMS invoices from August 1 to August 11. Audit found evidence of two for-profit companies, and one private individual, receiving service at VMS during this time.

DARTS built a garage, which is used by VMS, partially funded with a \$900,000 grant from the Council in 2000. In 2005, DARTS requested permission to create a subsidiary corporation (VMS) and lease the garage to VMS, where Council-owned vehicles would still be maintained. A General Counsel opinion from 2005 found that servicing other non-profit companies' transit vehicles was consistent with the grant agreement that required the garage use be consistent with the Transit Capital Improvement Plan and Transportation Policy Plan. However, it was determined that the servicing of vehicles for local for-profit businesses or employees of DARTS was inconsistent with the conditions of the grant.

On August 14, 2014 DARTS was directed to cease servicing for-profit businesses and private individual vehicles. DARTS has reported that they immediately complied with the directive.

Contract and federal compliance issues have surfaced within the past year

A similar review by Audit in 2011 of DARTS found 4 deficiencies – 3 findings and 1 advisory comment in the areas of Maintenance (1 finding), Drug and Alcohol (2 findings), and Title VI (1 advisory comment). A comprehensive review by MTS in 2012 found that DARTS had taken corrective action on previous audit findings. MTS staff reported that they had performed a review in December 2012 at which time they were satisfied with DARTS' performance and contract compliance. The FTA's drug and alcohol review in August 2013 found DARTS with several deficiencies.

Over the last several months, MTS staff met with DARTS concerning performance, maintenance, drug and alcohol, and subcontracting issues. Within the last year the majority of DARTS' managers and supervisors were replaced.

CONCLUSIONS

DARTS and VMS operations were not in compliance with FTA and contractual requirements resulting in significant financial and safety risks

In total the review by Audit identified 20 deficiencies. Seventeen deficiencies were within five areas of FTA compliance: Americans With Disabilities Act (ADA) – 3 findings; 1 advisory comment; Drug and Alcohol – 3 findings; Maintenance – 8 findings; Procurement – 1 finding; and Satisfactory Continuing Control – 1 finding. Three other deficiencies were found, one each in areas regarding Occupational Safety and Health Administration, Transit Link contract compliance, and VMS facility lease terms (described above). Many of the 17 deficiencies in FTA compliance areas were also violations of contractual obligations to the Met Council as identified in the letter to DARTS in Appendix A.

Overall, the inadequate maintenance, especially of serious safety-related issues, poses a great risk, if as it could result in the serious injury of a driver, passenger, or member of the public. DARTS's poor maintenance of Council-owned vehicles also poses a great financial risk to the Council. Deferred maintenance can result in buses not fulfilling their expected life-span, leading to costly overhauls or replacements. It can also result in voiding warranty protection for the vehicles. The Council is at also at risk of litigation when ADA accessibility features of buses are not maintained and do not operate correctly.

This falsification of records to improve DARTS on-time performance reporting resulted in inappropriate fare collection. DARTS customers paid fares that should have been exempted. The Met Council relies on the accurate reporting of performance data by its contractors. In the FTA's reviews of the Met Council's paratransit services, on-time performance is reviewed. Falsification of this data can result in findings in the FTA's review of the Met Council's paratransit services.

During the course of the review, MTS management notified DARTS that their contracts with the Met Council were being terminated as of November 9, 2014.

RECOMMENDATIONS

Program Evaluation and Audit recommendations are categorized according to the level of risk they pose for the Council. The categories are:

- **Essential** – Steps must be taken to avoid the emergence of critical risks to the Council or to add great value to the Council and its programs. Essential recommendations are tracked through the Audit Database and status is reported twice annually to the Council's Audit Committee.
- **Significant** – Adds value to programs or initiatives of the Council, but is not necessary to avoid major control risks or other critical risk exposures. Significant recommendations are also tracked with status reports to the Council's Audit Committee.
- **Considerations** – Recommendation would be beneficial, but may be subject to being set aside in favor of higher priority activities for the Council, or may require collaboration with another program area or division. Considerations are not tracked or reported. Their implementation is solely at the hands of management.
- **Verbal Recommendation** – An issue was found that bears mentioning, but is not sufficient to constitute a control risk or other repercussions to warrant inclusion in the written report. Verbal recommendations are documented in the file, but are not tracked or reported regularly.

1. (Essential) MTS management must ensure that for the remainder of their contracts with DARTS that DARTS comply with FTA regulations and our contract terms.

DARTS will continue to provide services until November 9, 2014. During this time vehicles must be maintained in safe operating condition in order to protect our customers. In addition the Council is required to ensure that all FTA regulations are complied with.

Management Response: *MTS has retained a qualified contractor to inspect the condition of Council-owned buses. Any items identified beyond normal wear and tear will be repaired by DARTS certified mechanics in a timeframe acceptable to the Council or outsourced to a repair shop at DARTS' expense.*

MTS staff will monitor corrective actions to ensure that DARTS is compliant with all FTA requirements.

Council staff will conduct frequent on-site reviews of DARTS' maintenance and operations activities to ensure service continues without disruption through the term of the agreements.

Staff Responsible: Gerri Sutton

Timetable: Ongoing through November 9, 2014

2. (Significant) MTS management should review, on a periodic basis, performance data edits for all contractors.

Performance data is reported in Trapeze. There are appropriate reasons for contractors to edit this data. On an annual or more frequent basis MTS contract managers should review performance data edits to identify potentially inappropriate edits of performance data.

Management Response: *MTS staff is working with Trapeze to remove any ability for a contractor to change the scheduled time of a confirmed trip. In the interim, staff will run reports to identify any scheduled trip time edits and investigate accordingly.*

For actual arrival times, MTS staff will develop report tools to help identify inappropriate edits and routinely review and validate editing activity.

Staff Responsible: *Andrew Krueger*

Timetable: *Immediately*

Appendix A

September 8, 2014

Mr. Gregory Konat
1645 Marthaler Lane
West St. Paul, MN 55118

Dear Mr. Konat,

Thank you for your cooperation through the Metropolitan Council's recent Federal Compliance Review of DARTS. As a contracted transit provider your compliance with all applicable federal regulations is imperative. In the attachment you will find the results of the twelve areas reviewed. We note that your organization is fully compliant in seven areas. Deficiencies were found in five areas. We offer recommendations for each of the findings and advisory comments, in light of the appropriate federal regulations. For your reference, the citations containing the requirement are included for each comment. Please note that this letter only addresses the compliance issues in your general transit operation; more compliance reviews and recommended actions may be needed regarding past and future projects receiving federal funding.

During the process of the review, additional issues were identified in the areas of the blood borne pathogens exposure control plan, Transit Link contract, and VMS facility use. Findings concerning these issues are included in the attachment.

Please respond by October 1, 2014 with corrective action plans for addressing the recommendations for each of the findings. Please identify the individuals responsible for accomplishing the plans and the timeframe. The lone advisory comment does not require a response. Thank you again for your cooperation throughout the auditing process.

If you have questions about the review, please contact Brian Hanninen at 651-602-1462 or by email at brian.hanninen@metc.state.mn.us.

Sincerely,

Arleen Schilling, CIA
Director, Program Evaluation and Audit Metropolitan Council

CC: Arlene McCarthy, Director, Metropolitan Transportation Services
Gerri Sutton, Assistant Director, Contracted Transit
Brian Hanninen, Audit Project Team Leader, Program Evaluation and Audit

Attachment: Draft Metropolitan Council Federal Compliance Review of DARTS

FTA COMPLIANCE REVIEW DARTS

Per **Minn. Stat. §13.392, subd. 1**: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.



Appendix A

ADA

1) Finding: Inoperable wheelchair lifts in 4 out of 18 buses inspected.

Condition: During the on-site vehicle inspection, four lifts required manual assistance from the lift operator or excessive use of the remote to deploy or stow. These lift issues were not mentioned in the driver's pre/post documents.

Standard Affected: CFR Title 49 Subtitle A Part 37 Subpart G Section 37.163: Keeping vehicle lifts in operative condition: Public entities.

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

Recommendation: DARTS' bus operators should be required to report any lift issues promptly, no matter how minor. If a lift fails while a bus is on route, the driver should notify dispatch immediately. Buses with lift operation issues must be taken out of service and repaired promptly. VMS should make repair of DARTS' wheelchair lifts a priority when scheduling vehicles for service.

2) Finding: Improper maintenance of accessibility features

Condition: During the on-site inspection, the lift door handle on one of the buses needed an excessive amount of pressure to open. This was out of the ordinary and something that should have been reported by the driver.

Standard Affected: CFR Title 49 Subtitle A Part 37 Subpart G Section 37.161: Maintenance of accessible features: General

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Appendix A

Recommendation: Operators should be reminded to report any lift or lift equipment issues promptly, no matter how minor. VMS should make repair of these buses a priority when scheduling vehicles in for their services.

3) Finding: *Inaccurate reporting of on-time performance.*

Condition: It was discovered that there was a practice of altering arrival times in the Trapeze scheduling system to improve the percentage of on-time pick-ups. The misreporting of this data makes it difficult to accurately determine whether DARTS is compliant with *CFR Title 49 Subtitle A Part 37 Subpart F Section 37.131: Service criteria for complementary paratransit.*

Standard Affected: *CFR Title 49 Subtitle A Part 37 Subpart F Section 37.131: Service criteria for complementary paratransit.*

(f) Capacity constraints. *The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:*

(1) *Restrictions on the number of trips an individual will be provided;*

(2) *Waiting lists for access to the service; or*

(3) *Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.*

(i) *Such patterns or practices include, but are not limited to, the following:*

(A) *Substantial numbers of significantly untimely pickups for initial or return trips;*

(B) *Substantial numbers of trip denials or missed trips;*

(C) *Substantial numbers of trips with excessive trip lengths.*

(ii) *Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.*

Recommendation: DARTS must stop practice of altering arrival times in Trapeze data inappropriately. DARTS should retrain employees using Trapeze about the importance of accurately entering information.

4) Advisory Comment: *Use of phrase “common wheelchair”*

While DARTS was not limiting service by only accepting “common” wheelchairs, they were advised during the on-site visit on August 11 to remove the phrase “common wheelchair” from their policies. They were told that they are allowed to advertise the weight limit of their lifts, as long as it is the true weight limit, but just should not use the phrase “common wheelchair.” They agreed to remove this wording.

Appendix A

Standard affected: DOT's Final Rule amending 49 CFR Part 37 deletes the sentence containing "common wheelchair" from Part 37.

FTA Triennial Review Guide FY2014, pages 4-11,4-12: *The grantee must change its operating policies so as not to limit service accessibility by the term "common wheelchair."*

Recommendation: DARTS must change the wording of its ADA policy in regards to mobility devices transported by their vehicles.

Buy America

None

Drug and Alcohol

1) Finding: Employees that had previously worked in a position that requires DOT drug testing and hired by DARTS had not had their drug testing information requested from prior employers.

Condition: DARTS brought it to Audit's attention that, when the Drug and Alcohol program responsibilities changed hands, there was a misunderstanding about the requirement to follow-up on the testing history of new safety-sensitive employees who previously worked in a DOT position. This issue was discovered in June, and DARTS staff is now working on obtaining the missing records for all employees still working at DARTS. They freely admitted this issue, and are aware of what they need to do in the future.

Standard Affected: DOT Rule 49 CFR Part 40 Section 40.25. Subpart B: Employer Responsibilities. *Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?*

(a) Yes, as an employer, you must, after obtaining an employee's written consent, request the information about the employee listed in paragraph (b) of this section. This requirement applies only to employees seeking to begin performing safety-sensitive duties for you for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this written consent, you must not permit the employee to perform safety-sensitive functions.

(b) You must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer:

(1) Alcohol tests with a result of 0.04 or higher alcohol concentration;

Appendix A

(2) Verified positive drug tests;

(3) Refusals to be tested (including verified adulterated or substituted drug test results);

(4) Other violations of DOT agency drug and alcohol testing regulations; and

(5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.

(c) The information obtained from a previous employer includes any drug or alcohol test information obtained from previous employers under this section or other applicable DOT agency regulations.

(d) If feasible, you must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless you have obtained or made and documented a good faith effort to obtain this information.

(e) If you obtain information that the employee has violated a DOT agency drug and alcohol regulation, you must not use the employee to perform safety-sensitive functions unless you also obtain information that the employee has subsequently complied with the return-to-duty requirements of Subpart O of this part and DOT agency drug and alcohol regulations.

(f) You must provide to each of the employers from whom you request information under paragraph (b) of this section written consent for the release of the information cited in paragraph (a) of this section.

(g) The release of information under this section must be in any written form (e.g., fax, e-mail, letter) that ensures confidentiality. As the previous employer, you must maintain a written record of the information released, including the date, the party to whom it was released, and a summary of the information provided.

(h) If you are an employer from whom information is requested under paragraph (b) of this section, you must, after reviewing the employee's specific, written consent, immediately release the requested information to the employer making the inquiry.

(i) As the employer requesting the information required under this section, you must maintain a written, confidential record of the information you obtain or of the good faith efforts you made to obtain the information. You must retain this information for three years from the date of the employee's first performance of safety-sensitive duties for you.

Appendix A

(j) As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section)

Recommendation: DARTS must obtain DOT drug testing records of all new employees. DARTS should remove any employee from a safety sensitive position whose records have not yet been obtained after 30 days, and not return them to that position until the records have been obtained or a good faith effort to obtain them has been documented.

2) Finding: One instance of late post-accident testing

Condition: One example was found in post-accident testing records where an employee in an accident was tested for alcohol 5 minutes later than the 2-hour window following the accident, which is DARTS' policy and FTA policy. Although the supervisor who completed the post-accident test questionnaire put the time as 5 minutes late, the box marked "Yes" was checked, indicating that the test took place within the 2-hour window. This employee's name did not appear in the log of employees whose post-accident test had been outside of the 2-hour window. FTA requires that if an alcohol test is completed outside the two hour window, documentation must be kept explaining why the test was not correctly completed. Staff was made aware of this during the August 11 visit. They agreed to add the employee name to the log and look into the issue.

Standard Affected: CFR Title 49, Subtitle B, Chapter VI, Part 655, Subpart E, Section 655.44: *Post-accident testing.*

(i) As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the employer shall drug and alcohol test each covered employee operating the mass transit vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

(ii) If an alcohol test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and maintain the record. Records shall be submitted to FTA upon request of the Administrator.

Recommendation: DARTS should add the instance outside the 2-hour window to their record of alcohol testing completed outside of the required time frame. Supervisors should be reminded that testing taking place even a few minutes outside of window must still be recorded as outside of the window. Management should review documents submitted regarding post-accident testing to ensure that forms are filled out accurately.

Appendix A

3) *Finding: DARTS did not make all policy changes recommended in findings from a 2013 FTA Drug and Alcohol Compliance Audit*

Condition:

- 1) DARTS was instructed to add to its post-accident testing policy an exception for employees in non-fatal accidents whose performance has been discounted. This addition does not appear to have been made to current DARTS drug and alcohol policy.
- 2) DARTS was instructed to add to its pre-employment testing policy language that an individual receiving a negative drug test should be referred to a qualified SAP. This language does not appear to have been added to current DARTS drug and alcohol policy.
- 3) DARTS was instructed to add to its removal of duty discussion after a positive drug test language that states that individuals refusing to take drug tests also be referred to an SAP.

Standard Affected: *Final Audit Report, FTA Drug and Alcohol Compliance Auditing Program 2013*

Recommendation: DARTS should make all changes to its Drug and Alcohol Policy that were recommended in the 2013 FTA Drug and Alcohol Audit.

Financial

None

Lobbying

None

Maintenance

1) *Finding: Inadequate staffing for maintaining vehicle maintenance records*

Condition: Volunteers are tasked with entering maintenance records into DARTS' computer system. There is a significant lag time between when maintenance is done and when it gets entered. The data entry includes many errors.

Appendix A

Standard affected: FTA standards as prescribed in the FTA Triennial Review Workbook 2014: *The way in which the agency's maintenance function is organized and staffed, along with the experience of maintenance staff, should be commensurate with the agency's size and complexity*

Recommendation: DARTS should hire adequate and qualified staff to maintain the Council fleet. It is recommended that DARTS not utilize volunteers for data entry of time sensitive tasks such as bus preventative maintenance services. Given the size of DARTS' transportation operations, there should be a full or half-time staff member qualified to enter and schedule vehicle service. Typically, this would fall under the authority of a fleet manager, which DARTS employs. It is also recommended that DARTS follows the DARTS Vehicle Fleet Maintenance Program and VMS Facility and Equipment Maintenance Plan.

2) Finding: Non-certified mechanics

Condition: Non-certified maintenance technicians are servicing Metropolitan Council owned vehicles.

Standard affected: FTA standards as prescribed in the FTA Triennial Review Workbook 2014: *The way in which the agency's maintenance function is organized and staffed, along with the experience of maintenance staff, should be commensurate with the agency's size and complexity.*

Master Lease Agreement Between the Metropolitan Council and DARTS for Transit Vehicles, Chapter IV, Sub-section 4.01: *Lessee Responsible for Vehicle Maintenance.* Lessee shall at its sole cost and expense maintain all Council Vehicles and their equipment, including safety and emergency equipment, in good working condition (normal wear and tear expected) to minimize breakdowns, to maximize passenger and driver safety, and to meet applicable local, state, and federal standards. No driver shall be required or allowed to operate a vehicle that is not in safe operating condition and does not meet all such standards. All maintenance on Council Vehicles and equipment must be done by mechanics licensed under applicable local and state standards.

Recommendation: It is recommended that DARTS utilize trained and qualified mechanics to repair Metropolitan Council owned vehicles. Technician certifications should be maintained with personnel files and easily accessible.

3.) Finding: Interiors of the buses generally appeared unkempt

Condition: Trash and driver's personal items were found in many of the buses inspected. Interior cleanliness was not maintained, with dirty floors, seats, and windows in many of the buses were documented.

Standard Affected: FTA Circular 5010.1D Ch. IV, Sub-section 3.j (1)(b): The lessee shall maintain project property at a high level of cleanliness, safety, and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor lessor and/or FTA shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and the proper maintenance of the project property.

Agreement No. 09P176 Agreement Between the Metropolitan Council and DARTS For Operation of Public Transit Service (Dakota County Transit Link Dial-a-Ride), Chapter IV, Sub-section 4.03: *Vehicle Cleaning.* The Contractor shall be responsible at its cost for maintaining all Vehicles in a neat and clean appearance.

Appendix A

Recommendation: DARTS must comply with the Council contract requirements for cosmetic maintenance of vehicles. We recommend that buses be cleaned thoroughly in conjunction with the language in agreement No. 09P176 and that washer fluid is stored out of the sight of passengers if stored on the bus. Section 4.03 of agreement No. 09P176 regarding Vehicle Cleaning should be referenced and adhered to.

4.) Finding: Exteriors of many of the buses appeared to be in need of minor repairs

Condition: The exteriors of many of the buses inspected appeared to be in need of minor repairs. Even if the damage does not impair vehicle functioning, damaged buses give a poor impression of the Metropolitan Council to the public.

Standard Affected: FTA Circular 5010.1D Ch. IV, Sub-section 3.j (1)(b): The lessee shall maintain project property at a high level of cleanliness, safety, and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor lessor and/or FTA shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and the proper maintenance of the project property.

Master Lease Agreement Between the Metropolitan Council and DARTS for Transit Vehicles, Chapter IV, Sub-section 4.01: *Lessee Responsible for Vehicle Maintenance.* Lessee shall at its sole cost and expense maintain all Council Vehicles and their equipment, including safety and emergency equipment, in good working condition (normal wear and tear expected) to minimize breakdowns, to maximize passenger and driver safety, and to meet applicable local, state, and federal standards. No driver shall be required or allowed to operate a vehicle that is not in safe operating condition and does not meet all such standards. All maintenance on Council Vehicles and equipment must be done by mechanics licensed under applicable local and state standards.

Recommendation: DARTS must comply with the Council contract requirements for cosmetic maintenance of vehicles. Vehicles should be thoroughly inspected by drivers in pre/post trips and any commentary should be reviewed and corrected by the Fleet Manager in coordination with VMS as agreed to by the DARTS VMS Vehicle Maintenance Plan as well as the Master Lease Agreement between the Metropolitan Council and DARTS.

5.) Finding: Unsatisfactory vehicle maintenance records keeping

Condition: DARTS and VMS use different systems for keeping track of vehicle maintenance. Discrepancies were found between paper records and computer records. These issues were found in the computer records systems of both DARTS and VMS. For example, half of the invoices analyzed had different appointment dates from when the technician put that he performed the work on the work order. Mistakes had also been made when entering data from VMS invoices into DARTS' computer system.

Standard Affected: FTA standards as prescribed in the FTA Triennial Review Workbook 2014: The grantee agrees to keep satisfactory records pertaining to the use of project property.

Recommendation: DARTS must implement and maintain a satisfactory record keeping system. Delay in entering maintenance records into the fleet management system results in inaccurate records. When records are missing or delayed in entry it is extremely difficult to determine if preventative maintenance is occurring on time. Therefore it is difficult to assess whether DARTS is compliant and on-time with its

Appendix A

preventative maintenance schedule according to FTA regulations. It is recommended that a proper and streamlined method be implemented immediately to track vehicle maintenance.

6.) Finding: *Unsafe buses being kept in service*

Condition: Three buses were found during vehicle inspection that badly needed repairs that should not have been left in service. The Audit team requested that these buses be removed from service.

Standard Affected: 49 CFR Part 18.32 (d)(4) states: "Adequate maintenance procedures must be developed to keep the property in good condition."

FTA Circular 5010.1D Ch. IV Section 3.m: "The grantee agrees to maintain project property in good operating order and in compliance with any applicable Federal regulations or directives that may be issued, except to the extent that the FTA determines otherwise in writing."

Master Lease Agreement Between the Metropolitan Council and DARTS for Transit Vehicles, Chapter IV, Sub-section 4.01: *Lessee Responsible for Vehicle Maintenance*. Lessee shall at its sole cost and expense maintain all Council Vehicles and their equipment, including safety and emergency equipment, in good working condition (normal wear and tear expected) to minimize breakdowns, to maximize passenger and driver safety, and to meet applicable local, state, and federal standards. No driver shall be required or allowed to operate a vehicle that is not in safe operating condition and does not meet all such standards. All maintenance on Council Vehicles and equipment must be done by mechanics licensed under applicable local and state standards.

Recommendation: DARTS should remind drivers to report all needed repairs promptly and must make repair of federally funded buses a priority. Furthermore, buses with serious repair issues should not remain in service until repair is completed.

7.) Finding: *Preventative maintenance is not occurring on time*

Condition: The oil changes for 52 buses from the last year were analyzed. The OEM specification, and the interval followed by DARTS for their bus maintenance, for oil changes is 5,000 mile intervals. "On time" can be up to 110% of that interval. This means that buses can go up to 5,500 miles between oil changes. Only 75.7% of the oil changes analyzed were on time.

Standard Affected: 49 CFR Part 18.32 (d)(4) states: "Adequate maintenance procedures must be developed to keep the property in good condition."

FTA Circular 5010.1D Ch. IV Section 3.m: "The grantee agrees to maintain project property in good operating order and in compliance with any applicable Federal regulations or directives that may be issued, except to the extent that the FTA determines otherwise in writing."

The FTA standards as prescribed in the FTA Triennial Review Workbook 2014 states that the grantee is deficient if fewer than 80 percent of the inspections for any mode or operation occurred on time.

Master Lease Agreement Between the Metropolitan Council and DARTS for Transit Vehicles, Chapter IV, Sub-section 4.01: *Lessee Responsible for Vehicle Maintenance*. Lessee shall at its sole cost and expense maintain all Council Vehicles and their equipment, including safety and emergency equipment, in good working condition (normal wear and tear expected) to minimize breakdowns, to maximize passenger and driver safety, and to meet applicable local, state, and federal standards. No driver shall be required or allowed to operate a vehicle that is not in safe operating condition and does not meet all

Appendix A

such standards. All maintenance on Council Vehicles and equipment must be done by mechanics licensed under applicable local and state standards.

Recommendation: DARTS must comply with FTA regulations and perform preventative maintenance on time for at least 80% of the Metropolitan Council owned fleet. DARTS must become compliant with FTA regulations for bus maintenance, and follow the organization's policies regarding when preventative maintenance will take place. It is recommended that a more reliable system for keeping track of and scheduling preventative maintenance be developed and strictly followed.

8.) Finding: Issues reported by drivers in pre-trip checklists remained unresolved for extended periods of time

Condition: The pre-trips and corresponding Vehicle Maintenance Service (VMS) records for 10 buses from the last year were analyzed. There is a clear pattern of general neglect to respond in a timely manner to the issues that drivers raise in their pre-trip check-lists. This spans from minor issues to issues that are serious, could lead to engine failure or other costly repairs, and to issues that could threaten the safety of the driver and/or passengers. During the course of the review one engine on a Metropolitan Council owned bus failed and a second Council owned bus was removed from service out of concern of that engine failing.

Standard Affected: The Dakota County Transit Link Dial-A-Ride contract between The Metropolitan Council and DARTS, Section 2.01 Contractor's Responsibilities, states: "The Contractor's responsibilities include... maintaining equipment... The Contractor shall take all steps necessary to ensure the safety and reasonable comfort and convenience of the public utilizing the transit services." Section 4.05 Vehicle Safety Inspections states: "The Contractor shall ensure that repairs are made in a timely manner and a vehicle shall not be placed in service until all safety related repairs are made."

FTA Circular 5010.1D Ch. IV Section 3.m: "The grantee agrees to maintain project property in good operating order and in compliance with any applicable Federal regulations or directives that may be issued, except to the extent that the FTA determines otherwise in writing."

Recommendation: DARTS must develop and strictly adhere to a procedure for requesting service in a timely manner for issues that are identified during driver pre-trip checks. When a driver identifies an issue in a pre-trip check, there should be a clear and detailed policy for the Fleet Manager to immediately schedule service with VMS for the repairs or other services. This process should involve the Fleet Manager completing a clear work order with exactly what services should be performed. It should also include processes for the Fleet Manager to review work orders and invoices from VMS for accuracy and to ensure that work requested was actually performed.

Procurement

1.) Finding: The service agreement with Lifeworks does not contain the appropriate FTA required clauses

Condition: The current service agreement effective December 1, 2013 and amended April 1, 2014 lacks FTA required clauses. The business associate agreement contains federal clauses pertaining to

Appendix A

electronic protected health information, but lacks any FTA required clauses such as Americans with Disabilities Act and Equal Employment Opportunity.

Standard Affected: FTA Circular 4220.1F, Chapter IV, Section 2 requires third party contracts to contain required FTA clauses as determined by the FTA Master Agreement.

FTA's Master Agreement contains a current, but not all-inclusive, description of statutory and regulatory requirements that may affect a recipient's procurement (such as Disadvantaged Business Enterprise (DBE) and Clean Air requirements). The Master Agreement states that applicable Federal requirements will apply to project participants to the lowest tier necessary to ensure compliance with those requirements. A recipient will also need to include applicable Federal requirements in each subagreement, lease, third party contract, or other document as necessary. For specific guidance on cross-cutting requirements administered by other Federal agencies, FTA recommends that the recipient contact those agencies.

Recommendation: DARTS must execute a service agreement with Lifeworks that includes appropriate FTA clauses.

Safety and Security

None

Satisfactory Continuing Control

1.) Finding: DARTS is not keeping updated record of bus locations

Condition: DARTS did not provide an accurate list of off-site bus locations when requested.

Standard Affected: CFR 49 18.32 Equipment. (d) management requirements

- (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who hold title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property
- (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

Recommendation: DARTS must establish a procedure for keeping the records regarding bus location current.

Appendix A

Suspension and Debarment

None

Technical

None

Title VI

None

Blood Borne Pathogens Exposure Control Plan

1.) Finding: DARTS does not have in place a Blood Borne Pathogens Exposure Control Plan

Condition: After finding 7 of 18 buses inspected had unsealed and/or expired Body Fluid Clean Up Kits, Audit was informed that DARTS did not have a Blood Borne Pathogens Exposure Control Plan.

Standard Affected: CFR 29 Part 1910 Occupational Safety and Health Standard Subpart Z Toxic and Hazardous Substances Standard Number 1910.1030 Bloodborne pathogens (c) (1) (i)

Each employer having an employee(s) with occupational exposure as defined by paragraph (b) of this section shall establish a written Exposure Control Plan designed to eliminate or minimize employee exposure

Recommendation: DARTS should create a Blood Borne Pathogens Exposure Control plan which includes a procedure for regularly checking the expiration dates on Body Fluid Clean Up Kits.

Transit Link Contract

1.) Finding: DARTS does not meet contractual obligations of storage for Council-owned vehicles.

Condition: DARTS was discovered to be storing fewer than 50% of Transit-Link fleet indoors.

Appendix A

Standard Affected: Agreement No. 09P176 , Agreement Between the Metropolitan Council and DARTS For Operation of Public Transit Service (Dakota County Transit Link Dial-a-Ride)

The facilities for storing vehicles must permit a minimum of 50% of the Council owned fleet to be stored inside. Contractor will store at least 50% of the Council owned vehicles indoors. Council owned vehicles shall be given preference for inside storage.

Recommendation: DARTS must begin storing at least 50% of Transit Link vehicles indoors and give Council-owned vehicles preference for indoor storage.

VMS Facility Use

1.) Finding: VMS servicing vehicles of for-profit companies and private individuals.

Condition: During the on-site review, the records of service in the Vehicle Maintenance Service (VMS) garage for the last three months were requested. This list was reviewed on site, and several services from one for-profit company, Crawford Door, were noted. The names of several private individuals were also noted.

Standard Affected: The VMS garage was built with grant funded from the Council. In 2005, DARTS requested permission to create a subsidiary non-profit corporation and lease the garage to that non-profit, where Council-owned vehicles would still be maintained. A General Counsel opinion from 2005 found that servicing other for-profit companies' transit vehicles was consistent with the Transit CIP and Transportation Policy Plan. However, it was determined that the servicing of vehicles for local businesses or employees of DARTS was inconsistent with these documents.

Recommendation: DARTS must stop servicing vehicles of for-profit companies and private individuals in the VMS garage. The General Counsel opinion, and the regulations of the Transit CIP and Transportation Policy Plan, must be followed.

Appendix B

Synthesized Analysis for Discussion of Maintenance Findings

Findings: Interiors of the buses generally appeared unkempt. Exteriors of many of the buses appeared to be in need of minor repairs. DARTS placed unsafe vehicles into service.

The following details the results of the vehicle inspections that took place on August 11 and August 13, 2014. Figures are in an appendix to this document.

08-123

Passenger door wouldn't open until manually pushed on. Garage manager said this was because of humidity. Missing "M" from the Met Council decal on the right side of the bus (Fig 1.1). Duct tape on part of wheelchair lift (Fig 1.2). Slight exterior damage on right side of bus near door.

08-130

Passenger door needed to be opened manually. Lift door wouldn't open until unnecessary pressure was placed on it. Partially burnt out rear left light. Front Met Council decals on bus peeling. Unsealed body fluid clean-up kit. Interior condition very dirty, boxes near front of bus with various unnecessary items, dirty floor, dirty seats (Fig 2.1). Crack in left back exterior panel (Fig 2.2).

Requested that this bus be taken out of service until lift repairs completed.

08-120

Rear light not working. Cracked exterior on back right end. Body Fluid kit not sealed. Dirty interior, unnecessary items being kept in front of bus. Wheelchair lift gets stuck, have to press alternate buttons on controls until it comes down.

Requested that this bus be taken out of service until lift repairs completed.

63107

Trash in door to prevent rattling of wheelchair lift door. Reflector missing on right side of bus. Dirty drivers area. Dirty windows. Dirty lift doors (Fig 3.1). Body fluid kit not sealed.

T-5

Rusting back window latches, window not secure because lock is corroded (Fig 4.1). Wrong color/visible caulking on front left of exterior. Body fluid kit not sealed. Driver's personal items in front of bus.

08-51

Title VI sticker falling off. Badly cracked left exterior panel. Battery door open and wouldn't stay closed (Fig 5.1). Dirty interior, sunflower seeds on top of dash on driver's side. Bottom panel of wheelchair lift wouldn't deploy until tapped.

Requested that this bus be taken out of service until lift repairs completed.

08-116

Chipped left wheel well. Missing panel near driver's pedals on right side (Fig 6.1). Dirty wheelchair lift doors. Suspected body fluid kit was expired, opened to check. Expiration date was 12/2008. Emergency exit corroded and would not open.

Requested bus that this bus be taken out of service until repairs made.

63107

Body fluid clean up kit is expired. Dirty wheelchair lift door. Bus had just come in from route and was inspected while driver was doing post-trip.

Appendix B

08-54

No Met Council decal in front of bulk head. Broken back left wheel well. Rusted bumper. Back emergency exit window will not open, handles are corroded.

Requested that this bus be taken out of service until repairs are made.

110

Dirty around lift. Exposed wires under driver's area (Fig 7.1).

Requested that this bus be taken out of service until repairs are made.

121

Garbage in passenger seats, open first aid kit. Expired body fluid kit. Wrong color caulk used on exterior of bus (Fig 8.1). Ripped driver's seat.

63901

Stained passenger seats (Fig 9.1).

63101

Inside left wheelchair door dirty with red liquid. Wheelchair lift "froze" at top before folding. ***Requested that this bus be taken out of service until lift repairs completed.***

128

Cleaning supplies/tools in right front door. Dirty interior.

63000

No first aid or body fluid clean up kit. Exposed wiring and ripped seats.

64248

Driver's personal items in front of bus. Really dirty windows (Fig 10.1) .

63103

Dirty interior

63102

Windshield washer fluid on bus, dirty front area. Dirty interior, walls need to be wiped down. Panel missing above door with exposed wires. Dirty windows.

Appendix B

Finding: *Preventive maintenance is not occurring on time*

Oil changes from the last year for the following buses were analyzed:

Bus	Number of oil changes observed	Number of oil changes over 5,500
51	5	2
54	6	0
107	5	2
110	6	1
111	8	1
112	6	2
113	6	3
114	10	3
115	5	1
116	8	3
118	9	1
119	2	1
120	9	1
121	7	1
122	7	2
123	5	1
124	9	2
125	8	1
126	6	1
127	10	2
128	7	2
129	5	2
130	8	3
215	7	1
216	7	1
217	8	1
218	4	1
219	4	1
239	5	1
249	6	2

Appendix B

Bus	Number of oil changes observed	Number of oil changes over 5,500
3000	7	1
3001	3	1
3002	7	4
3100	6	2
3101	7	2
3102	7	2
3104	6	2
3105	4	0
3106	4	0
3107	6	1
3108	4	1
3900	10	2
3901	4	0
4247	6	1
4248	7	2
4258	7	3
6499	5	1
63003	9	4
63103	7	2
64227	5	0
64238	4	2
T-5	6	1
Totals	329	80

For these 52 buses, 75.7% of the oil changes observed occurred on time during the last 12 months.

A combination of DARTS computer maintenance records, VMS invoices, and VMS technician checklists were used to gather the observations. There were many errors in the DARTS computer maintenance records, which resulted in 20 additional observations being thrown out. (For example, the mileage reported for an oil change was less than the mileage reported for the previous oil change).

Using the PM observations from the last year, we attempted to determine whether oil change on-time rates were declining by quarter. We have data from Quarter 4 of 2013, and Quarters 1 - 3 of 2014. The PM on-time rate for Quarter 4 of 2014 was 77%. The PM on-time rate for both Quarters 1 and 2 of 2014 was 76%. We only have data from July of 2014, as well as about a week of August, so not from the entire quarter. The data from the first 6 weeks of Quarter 3 indicated that the PM on-time rate was 63%.

Appendix B

However, since we don't have the entire quarter's data, we cannot draw conclusions about how much on-time PMs declined during the entirety of Quarter 3.

Quarter	Number of oil changes observed	Number of oil changes over 5,500	On-time Percentage
Q4 2013	93	21	77%
Q1 2014	96	23	76%
Q2 2014	87	21	76%
Q3 2014	38	14	63%

Note: Q3 2014 data from July 1 to August 6, 2014

Appendix B

Finding: Issues reported by drivers in pre-trip checklists remained unresolved for extended periods of time

10 buses were analyzed to determine if maintenance was being deferred.

Below are the findings for each bus:

Bus	Findings
64227	<ul style="list-style-type: none"> The horn was inoperable for 71 days. The bus was serviced 28 days after the horn issue first appeared in the pre-trips, but the issue was not fixed at this time. Check engine light was on for 55 days before the bus was serviced. The overhead light over the passenger door was out for longer than the horn. As of July 9, the most recent VMS invoice, it had not been replaced.
64216	<ul style="list-style-type: none"> A/C motor was out for 9 days before it was repaired. It was driven at least 4 times before it was repaired. The driver's side emergency window was swinging open for the same amount of time. One driver had to tape it down.
64238	<ul style="list-style-type: none"> Check engine and "wrench icon" lights were both reported on 7 times, over the course of 17 days, before being serviced. Oil changes at 20,000 and 30,000 miles were both late, despite the need for a PM being written in pre-trips multiple times.
64249	<ul style="list-style-type: none"> A broken exhaust pipe hanger was reported on April 23, 2014. The bus was serviced for a PM on April 24, but the exhaust pipe hanger was not repaired. The issue was reported again on May 12 and on June 2. No record that it was repaired, the drivers stopped writing it up. A headlight was reported out for 8 days before being replaced. A light on the wheelchair lift was reported out 11 times over the course of 44 days before being replaced. Oil changes at 40,000 and 50,000 miles were both late, despite the need for a PM being written up multiple times.
64239	<ul style="list-style-type: none"> A problem with the A/C was written up on May 27, June 2 – 4. The bus was serviced June 10, and the technician wrote there was no issue with the A/C. The A/C was written up in a pre-trip again on June 20, and was serviced June 24. A different technician did find a problem, and repaired it. Three pre-trips, May 19, May 27 and June 4, all describe a rattling of the plexiglass behind the driver's seat. One driver says she used a money bag to prevent the noise. No record from VMS invoices that this was fixed. The left rear tire was reported low on July 7 and 8. On July 9, the driver had to take the bus to a service station (the bus was parked off-site). It was serviced later that day at VMS, and a screw was removed and patched.

Appendix B

110	<ul style="list-style-type: none"> • Mud flap was first reported damaged June 8, but no record of repair. On July 6, Fleet Manager wrote on the pre-trip regarding the issue, "Wait for PM." But subsequent PM on July 23 did not repair the issue. • Rearview mirror was reported cracked on May 29, which is a safety issue. The tech wrote that this was supposedly done during the work on June 10, but the invoice does not mention it. The rearview mirror was observed to be cracked during the on-site inspection on August 13. • An issue with the brakes being "weak" or "spongy" first appeared May 14, and was written up a total of 3 times, before the bus was serviced. This took 14 days to address. • A/C not working was first reported June 20, again on June 22. The bus was serviced June 24 and the technician said that the A/C was working correctly. Pre-trips indicate the A/C continued to be broken until the bus was serviced again on July 7, when a different technician found a faulty high pressure switch. A/C was broken a total of 17 days.
111	<ul style="list-style-type: none"> • The lift counter has been broken since at least January 2014, which is as far back as the pre-trips that were analyzed go. • Note from the Fleet Manager on a pre-trip said to "Wait for PM," even though the check engine light was on and the lift counter had been broken for some time. When the service is done, only some issues are addressed. The technician notes on the VMS invoice indicate "Deferred Work: Check Engine Light is On."
130	<ul style="list-style-type: none"> • The check engine light being on was first reported April 12. It remained written up over and over again in pre-trips without ever being completely resolved, until at least after August 5. The first time the bus is serviced and the check engine light codes diagnosed was April 22. The tech replaced cylinder 6 and coil and spark plug. The check engine light remained on, according to pre-trips. The coolant is reported low May 7, and often reported in subsequent pre-trips. Service on June 2, June 24, and June 26 all miss the real issue. Finally, July 10, a technician diagnoses a failed head gasket. The head gasket is not replaced/repared. July 18 during service, tech notes that the head gasket is "going," and that a gallon of coolant is being replaced every other day. Still not repaired/replaced. Serviced again August 5, with no mention of the head gasket issue. • The gear shift indicator was first written up as broken on May 24. Drivers could not visually see what gear they were in. Written up over and over until June 2. Broken for 8 days. Went out on route 9 times during those 8 days. • Tail pipe reported loose first on June 4. Repaired June 24. Broken for 20 days.
3107	<ul style="list-style-type: none"> • Arm on wheelchair lift was broken for 9 days. During that time the bus was serviced to be jump started and sent out as long as there were no other issues. This safety issue was not prioritized over getting the bus out on route.
T-5	<ul style="list-style-type: none"> • Driver reported the counter on wheelchair lift not working 3 times over the course of 5 days. Was not repaired at the next PM. There is a note on a pre-trip from June 27 that says "See Ali" regarding the lift counter. No record that the lift counter was repaired. • High beams were reported not working on February 7 and 17. Do not see evidence that this was corrected in the VMS invoices, but the driver stopped reporting it.

Appendix B

Below is a table that documents how many days it took for an issue that was reported in a pre-trip to show up on a work order.

Bus Number	Issue	Date first mentioned in pre-trip(s)	Date work was requested in work order	Delay in days
64227	Check engine light on	5/15	5/28	13
64227	Horn broken	4/29	7/8	71
216	A/C broken and emergency window flying open while driving	5/19	6/1	13
64238	PM	12/26	1/7 (PM late)	12
64238	Check engine light and wrench icon light on	2/21	3/10	17
64238	Work by VMS found codes that the tech said were under warranty	3/10	4/14 is date the bus was taken to AutoNation	35
64238	PM	6/3	6/30 (PM late)	27
64249	Headlight out	5/27	6/4	8
64249	Tail pipe hanging	5/12	6/4	23
64249	PM	7/25	8/4	10
64249	Wheelchair light out	6/23	8/4	42
64239	A/C needs to be turned on	5/27	6/10	14
64239	Lift issue	5/27	6/10	14
64239	Rear tire low – had screw in it	7/7	7/9	2
110	Brakes “weak” and “spongy”	5/14	5/28	14
110	Rear tire tread low	6/8	6/19 (deferred 6/10)	11
110	A/C broken	6/8	6/24	16
111	A/C blower motor “too loud”	5/24	6/19	26

Appendix B

111	Emergency brake not holding	6/25	7/1	11
130	Check engine light	4/12	4/22	10
130	Gear shift indicator broken – can't see what gear the bus is in	5/24	6/2	8
130	Area where you put fuel into the bus is broken	6/11	7/18	37
3107	Lift arm and seatbelt broken	7/24	7/31	7
T-5	Tail pipe leaking	2/7	2/15	8

Below is a table that describes issues that were brought up in pre-trips starting from January 1, 2014, that Audit could not verify had ever been requested for service in work orders by DARTS. [6.2.5]

Bus Number	Issue	Date first mentioned in pre-trips
216	Body damage	6/27
110	Mud flap torn off	6/8 – Ali wrote "Wait for PM" on pre-trip from 7/6, but next PM this was not requested

Five instances of VMS staff not performing requested repairs or service were identified:

VMS defers work
64249: Pre-trips start mentioning tail pipe issue 5/12. Work order had no date, but did request tail pipe repair, work was done 6/4, but did not fix it. The next work order also had no date, but requested the tail pipe again, and it was done 6/12. (Still took DARTS 19 days to request it from the first time the pre-trips mention it).
111: Check engine light first diagnosed 7/1. Work order requested it be checked again 7/17, but scan was not performed.
130: A work order with no date says "2nd work order" at the top in Fleet Manager's handwriting. No proof of first work order. Requested PM. PM was late. Work was done 6/2.
3107: 10K PM requested 6/26. Work done 6/30. (4 days)
T-5: 10K PM requested 7/1. Work done 7/2. (1 day)
64238: Pre-STS inspection, check engine light/wrench light. PM Tires. Requested 3/10. Work done 3/11. (1 day). (However, pre-trips start mentioning lights 2/21).

Appendix B

You may also refer to the work orders and pre-trips that indicate the DARTS Fleet Manager refused service that was advised by VMS staff and also told drivers to wait for the next PM for issues to be addressed.

It was often difficult to determine whether work that was brought up in pre-trips had actually been requested by DARTS, and when it had been requested, because work orders were not filled out with detailed information. Over a quarter of the 66 work orders analyzed did not have a date written by the DARTS personnel requesting the service, only a date from the technician of when the work was performed. Over a quarter of the work orders analyzed also did not have anything written for what work was requested. 10% of the work orders that had something requested said "See write-ups," rather than telling the technician directly what work was being requested.

The table below details the work orders that had these issues. The bus number and date of the work order is provided. If there was "no date for work order," the date is what the technician put for when the work was performed.

No date for work order	Nothing requested	"See write ups"
64227 (5/28)	64227 (3/12)	111 (6/19)
216 (3/12)	64227 (6/3)	130 (3/22)
216 (6/1)	216 (2/4)	130 (6/2)
64238 (4/21)	216 (4/17)	130 (6/24)
64238 (5/20)	216 (6/11)	130 (6/26)
64249 (6/4)	64238 (3/20)	
64249 (6/12)	64238 (4/21)	
64239 (6/10)	110 (5/19)	
64239 (6/20)	130 (4/7)	
No date for work order	Nothing requested	
64239 (7/9)	130 (8/2)	
110 (6/10)	3107 (6/18)	
111 (5/29)	3107 (7/14)	
111 (6/19)	3107 (7/21)	
111 (6/19)	3107 (7/28)	
130 (6/2)	T-5 (2/25)	
130 (7/9)	T-5 (3/10)	
3107 (7/31)	T-5 (3/31)	

Appendix B

Finding: *Uncertified mechanics servicing DARTS buses*

The table below shows the maintenance staff with questionable authority to work on DARTS vehicles, as well as the type(s) of work they were described in VMS invoices as performing:

Name	Job Description	Type(s) of work performed
MS1	Apprentice level with automotive experience	<ul style="list-style-type: none"> • 10K preventive maintenance w/ lift inspection • 5K preventive maintenance • Brake replacement • Fluid change • Electrical system and battery work • Re-adjustment to wheelchair lift • Lift light repair • A/C repair • Headlamp replacement • Exhaust hanger clamp replaced • Driveshaft support removed and replaced • Headlight switch replaced
MS2	Shop Assistant	<ul style="list-style-type: none"> • 10K preventive maintenance w/ lift inspection • Install and balance tires • Horn repair
MS3	Shop Assistant	<ul style="list-style-type: none"> • Lift repair • A/C spring "get ready" • Headlight bulb replacement • Headlamp replacement • Jump start
MS4	Previous employee (left as of 8/18/14)	<ul style="list-style-type: none"> • 5K preventive maintenance • Body repair • Electrical wiring on lift replacement • Tail pipe repair • Lift repair • Lift door repair • Tire replacement and repair • Headlamp replacement • Transmission fluid inspection • Turn signal wiring and connector repair
MS5	Previous employee	<ul style="list-style-type: none"> • 5K preventive maintenance

Appendix B

Appendix

Photos from vehicle inspection.

Fig 1.1 Duct tape on lift accessory



Fig 2.1 Junk up front near driver



Fig 3.1 Corroded Emergency exit handles



Appendix B

Fig 4.1 Open battery enclosure



Fig 5.1 Missing panel /exposed wires



Fig 6.1 Exposed wires



Appendix C

Summary of Audit Sections

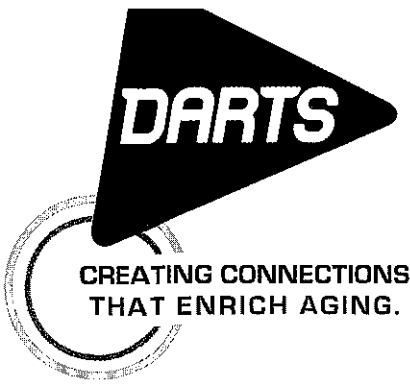
No.	Section	Description	Federal Regulation
1	Financial	Subrecipients must demonstrate ability to manage FTA grant funds and conduct an organization-wide audit.	FTA Circular 5010.1D, "Grant Management Requirements"
2	Technical	Subrecipients must have the ability to implement and manage grants properly.	FTA Circular 5010.1D, "Grant Management Requirements"
3	Satisfactory Continuing Control	Subrecipients must maintain control over FTA funded facilities and equipment.	FTA Circular 5010.1D, "Grant Management Requirements" FTA Circular 9300.1B, "Capital Investment Program Guidance and Application Instructions"
4	Maintenance	Subrecipients must keep federally funded equipment and facilities in good operating order.	FTA Circular 5010.1D, "Grant Management Requirements" 49 CFR 37, "Transportation Services for Individuals With Disabilities (ADA)"
5	Procurement	Subrecipients will have procurement procedures that reflect applicable state and local law that ensures competitive procurements and will maintain a contract administration system to ensure contractor performance.	FTA Circular 4220.IF, "Third Party Contracting Guidance"
6	Buy America	Subrecipients must meet Buy America requirements for procurements of steel, iron or manufactured goods. Special requirements apply to procurements of rolling stock.	49 CFR Part 661, "Buy America Requirements"
7	Suspension and Debarment	Subrecipients are required to ensure that non of their principals and third-party contractors and subcontractors are debarred, suspended, ineligible, or voluntarily excluded from participation in federally assisted transactions.	2 CFR Part 180, "OMB Guidelines To Agencies on Government wide Debarment And Suspension"
8	Lobbying	Subrecipients and certain contractors/subcontractors must certify compliance with the Restrictions on Lobbying before receiving federal funds.	49 CFR Part 20, "New Restrictions on Lobbying"
9	Title VI	Transit services and related benefits must be distributed in an equitable manner with no discrimination on the grounds of race, color or national origin.	FTA Circular 4720.1A, "Title VI and Title Vi-Dependent Guidelines for Federal Transit Administration Recipients"

Appendix C

10	ADA	Subrecipients must not discriminate against persons with disabilities in the provision of transit service.	49 CFR Part 37, "Transportation Services for Individuals with Disabilities" 49 CFR Part 38, "ADA Accessibility Specifications for Transportation Vehicles"
11	Safety and Security	Subrecipients should have safety and security plans and document related expenditures.	TSA/FTA 17 Security and Emergency Management Action Items for Transit
12	Drug and Alcohol	Subrecipients should have drug and alcohol testing program for safety sensitive employees, maintain a drug-free workplace and establish an ongoing drug-free awareness program.	Title 49 Part 40, "Procedures for transportation workplace drug and alcohol testing programs" 49 CFR Parts 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations"

APPENDIX D

DARTS' RESPONSE TO FTA COMPLIANCE REVIEW LETTER



September 16, 2014

Arleen Schilling, CIA
 Director, Program Evaluation and Audit
 Metropolitan Council
 390 Robert Street North
 Saint Paul, MN 5101-1805

Dear Ms. Schilling:

This letter is in response to your September 8, 2014 letter regarding the Met Council's Federal Compliance Review of DARTS. We appreciate giving us until October 1 to respond; however, given that we have already implemented changes based on your recommendations we wanted to return our audit response today.

As you indicated, DARTS is fully compliant in seven areas and deficiencies were found in five areas. We have outlined our Actions Steps to address these concerns in the attached document. Please note that DARTS has taken immediate action on as many items as possible such as updating policies and standard operating procedures.

I also want to highlight below the steps we've taken at an organizational level to address the DARTS maintenance of Met Council vehicles:

- As the maintenance issues came to light during the FTA audit process in July and August, I decided that we needed personnel changes in our VMS subsidiary. As of September 11, I have removed three staff people including the General Manager. We have already added one new certified technician, are in the processing of hiring another certified technician, and are in the process of hiring a qualified new leader for the maintenance area.
- On Friday, September 12, I received approval from our Board of Directors to integrate VMS back into DARTS as a Maintenance Department. We believe that by bringing VMS "in-house," we can tighten the quality control, record keeping, and communications issues surrounding vehicle maintenance.
- An experienced consultant (approved by the Met Council) will be brought in to DARTS to conduct a complete maintenance audit, analyze processes, and recommend changes.



- The board has also authorized a \$175,000 maintenance fund to be used to upgrade personnel, provide additional training, and improve systems & processes.
 - We will hire a management-level fleet maintenance person who would report directly to the Director of Transportation.
 - We will also invest in enhancing our software systems to facilitate better record-keeping.

Our DARTS team and I have learned a tremendous amount about our own organization and the FTA regulations through the audit process. We appreciate the time and attention that your staff has put into this effort. Responding to the audit has been a top priority for us since we received the draft report from the Met Council.

If you have questions or concerns about any of our responses, please call me directly at 651-239-2228 and we can discuss them. I would also be available to meet with you as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory J. Konat". The signature is fluid and cursive, with the first name being the most prominent.

Gregory J. Konat
President and CEO

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

FTA COMPLIANCE REVIEW DARTS

DRAFT

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.



METROPOLITAN
C O U N C I L

September 2014

ADA

1) Finding: Inoperable wheelchair lifts in 4 out of 18 buses inspected.

Condition: During the on-site vehicle inspection, four lifts required manual assistance from the lift operator or excessive use of the remote to deploy or stow. These lift issues were not mentioned in the driver's pre/post documents.

Standard Affected: *CFR Title 49 Subtitle A Part 37 Subpart G Section 37.163: Keeping vehicle lifts in operative condition: Public entities.*

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

Recommendation: DARTS' bus operators should be required to report any lift issues promptly, no matter how minor. If a lift fails while a bus is on route, the driver should notify dispatch immediately. Buses with lift operation issues must be taken out of service and repaired promptly. VMS should make repair of DARTS' wheelchair lifts a priority when scheduling vehicles for service.

DARTS Action Steps: As of September 15, 2014, Driver Supervisors will be required to complete a random check on lift operation throughout each day. Fleet Coordinator, Dispatch and Drivers will be notified that any lift operation issues requires the bus to be taken out of service. New VMS management will prioritize lift repairs on daily schedules.

As of September 15, 2014, the DARTS Driver SOP has been updated to reinforce the importance of reporting any lift operation issues including disciplinary measures if drivers do not fill out pre & post checklists accurately. Fleet Maintenance & VMS work flow process now includes a prioritization note about lift issues.

2) Finding: Improper maintenance of accessible features

Condition: During the on-site inspection, the lift door handle on one of the buses needed an excessive amount of pressure to open. This was out of the ordinary and something that should have been reported by the driver.

Standard Affected: *CFR Title 49 Subtitle A Part 37 Subpart G Section 37.161: Maintenance of accessible features: General*

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Recommendation: Operators should be reminded to report any lift or lift equipment issues promptly, no matter how minor. VMS should make repair of these buses a priority when scheduling vehicles in for their services.

DARTS Action Steps: As of September 15, 2014, Fleet Coordinator and interim VMS shop manager have been directed to prioritize lift repairs in scheduling. Fleet Maintenance & VMS work flow process now includes a prioritization note about lift issues.

3) Finding: *Inaccurate reporting of on-time performance.*

Condition: It was discovered that there was a practice of altering arrival times in the Trapeze scheduling system to improve the percentage of on-time pick-ups. The misreporting of this data makes it difficult to accurately determine whether DARTS is compliant with *CFR Title 49 Subtitle A Part 37 Subpart F Section 37.131: Service criteria for complementary paratransit.*

Standard Affected: *CFR Title 49 Subtitle A Part 37 Subpart F Section 37.131: Service criteria for complementary paratransit.*

(f) Capacity constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

(1) Restrictions on the number of trips an individual will be provided;

(2) Waiting lists for access to the service; or

(3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A) Substantial numbers of significantly untimely pickups for initial or return trips;

(B) Substantial numbers of trip denials or missed trips;

(C) Substantial numbers of trips with excessive trip lengths.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

Recommendation: DARTS must stop practice of altering arrival times in Trapeze data inappropriately. DARTS should retrain employees using Trapeze about the importance of accurately entering information.

DARTS Action Steps: As of August 14, 2014, DARTS implemented a Zero Tolerance policy for trip data editing, changed relevant SOPS, and re-trained all staff. When this issue was brought to DARTS attention, we investigated the situation and found that a previous DARTS Operations Manager had been incorrectly directing staff to adjust data on trips. The average time adjustment was 5.4 minutes and occurred in less than 4% of the trips analyzed. 2 days after receiving notification of this problem, we implemented a Zero Tolerance policy for trip data editing, changed relevant SOPS, and re-trained all staff. 7 business days after notification, we reported on implementation of our action plan on Trip Data Integrity and are preparing to submit one final piece of information to the Met Council on this matter. In a meeting with Met Council personnel, DARTS was told that there were other transportation providers who were also modifying data and were notified to cease that practice. Fleet Maintenance & VMS work flow process will include a prioritization note about lift issues.

As of August 14, 2014, Driver, Customer Service, and Dispatch SOPs have been changed. Trip Data Integrity policy has been included in the DARTS employee handbook. Director of Transportation meets weekly with Customer Service & Dispatch Supervisor to review trip data. Any further incidents will be reported immediately to the CEO.

4) Advisory Comment: Use of phrase "common wheelchair"

While DARTS was not limiting service by only accepting "common" wheelchairs, they were advised during the on-site visit on August 11 to remove the phrase "common wheelchair" from their policies. They were told that they are allowed to advertise the weight limit of their lifts, as long as it is the true weight limit, but just should not use the phrase "common wheelchair." They agreed to remove this wording.

Standard affected: DOT's Final Rule amending 49 CFR Part 37 deletes the sentence containing "common wheelchair" from Part 37.

FTA Triennial Review Guide FY2014, pages 4-11,4-12: *The grantee must change its operating policies so as not to limit service accessibility by the term "common wheelchair."*

Recommendation: DARTS must change the wording of its ADA policy in regards to mobility devices transported by their vehicles.

DARTS Action Steps: As of September 16, 2014, DARTS ADA policy was changed to delete the word "common" from the language. As of September 30, 2014, all other materials will be reviewed and changed to delete the word "common" as recommended above.

Buy American

None

Drug and Alcohol

- 1) **Finding:** *Employees that had previously worked in a position that requires DOT drug testing and hired by DARTS had not had their drug testing information requested from prior employers.*

Condition: DARTS brought it to Audit's attention that, when the Drug and Alcohol program responsibilities changed hands, there was a misunderstanding about the requirement to follow-up on the testing history of new safety-sensitive employees who previously worked in a DOT position. This issue was discovered in June, and DARTS staff is now working on obtaining the missing records for all employees still working at DARTS. They freely admitted this issue, and are aware of what they need to do in the future.

Standard Affected: *DOT Rule 49 CFR Part 40 Section 40.25. Subpart B: Employer Responsibilities. Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?*

(a) *Yes, as an employer, you must, after obtaining an employee's written consent, request the information about the employee listed in paragraph (b) of this section. This requirement applies only to employees seeking to begin performing safety-sensitive duties for you for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this written consent, you must not permit the employee to perform safety-sensitive functions.*

(b) *You must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer:*

(1) *Alcohol tests with a result of 0.04 or higher alcohol concentration;*

(2) *Verified positive drug tests;*

(3) *Refusals to be tested (including verified adulterated or substituted drug test results);*

(4) *Other violations of DOT agency drug and alcohol testing regulations; and*

(5) *With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.*

(c) *The information obtained from a previous employer includes any drug or alcohol test information obtained from previous employers under this section or other applicable DOT agency regulations.*

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

(d) If feasible, you must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless you have obtained or made and documented a good faith effort to obtain this information.

(e) If you obtain information that the employee has violated a DOT agency drug and alcohol regulation, you must not use the employee to perform safety-sensitive functions unless you also obtain information that the employee has subsequently complied with the return-to-duty requirements of Subpart O of this part and DOT agency drug and alcohol regulations.

(f) You must provide to each of the employers from whom you request information under paragraph (b) of this section written consent for the release of the information cited in paragraph (a) of this section.

(g) The release of information under this section must be in any written form (e.g., fax, e-mail, letter) that ensures confidentiality. As the previous employer, you must maintain a written record of the information released, including the date, the party to whom it was released, and a summary of the information provided.

(h) If you are an employer from whom information is requested under paragraph (b) of this section, you must, after reviewing the employee's specific, written consent, immediately release the requested information to the employer making the inquiry.

(i) As the employer requesting the information required under this section, you must maintain a written, confidential record of the information you obtain or of the good faith efforts you made to obtain the information. You must retain this information for three years from the date of the employee's first performance of safety-sensitive duties for you.

(j) As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section)

Recommendation: DARTS must obtain DOT drug testing records of all new employees. DARTS should remove any employee from a safety sensitive position whose records have not yet been obtained after 30 days, and not return them to that position until the records have been obtained or a good faith effort to obtain them has been documented.

DARTS Action Steps: As of September 15, 2014, previous drug testing results have been obtained for relevant employees with the following exceptions: one employee who has left the organization and one employee who moved to a non-safety sensitive position.

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

As of September 16, 2014, DARTS procedure for new safety-sensitive employees includes getting records from previous DOT employer records.

2) Finding: One instance of late post-accident testing

Condition: One example was found in post-accident testing records where an employee in an accident was tested for alcohol 5 minutes later than the 2-hour window following the accident, which is DARTS' policy and FTA policy. Although the supervisor who completed the post-accident test questionnaire put the time as 5 minutes late, the box marked "Yes" was checked, indicating that the test took place within the 2-hour window. This employee's name did not appear in the log of employees whose post-accident test had been outside of the 2-hour window. FTA requires that if an alcohol test is completed outside the two hour window, documentation must be kept explaining why the test was not correctly completed. Staff was made aware of this during the August 11 visit. They agreed to add the employee name to the log and look into the issue.

Standard Affected: CFR Title 49, Subtitle B, Chapter VI, Part 655, Subpart E, Section 655.44: *Post-accident testing.*

(i) As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the employer shall drug and alcohol test each covered employee operating the mass transit vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

(ii) If an alcohol test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and maintain the record. Records shall be submitted to FTA upon request of the Administrator.

Recommendation: DARTS should add the instance outside the 2-hour window to their record of alcohol testing completed outside of the required time frame. Supervisors should be reminded that testing taking place even a few minutes outside of window must still be recorded as outside of the window. Management should review documents submitted regarding post-accident testing to ensure that forms are filled out accurately.

DARTS Action Steps: As of September 14, 2015, this instance has been added to our Post-accident log. As of September 16, 2014, Driver Supervisors have been retrained about correct documentation regarding post-accident reporting and the importance of the 2-hour window.

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

3) Finding: DARTS did not make all policy changes recommended in findings from a 2013 FTA Drug and Alcohol Compliance Audit

Condition:

- 1) DARTS was instructed to add to its post-accident testing policy an exception for employees in non-fatal accidents whose performance has been discounted. This addition does not appear to have been made to current DARTS drug and alcohol policy.
- 2) DARTS was instructed to add to its pre-employment testing policy language that an individual receiving a negative drug test should be referred to a qualified SAP. This language does not appear to have been added to current DARTS drug and alcohol policy.
- 3) DARTS was instructed to add to its removal of duty discussion after a positive drug test language that states that individuals refusing to take drug tests also be referred to an SAP.

Standard Affected: Final Audit Report, FTA Drug and Alcohol Compliance Auditing Program 2013

Recommendation: DARTS should make all changes to its Drug and Alcohol Policy that were recommended in the 2013 FTA Drug and Alcohol Audit.

DARTS Action Steps: As of September 14, 2014, these changes have been added to the DARTS substance abuse policy. We acknowledge that these changes are not in the current policy. In further investigation, we found documentation showing that transportation leaders signed a policy addendum regarding the post-accident testing policy. A worksheet completed by the Drug & Alcohol program manager at the time of the 2013 audit shows that changes were made to the policy; however, they do not appear in the January, 2014 version of the policy.

Financial

None

Lobbying

None

Maintenance

1) Finding: Inadequate staffing for maintaining vehicle maintenance records

Condition: Volunteers are tasked with entering maintenance records into DARTS' computer system. There is a significant lag time between when maintenance is done and when it gets entered. The data entry includes many errors.

Standard affected: FTA standards as prescribed in the FTA Triennial Review Workbook 2014: *The way in which the agency's maintenance function is organized and staffed, along with the experience of maintenance staff, should be commensurate with the agency's size and complexity*

Recommendation: DARTS should hire adequate and qualified staff to maintain the Council fleet. It is recommended that DARTS not utilize volunteers for data entry of time sensitive tasks such as bus preventative maintenance services. Given the size of DARTS' transportation operations, there should

Per **Minn. Stat. §13.392, subd. 1**: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

be a full or half-time staff member qualified to enter and schedule vehicle service. Typically, this would fall under the authority of a fleet manager, which DARTS employs. It is also recommended that DARTS follows the DARTS Vehicle Fleet Maintenance Program and VMS Facility and Equipment Maintenance Plan.

DARTS Action Steps: By September 30, 2014 complete the following actions: DARTS will begin the process of hiring a Fleet Manager and will bring in a part-time paid employee to keep records updated. Contingent on continued Met Council contracts, VMS will be integrated into DARTS as an in-house maintenance department. By September 30, 2014, the Director of Transportation will be authorized to hire an outside consultant (as approved by the Met Council) to audit Met Council vehicles and recommend all repairs required. This consultant will also review all record-keeping and scheduling processes. DARTS will update its Vehicle Fleet Maintenance Program to reflect the new in-house arrangement.

2) Finding: Non-certified mechanics

Condition: Non-certified maintenance technicians are servicing Metropolitan Council owned vehicles.

Standard affected: FTA standards as prescribed in the FTA Triennial Review Workbook 2014: *The way in which the agency's maintenance function is organized and staffed, along with the experience of maintenance staff, should be commensurate with the agency's size and complexity.*

Master Lease Agreement Between the Metropolitan Council and DARTS for Transit Vehicles, Chapter IV, Sub-section 4.01: *Lessee Responsible for Vehicle Maintenance.* Lessee shall at its sole cost and expense maintain all Council Vehicles and their equipment, including safety and emergency equipment, in good working condition (normal wear and tear expected) to minimize breakdowns, to maximize passenger and driver safety, and to meet applicable local, state, and federal standards. No driver shall be required or allowed to operate a vehicle that is not in safe operating condition and does not meet all such standards. All maintenance on Council Vehicles and equipment must be done by mechanics licensed under applicable local and state standards.

Recommendation: It is recommended that DARTS utilize trained and qualified mechanics to repair Metropolitan Council owned vehicles. Technician certifications should be maintained with personnel files and easily accessible.

DARTS Action Steps: As of September 11, 2014, only certified technicians will be allowed to work on Met Council vehicles. Two non-certified technicians have been terminated. One new certified technician has been hired. The VMS general manager is also no longer with the organization. DARTS will no longer consider hiring technicians without proper certification.

3.) Finding: Interiors of the buses generally appeared unkempt

Condition: Trash and driver's personal items were found in many of the buses inspected. Interior cleanliness was not maintained, with dirty floors, seats, and windows in many of the buses were documented.

Standard Affected: FTA Circular 5010.1D Ch. IV, Sub-section 3.j (1)(b): The lessee shall maintain project property at a high level of cleanliness, safety, and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor lessor and/or FTA shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and the proper maintenance of the project property.

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

Agreement No. 09P176 Agreement Between the Metropolitan Council and DARTS For Operation of Public Transit Service (Dakota County Transit Link Dial-a-Ride), Chapter IV, Sub-section 4.03: *Vehicle Cleaning*. The Contractor shall be responsible at its cost for maintaining all Vehicles in a neat and clean appearance.

Recommendation: DARTS must comply with the Council contract requirements for cosmetic maintenance of vehicles. We recommend that buses be cleaned thoroughly in conjunction with the language in agreement No. 09P176 and that washer fluid is stored out of the sight of passengers if stored on the bus. Section 4.03 of agreement No. 09P176 regarding Vehicle Cleaning should be referenced and adhered to.

DARTS Action Steps: As of September 15, 2014, the DARTS bus washer has been charged with reporting drivers who do not clean interior of bus after shift to the Director of Transportation and Driver Supervisors for action. As of September 13, 2014, the Driver SOP has been changed to reflect the importance of cleaning windows as well as interior cleanliness. The following statement was added to page 16 of the Driver SOP: "As part of your post-trip inspection, drivers must remove any personal items from the bus, make sure the interior of the bus is clean including seats, floors, and windows."

Finding: Exteriors of many of the buses appeared to be in need of minor repairs

Condition: The exteriors of many of the buses inspected appeared to be in need of minor repairs. Even if the damage does not impair vehicle functioning, damaged buses give a poor impression of the Metropolitan Council to the public.

Standard Affected: FTA Circular 5010.1D Ch. IV, Sub-section 3.j (1)(b): The lessee shall maintain project property at a high level of cleanliness, safety, and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor lessor and/or FTA shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and the proper maintenance of the project property.

Master Lease Agreement Between the Metropolitan Council and DARTS for Transit Vehicles, Chapter IV, Sub-section 4.01: *Lessee Responsible for Vehicle Maintenance*. Lessee shall at its sole cost and expense maintain all Council Vehicles and their equipment, including safety and emergency equipment, in good working condition (normal wear and tear expected) to minimize breakdowns, to maximize passenger and driver safety, and to meet applicable local, state, and federal standards. No driver shall be required or allowed to operate a vehicle that is not in safe operating condition and does not meet all such standards. All maintenance on Council Vehicles and equipment must be done by mechanics licensed under applicable local and state standards.

Recommendation: DARTS must comply with the Council contract requirements for cosmetic maintenance of vehicles. Vehicles should be thoroughly inspected by drivers in pre/post trips and any commentary should be reviewed and corrected by the Fleet Manager in coordination with VMS as agreed to by the DARTS VMS Vehicle Maintenance Plan as well as the Master Lease Agreement between the Metropolitan Council and DARTS.

DARTS Action Steps: As of September 12, 2014, the Director of Transportation has been authorized to hire an outside consultant (approved by the Met Council) to audit Met Council vehicles and recommend all repairs required. As of September 15, 2014, the Fleet Coordinator has been re-trained to address all cosmetic repairs with urgency related to our contractual requirements.

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

5.) Finding: Unsatisfactory vehicle maintenance records keeping

Condition: DARTS and VMS use different systems for keeping track of vehicle maintenance. Discrepancies were found between paper records and computer records. These issues were found in the computer records systems of both DARTS and VMS. For example, half of the invoices analyzed had different appointment dates from when the technician put that he performed the work on the work order. Mistakes had also been made when entering data from VMS invoices into DARTS' computer system.

Standard Affected: FTA standards as prescribed in the FTA Triennial Review Workbook 2014: The grantee agrees to keep satisfactory records pertaining to the use of project property.

Recommendation: DARTS must implement and maintain a satisfactory record keeping system. Delay in entering maintenance records into the fleet management system results in inaccurate records. When records are missing or delayed in entry it is extremely difficult to determine if preventative maintenance is occurring on time. Therefore it is difficult to assess whether DARTS is compliant and on-time with its preventative maintenance schedule according to FTA regulations. It is recommended that a proper and streamlined method be implemented immediately to track vehicle maintenance.

DARTS Action Steps: By September 30, 2014, DARTS will employ a part-time data entry person to keep up-to-date on maintenance records. When VSM is dissolved and integrated into DARTS as a maintenance department, it will improve the integration of repair and fleet maintenance data. As of September 12, 2014, invoices for repairs are now being delivered to Fleet Maintenance within 48 hours of work being completed.

6.) Finding: Unsafe buses being kept in service

Condition: Three buses were found during vehicle inspection that badly needed repairs that should not have been left in service. The Audit team requested that these buses be removed from service.

Standard Affected: 49 CFR Part 18.32 (d)(4) states: "Adequate maintenance procedures must be developed to keep the property in good condition."

FTA Circular 5010.1D Ch. IV Section 3.m: "The grantee agrees to maintain project property in good operating order and in compliance with any applicable Federal regulations or directives that may be issued, except to the extent that the FTA determines otherwise in writing."

Master Lease Agreement Between the Metropolitan Council and DARTS for Transit Vehicles, Chapter IV, Sub-section 4.01: *Lessee Responsible for Vehicle Maintenance.* Lessee shall at its sole cost and expense maintain all Council Vehicles and their equipment, including safety and emergency equipment, in good working condition (normal wear and tear expected) to minimize breakdowns, to maximize passenger and driver safety, and to meet applicable local, state, and federal standards. No driver shall be required or allowed to operate a vehicle that is not in safe operating condition and does not meet all such standards. All maintenance on Council Vehicles and equipment must be done by mechanics licensed under applicable local and state standards.

Recommendation: DARTS should remind drivers to report all needed repairs promptly and must make repair of federally funded buses a priority. Furthermore, buses with serious repair issues should not remain in service until repair is completed.

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

DARTS Action Steps: As of September 15, 2014, Driver supervisors were retrained to emphasize the importance of pre & post trip checklists with each driver immediately and will hold each driver accountable for accurate checklists. On September 16, 2014, the Director of Transportation reviewed out-of-service requirements with the Fleet Coordinator. Currently, the DARTS driver SOP contains a three- step warning process for drivers who do not follow proper pre- and post-trip checklist procedures. A third violation results in termination.

7.) Finding: Preventative maintenance is not occurring on time

Condition: The oil changes for 52 buses from the last year were analyzed. The OEM specification, and the interval followed by DARTS for their bus maintenance, for oil changes is 5,000 mile intervals. "On time" can be up to 110% of that interval. This means that buses can go up to 5,500 miles between oil changes. Only 75.7% of the oil changes analyzed were on time.

Standard Affected: 49 CFR Part 18.32 (d)(4) states: "Adequate maintenance procedures must be developed to keep the property in good condition."

FTA Circular 5010.1D Ch. IV Section 3.m: "The grantee agrees to maintain project property in good operating order and in compliance with any applicable Federal regulations or directives that may be issued, except to the extent that the FTA determines otherwise in writing."

The FTA standards as prescribed in the FTA Triennial Review Workbook 2014 states that the grantee is deficient if fewer than 80 percent of the inspections for any mode or operation occurred on time.

Master Lease Agreement Between the Metropolitan Council and DARTS for Transit Vehicles, Chapter IV, Sub-section 4.01: *Lessee Responsible for Vehicle Maintenance.* Lessee shall at its sole cost and expense maintain all Council Vehicles and their equipment, including safety and emergency equipment, in good working condition (normal wear and tear expected) to minimize breakdowns, to maximize passenger and driver safety, and to meet applicable local, state, and federal standards. No driver shall be required or allowed to operate a vehicle that is not in safe operating condition and does not meet all such standards. All maintenance on Council Vehicles and equipment must be done by mechanics licensed under applicable local and state standards.

Recommendation: DARTS must comply with FTA regulations and perform preventative maintenance on time for at least 80% of the Metropolitan Council owned fleet. DARTS must become compliant with FTA regulations for bus maintenance, and follow the organization's policies regarding when preventative maintenance will take place. It is recommended that a more reliable system for keeping track of and scheduling preventative maintenance be developed and strictly followed.

DARTS Action Steps: As of September 30, 2014, this performance metric will be added to DARTS performance dashboard and will be included as part of the Fleet management performance review. Fleet maintenance personnel will be held to the minimum 80% level of on-time preventive maintenance.

8.) Finding: Issues reported by drivers in pre-trip checklists remained unresolved for extended periods of time

Condition: The pre-trips and corresponding Vehicle Maintenance Service (VMS) records for 10 buses from the last year were analyzed. There is a clear pattern of general neglect to respond in a timely manner to the issues that drivers raise in their pre-trip check-lists. This spans from minor issues to issues that are serious, could lead to engine failure or other costly repairs, and to issues that could

Per **Minn. Stat. §13.392, subd. 1**: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

threaten the safety of the driver and/or passengers. During the course of the review one engine on a Metropolitan Council owned bus failed and a second Council owned bus was removed from service out of concern of that engine failing.

Standard Affected: The Dakota County Transit Link Dial-A-Ride contract between The Metropolitan Council and DARTS, Section 2.01 Contractor's Responsibilities, states: "The Contractor's responsibilities include... maintaining equipment... The Contractor shall take all steps necessary to ensure the safety and reasonable comfort and convenience of the public utilizing the transit services." Section 4.05 Vehicle Safety Inspections states: "The Contractor shall ensure that repairs are made in a timely manner and a vehicle shall not be placed in service until all safety related repairs are made."

FTA Circular 5010.1D Ch. IV Section 3.m: "The grantee agrees to maintain project property in good operating order and in compliance with any applicable Federal regulations or directives that may be issued, except to the extent that the FTA determines otherwise in writing."

Recommendation: DARTS must develop and strictly adhere to a procedure for requesting service in a timely manner for issues that are identified during driver pre-trip checks. When a driver identifies an issue in a pre-trip check, there should be a clear and detailed policy for the Fleet Manager to immediately schedule service with VMS for the repairs or other services. This process should involve the Fleet Manager completing a clear work order with exactly what services should be performed. It should also include processes for the Fleet Manager to review work orders and invoices from VMS for accuracy and to ensure that work requested was actually performed.

DARTS Action Steps: As of September 15, 2014, DARTS has updated its procedure for requesting repairs and communicating those requests to VMS. Changes in personnel will ensure adherence to this procedure. A quality review step has been incorporated into the SOP for DARTS and VMS Maintenance workflow to verify that invoiced work was performed to DARTS satisfaction.

Procurement

1.) Finding: *The service agreement with Lifeworks does not contain the appropriate FTA required clauses*

Condition: The current service agreement effective December 1, 2013 and amended April 1, 2014 lacks FTA required clauses. The business associate agreement contains federal clauses pertaining to electronic protected health information, but lacks any FTA required clauses such as Americans with Disabilities Act and Equal Employment Opportunity.

Standard Affected: FTA Circular 4220.1F, Chapter IV, Section 2 requires third party contracts to contain required FTA clauses as determined by the FTA Master Agreement.

FTA's Master Agreement contains a current, but not all-inclusive, description of statutory and regulatory requirements that may affect a recipient's procurement (such as Disadvantaged Business Enterprise (DBE) and Clean Air requirements). The Master Agreement states that applicable Federal requirements will apply to project participants to the lowest tier necessary to ensure compliance with those requirements. A recipient will also need to include applicable Federal requirements in each subagreement, lease, third party contract, or other document as necessary. For specific guidance on cross-cutting requirements administered by other Federal agencies, FTA recommends that the recipient contact those agencies.

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

Recommendation: DARTS must execute a service agreement with Lifeworks that includes appropriate FTA clauses.

DARTS Action Steps: By September 30, 2014, the DARTS Chief of Strategy & Operations will have consulted an attorney to modify the Lifeworks agreement to include the FTA required clauses, as requested. Currently the contract language requires Lifeworks to comply with all rules and regulations as defined in the current Met Council-DARTS contract.

Safety and Security

None

Satisfactory Continuing Control

1.) Finding: DARTS is not keeping updated record of bus locations

Condition: DARTS did not provide an accurate list of off-site bus locations when requested.

Standard Affected: CFR 49 18.32 Equipment. (d) management requirements

- (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who hold title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property
- (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

Recommendation: DARTS must establish a procedure for keeping the records regarding bus location current.

DARTS Action Steps: Beginning September 16, 2014, the location of each bus, even it is in a different location for less than one day, will be recorded in the DARTS spreadsheet. DARTS uses a physical whiteboard to record vehicle location and has not been updating location spreadsheet if a bus will be away from its off-site location for less than one day.

Suspension and Debarment

None

Per Minn. Stat. §13.392, subd. 1: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

Technical

None

Title VI

None

Blood Borne Pathogens Exposure Control Plan

1.) Finding: DARTS does not have in place a Blood Borne Pathogens Exposure Control Plan

Condition: After finding 7 of 18 buses inspected had unsealed and/or expired Body Fluid Clean Up Kits, Audit was informed that DARTS did not have a Blood Borne Pathogens Exposure Control Plan.

Standard Affected: CFR 29 Part 1910 Occupational Safety and Health Standard Subpart Z Toxic and Hazardous Substances Standard Number 1910.1030 Bloodborne pathogens (c) (1) (i)

Each employer having an employee(s) with occupational exposure as defined by paragraph (b) of this section shall establish a written Exposure Control Plan designed to eliminate or minimize employee exposure

Recommendation: DARTS should create a Blood Borne Pathogens Exposure Control plan which includes a procedure for regularly checking the expiration dates on Body Fluid Clean Up Kits.

DARTS Action Steps: As of September 12, 2014, the Fleet coordinator required to record expiration date on Body Fluid Clean-up kits for each bus. By September 30, 2014, kits will also be checked during scheduled PMs. By September 30, 2014, HR will create a Blood Borne Pathogens Exposure Control plan.

Transit Link Contract

1.) Finding: DARTS does not meet contractual obligations of storage for Council-owned vehicles.

Condition: DARTS was discovered to be storing fewer than 50% of Transit-Link fleet indoors.

Standard Affected: Agreement No. 09P176 , Agreement Between the Metropolitan Council and DARTS For Operation of Public Transit Service (Dakota County Transit Link Dial-a-Ride)

Per **Minn. Stat. §13.392, subd. 1**: data, notes, and preliminary drafts of reports created collected and maintained by the Metropolitan Council's Program Evaluation and Audit Division are confidential until the final report is released or activity on the project is discontinued.

The facilities for storing vehicles must permit a minimum of 50% of the Council owned fleet to be stored inside. Contractor will store at least 50% of the Council owned vehicles indoors. Council owned vehicles shall be given preference for inside storage.

Recommendation: DARTS must begin storing at least 50% of Transit Link vehicles indoors and give Council-owned vehicles preference for indoor storage.

DARTS Action Steps: By September 30, 2014, DARTS will have made arrangements for indoor storage of 2 additional buses to meet the 50% indoor storage requirement.

VMS Facility Use

1.) Finding: VMS servicing vehicles of for-profit companies and private individuals.

Condition: During the on-site review, the records of service in the Vehicle Maintenance Service (VMS) garage for the last three months were requested. This list was reviewed on site, and several services from one for-profit company, Crawford Door, were noted. The names of several private individuals were also noted.

Standard Affected: The VMS garage was built with grant funded from the Council. In 2005, DARTS requested permission to create a subsidiary non-profit corporation and lease the garage to that non-profit, where Council-owned vehicles would still be maintained. A General Counsel opinion from 2005 found that servicing other for-profit companies' transit vehicles was consistent with the Transit CIP and Transportation Policy Plan. However, it was determined that the servicing of vehicles for local businesses or employees of DARTS was inconsistent with these documents.

Recommendation: DARTS must stop servicing vehicles of for-profit companies and private individuals in the VMS garage. The General Counsel opinion, and the regulations of the Transit CIP and Transportation Policy Plan, must be followed.

DARTS Action Steps: As of August 14, 2014, DARTS S has stopped servicing vehicles of for-profit companies and private individuals.



390 Robert Street North
St Paul, MN 55101-1805

651.602.1000
TTY 651.291.0904
public.info@metc.state.mn.us
metro council.org