

**From:** [Hill, Dwight CTR \(FTA\)](#)  
**To:** [Alvin Burns](#)  
**Cc:** [Edith Randle](#); [Pamela Reitz](#); [Debbie Leous](#)  
**Subject:** RE: Review of Electric Bus Solicitation  
**Date:** Tuesday, July 20, 2021 12:14:37 PM

---

Alvin,

Please forgive the late response. As you know I am somewhat restricted as what I can look at & guidance I can provide. However, I did take a cursory view & nothing jumped out at me. I see all of the federal requirements except for 'one.' It's a fairly recent clause many are not aware of. It came out in the 2018 Master Agreement, requiring recipients to notify FTA of any legal issues for all procurements greater than \$25,000. It comes from a question in the 'FY2020 Contractor's Comprehensive Review Guide,' in the 'Legal' area. Although it is generated in the Legal area, it bleeds over into Procurement requiring recipients to include the clause in your federally funded procurements. The Clause is found @ Section 39. (b)(3). Additionally, as you know the Circular (4220.1F) is outdated & this clause has not made it into the clause matrix. Many recipients this Triennial cycle are getting hit w/this one. The fix is a 'Procurement Checklist' that drives you to a 'clause matrix' to determine which clauses apply. Also, updating your procedures w/the new clause.

### **Section 39. Disputes, Breaches, Defaults, and Litigation.**

*(b) Notification to FTA; Flow Down Requirement.* If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

*(3) Additional Notice to U.S. DOT Inspector General.* The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.

You also recently called & left a msg regarding inserting clauses into contracts. We should probably discuss. Give me a call. I'm available this afternoon, out tomorrow, & available on Friday.

v/r

Dwight E. Hill, CFCM, Contractor  
Sr. Contracts Consultant  
FTA Region 04 – Atlanta  
230 Peachtree Street, NW, Suite 1400  
Atlanta, GA 30303  
404-865-5641  
[dwight.hill.ctr@dot.gov](mailto:dwight.hill.ctr@dot.gov)

Contact for Region IV 'Virtual' Procurement Training'

---

**From:** Alvin Burns <ABurns@psta.net>  
**Sent:** Friday, July 9, 2021 4:24 PM  
**To:** Hill, Dwight CTR (FTA) <Dwight.Hill.CTR@dot.gov>  
**Cc:** Edith Randle <ERandle@psta.net>; Pamela Reitz <preitz@psta.net>; Debbie Leous <DLeous@psta.net>  
**Subject:** Review of Electric Bus Solicitation

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon Dwight,

Could you look at the attached document? I remember you saying you would but only to make sure it's in compliance with FTA rules and regulations.

Thanks so much for your time

**Al Burns**  
**Director of Procurement**  
PSTA – Pinellas Suncoast Transit Authority  
3201 Scherer Drive,  
St. Petersburg, FL 33716  
727-540-1826  
[aburns@psta.net](mailto:aburns@psta.net)