



**Accessible Transit Services:
DARTS Fleet Management and Vehicle
Safety Audit (Report #50695)**

**Recommendations
and
Management Action Plans**

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Introduction

As a result of the audit completed by the Office of the Auditor General (OAG) with support from Fleet Challenge Canada (FCC), many significant opportunities for improvement were identified and a total of 73 (nine from the OAG and 64 from FCC) recommendations were made.

The Office of the Auditor General requested one high-level management response from management in the Transit Division in Q3 2022, with direction received from Council to report back to the OAG by January 2023 with a detailed management action plan, which were then to be reported to the Audit, Finance and Administration Committee for approval. The detailed management action plans were received by the OAG and are included below.

FCC Recommendations-Key Highlights

The FCC recommendations covered a broad range of themes including:

- DARTS Driver Communications
- DARTS Safety Practices
- Recommendations for Accessible Transit Services (ATS)
- Recommendations for DARTS
- Recommendations for DARTS Regarding its Subcontractors
- Insurance
- Contracts-Memorandum of Agreement (MOA)
- Contracts-Subcontractor Service Agreements

Broadly speaking, many recommendations related to vehicle safety and how to ensure that service is delivered to residents-that is providing them with a trip in a safe vehicle that is properly insured, and are driven by a driver that is properly trained with an adequate safety and training record.

The many recommendations that related to contracts and insurance ultimately support the safe delivery of accessible transit services, while achieving value for money in service delivery (primary focus being effectiveness of service delivery).

Recommendations

Office of the Auditor General Recommendations

Recommendation 1

We recommend that the existing Memorandum of Agreement (MOA) be substantially redesigned with a view to ensuring safe and efficient operations, clear standards, and effective remedies and contingencies. The MOA is dated, and lacks many critical areas of contract language such as driver training, vehicle safety, remedies for non-performance or conformance, penalties for non-compliance, vehicle specifications and standards, etc. A new, modern legal document that meets the City's requirements is needed.

Management Response

Agree.

ATS acknowledges that the existing contract between the parties is insufficient. The overall approach to arrive at a new agreement will be undertaken in two parts:

- For existing terms which require minor updates or revisions, the Transit Division will work with internal legal counsel to issue an amending agreement to the existing contract between the parties, where it is practical to do so to cover interim matters pending the preparation of a new agreement. (In progress)
- For areas which require either substantive changes or new requirements, the Director of Transit will define business terms through discussions with the contractor. Legal counsel will thereafter prepare the appropriate terms and conditions for inclusion in a new agreement for the parties to execute. (Not yet started)

Anticipated completion: Q2 2023 (amending agreements), Q4 (new Agreement).

Recommendation 2

We recommend that the Transit Division set standards for contractor and sub-contractor vehicle safety inspection results and include this language in future contract updates to ensure public safety risks are properly addressed. When assessing inspection results, the City should exercise contractual rights to penalize contractors failing to meet the safety standards to the fullest extent

possible, and it should have intervention mechanisms that are effective and timely.

Management Response

Agree.

Best practices in contracting provide clauses which escalate dependent on the severity of the incident and incorporate corrective measures and cancellation and/or termination clauses which are more robust in nature than in the existing document between the parties.

Anticipated completion: Q2 2023 (amending agreements) Q4 (new Agreement). See also response below to themed recommendations 44-50.

Recommendation 3

We recommend that a single, accurate, and complete list of DARTS and Subcontractor vehicles be maintained by the contractor and be available to the Transit Division. The list should be up to date in real time and revised whenever there are changes proposed by the contractor. This should be part of any updated contract related to the provision of accessible transit services.

In order to properly identify each unique vehicle, this list should include the vehicle number, the license plate number, the VIN number, and proof of insurance. It should also reflect whether the vehicle is active or inactive. The accuracy and completeness of this list should be tested and verified at least annually. Consideration should also be given to defining key terms relating to the above in future contract updates.

Management Response

Agree.

The City will establish a rolling fleet inventory report with specified requirements and timelines to be completed by the Contractor/subcontractors. This will be set out as an Appendix in the revised Master Operating Agreement (MOA). Contract Management (CM) criteria will be established for verifying the vehicles. The City will establish this on a shared Fleet Management Information System to which the parties can have real-time access.

Anticipated completion: Q2 2023 (amending agreements) Q4 (new Agreement) Q2 2023 (Fleet Management Information System).

Recommendation 4

We recommend that Transit's contract management practices be improved to ensure adequate contract management documentation is maintained by the City, including for amendments, non-conformances, and penalties, ensuring that contract management administrative requirements are strictly adhered to, maintaining appropriate contractor boundaries, and formal communications with them are timely, effective, and sufficient.

Management Response

Agree.

ATS service is delivered through contracted services and the audit findings highlight the need for stronger oversight of the contractor/subcontractors given the performance concerns. A Contract Management (CM) program will be embedded into future agreements between the parties based on the new terms.

While ATS has improved its contract management practices over the past two years, there is more work to be done. Currently, responsibility for contract management on the DARTS file is a shared responsibility between the Manager and a Senior Project Manager whose portfolio also includes other divisional contracts.

A review will be conducted to assess the need for a dedicated Contract Manager position with sole responsibility for managing ATS contracts/subcontractor activity.

Anticipated completion: Q4 2023 (following Agreement completion) for new contract management framework. Q3 2023 (business case for dedicated Contract Manager for 2024 budget submission).

Recommendation 5

We recommend that Transit's process for approving subcontractors be improved and replaced with a consistent, formalized process and criteria that will ensure appropriate due diligence and provide the City with assurances that any proposed subcontractors are being properly vetted prior to being considered for approval. It should be the City's sole discretion if any sub-contractors are to be utilized or not.

Management Response

Agree.

ATS will include subcontractor approvals as part of the assessment set out in Recommendation 4 (above) regarding a dedicated Contract Manager.

Anticipated completion: Q2 2023 (amending agreements) Q4 (new Agreement); Q3 2023 (business case for dedicated Contract Manager).

Recommendation 6

We recommend that the Trapeze application and the service data be under the control of the City. The Transit Division needs access to all the Trapeze functionalities and captured data, and this should be a critical requirement of the terms that form part the next agreement with a contractor. Consideration should also be given to having future contracts include some level of authority over routing decisions by the City.

Management Response

Agree.

Trapeze should be returned to the control of the City, with contractor staff receiving restricted access based on job functions. ATS will discuss with Information Technology to determine a work plan to return that functionality back to City control.

A number of years ago, the City gave control to the contractor for reservations and routing, which necessitated the contractor having control of the software (Report PW11093).

ATS will conduct a study to determine if reservations and routing should be brought back within the control of the City not only for greater oversight of routing decisions, but also for effectiveness and efficiency reasons, including the delivery of a successful integrated transit pilot (see also Appendix "A" to Report PW21055 - Review of ATS Eligibility Determination Process and Services, and PW19083(a)/FCS18048(b) Investing in Canada Infrastructure Program, Public Transit Stream - Allocation of Funding Balance).

Anticipated completion: Q3 2023 (workplan for return of Trapeze database to City control, with implementation to follow); Q4 2023 (business case for return of scheduling and reservations decisions to ATS).

Recommendation 7

We recommend that contractor performance for the accessible transit services contracts be tracked and evaluated using a consistent and robust process.

Management Response

Agree.

ATS will develop a new Contract Management (CM) framework based on the terms of a modified or new Agreement between the parties. The CM program will include site inspections, document review and reporting requirements, at a minimum.

Anticipated completion: Q2 2023 (amending agreements) Q4 (new Agreement), Q3 2023 (business case for dedicated Contract Manager).

Recommendation 8

We recommend that contract management training be provided to Transit Division staff to ensure the City's rights under contract are protected and timely remedies can be implemented during the contract management process.

Management Response

Agree.

ATS will ensure that staff receive updated Contract Management training from the City of Hamilton as available.

Anticipated completion: Q3 2023.

Recommendation 9

We recommend that Transit develop contingency plans that can be executed should the need arise to replace and/or cancel a contract with a contractor/subcontractor.

Management Response

Agree.

ATS agrees that contingency planning is important, however, noting the specialized equipment in use on this type of contract, it is not operationally feasible to switch to a different provider in an emergent situation under a sole contract.

Future contingency planning will require consideration of more than one contract for similar work to ensure there are alternative service options.

Anticipated completion: Q3 2023 (contingency workplan).

Fleet Challenge Canada Recommendations

Theme A: Recommendations Regarding DARTS Driver Communications

Recommendation 1

DARTS drivers, whether employed by DARTS or its subcontractors, should have a mechanism for freely reporting their concerns and complaints without fear of reprisal.

Management Response

Agree.

The contractor has an Incident Management System in place available to it and its subcontractor drivers. The system has feedback loop capabilities and tiered access rights, and covers mechanical, scheduling, health and safety, and passenger issues.

Anticipated completion: Complete (incident management reporting system); Q2 2023 (Quality Management System database for anonymous and transparent non-conformance and resolution reporting).

Recommendation 2

DARTS drivers filing a complaint or concern should be given the option of anonymity if that is their choice.

Management Response

Agree.

The contractor advised they have an employee suggestion process available to staff. The contractor will implement a Non-Conformance Reporting (NCR) process for drivers through a Quality Management System (QMS) database.

The contractor advised they will include an anonymous reporting feature on their web site for employee use, and issue resolution will be posted online for their employees and those of their subcontractors.

ATS is working with City staff to explore a QMS database solution for the contractor that aligns with City processes.

Anticipated completion: Complete (Incident Management Reporting System); Q2 2023 (Quality Management System database for anonymous and transparent non-conformance and resolution reporting).

Recommendation 3

DARTS should appoint a designate to receive driver concerns and complaints. The designate should be a senior-level representative, sufficiently empowered and accountable for taking reasonable and appropriate corrective actions to address the driver's complaints/concerns once validated.

Management Response

Agree.

The contractor advised they have an employee suggestion process available to staff and will implement a Non-Conformance Reporting (NCR) process for drivers through a Quality Management System database.

The contractor will include an anonymous reporting feature on their web site for employee use, and issue resolution will be posted online for DARTS and subcontractor employees.

Anticipated completion: Complete (Incident Management Reporting System); Q2 2023 (Quality Management System database for anonymous and transparent non-conformance and resolution reporting).

Recommendation 4

Complaints and comments by DARTS drivers should be documented and time-stamped, and an action plan prepared to address the driver's issue(s) by the DARTS designate selected to receive driver concerns and complaints.

Management Response

Agree.

The contractor advised they have an employee suggestion process available to staff and will be implementing a Non-Conformance Reporting (NCR) process for drivers through a Quality Management System database.

The contractor will include an anonymous reporting feature on their web site for employee use, and issue resolution will be posted online for their employees and those of their subcontractors.

Anticipated completion: Complete (Incident Management Reporting System); Q2 2023 (Quality Management System database for anonymous and transparent non-conformance and resolution reporting).

Recommendation 5

The DARTS designate should ensure that there is a follow-up process in place to advise the complainant of the actions taken by DARTS to correct the issue.

Management Response

Agree.

The contractor advised they have an employee suggestion process available to staff and will be implementing a Non-Conformance Reporting (NCR) process for drivers through a Quality Management System database.

The contractor will include an anonymous reporting feature on their web site for employee use, and issue resolution will be posted online for their employees and those of their subcontractors.

Anticipated completion: Complete (Incident Management Reporting System); Q2 2023 (Quality Management System database for anonymous and transparent non-conformance and resolution reporting).

Recommendation 6

The DARTS designate should be required to prepare a monthly report to DARTS senior management and the ATS of all complaints/concerns and corrective actions taken.

Management Response

Agree

This will be incorporated into a Monthly Report from the contractor to ATS in an agreed-upon format, to include customer complaints and a summary of the incident management system referenced above. Customer complaints and Operator incident reports are currently followed up individually.

Anticipated completion: Q2 2023 (finalize monthly report format).

Theme B: Recommendations Regarding DARTS Safety Practices

Recommendation 7

DARTS should take immediate actions to ensure its vehicles, and those of its subcontractors always meet MTO safety standards, not just when inspections are completed.

Management Response

Agree.

The contractor immediately implemented a 6-month safety check process for all ambulatory vehicles (all accessible vehicles are already required to have a safety inspection ever 6 months under MTO regulation). The contractor hired a new Clerk to perform data entry for subcontractors, licence management, vehicle oversight, etc.

The contractor has been notified that ATS expects internal inspections to be completed monthly (at a minimum) for all vehicles used to provide service. Sample records are now audited by ATS, and ATS flags vehicles each month for third party inspections at an MVIS location beginning with the minimum random selection of five (5) percent of each fleet and adding more vehicles as is judged to be prudent, based on review of available records and previous inspection outcomes. The contractor and subcontractors have been compliant with the third-party inspection process as communicated by ATS.

Based on the above process, ATS currently selects vehicles for inspection each month, and will continue to do so until it is satisfied that any residual vehicle issues are resolved. Expectations regarding the ongoing oversight and audit of contractor and subcontractor vehicle maintenance will be set in the revised contractor Agreement.

Anticipated completion: Ongoing (ATS third party inspections); Q2 2023 (refine and document expectations as part of amending agreement to existing contract).

Recommendation 8

Safety inspections of the DARTS fleet, and its subcontractors should be conducted in accordance with applicable Ministry of Transportation of Ontario (MTO) Safety Standards Inspection (SSI) protocol and guidelines.

(For further details please see the section of this report that deals with DARTS and DARTS subcontractor's practices).

Management Response

Agree.

The contractor has been notified that ATS expects internal inspections to be completed at least monthly for all vehicles used to provide service: sample records are now audited by ATS each month and ATS flags vehicles each month for third party inspections at an MVIS location based on random selection as well as available records. The contractor and its subcontractors have been compliant with the third-party inspection process as communicated by ATS.

Anticipated completion: Complete (process in place for ATS third party vehicle inspections, ATS records inspections, and ATS expectations communicated). Q2 2023 (refine and document expectations as part of amending agreement to existing contract).

Recommendation 9

DARTS should provide drivers instruction on the use of emergency brakes and required to deploy their emergency brakes whenever their vehicle is stopped.

Management Response

Agree.

The contractor advised the topic has been included in its Driver Refresher Training Workshops. Sessions are scheduled for once a year, in groups of 2-3 (so as not to impact service) and are 4 hours in length.

These workshops are designed to provide refresher opportunities and current issues of the day based on trends. Recent topics include Q-Strait securement techniques and the new circle check process in response to recent complaints and audit findings. Subcontractors will be providing the same training to their drivers and will share the curriculum and content expectations. Attendees will sign off on participation and filed in their employee records. The contractor has implemented electronic reminders on driver tablets and notices in driver mailboxes for safety bulletins.

Anticipated completion: Complete.

Recommendation 10

DARTS should ensure that emergency brakes are inspected, tested and functional at all times.

Management Response

Agree.

The contractor has added Emergency brakes to the revised vehicle Circle Check used by drivers and have been included for checking every time vehicle is in for other repair under the revised procedures.

Anticipated completion: Complete.

Recommendation 11

DARTS should provide drivers with additional training and regular refresher on completing driver's daily inspections.

Management Response

Agree.

The contractor has advised the topic has been included in Driver Refresher Training Workshops described above.

Anticipated completion: Complete.

Theme C: Recommendations for ATS

Recommendation 12

ATS should conduct random MTO safety compliance inspections of Contractor (DARTS) and Subcontractor in-service vehicles.

Management Response

Agree.

ATS has put a robust process in place for inspecting contractor and subcontractor vehicles:

ATS immediately began inspecting vehicles based on repair history up until October 21; as these inspections wrapped up, we directed the contractor as of November 16 that we expected safety inspections to be completed internally at minimum monthly, in addition to regularly scheduled MTO inspections and operator circle checks.

ATS has begun randomly selecting five (5) percent of vehicles monthly from each provider, starting in December, for third party safety inspection and on-site records inspection, with additional vehicles as deemed prudent based on ATS review of available vehicle records and previous inspection outcomes. This will be embedded into the Contract Management program.

Anticipated completion: Complete.

Recommendation 13

Regarding contract language in the current MOA requiring DARTS vehicles to be "certified mechanically fit and safe" and "meet the requirements of the Ministry of Transportation" (MTO), the ATS should ensure that contract language is amended to apply the correct terminology and applicable requirements of the MTO (For further details please see section of this report dealing with Contracts)

Management Response

Agree.

These terms will be modified through an amending agreement between the parties.

Anticipated completion: Q2 2023 (amending agreements) Q4 (new Agreement).

Recommendation 14

ATS should have real-time online access into a new DARTS fleet maintenance information system (FMIS) that would be managed and maintained by DARTS. This would enable ATS to verify the status of all DARTS MTO safety inspections and vehicle histories at any time while saving ATS time and administrative effort (as opposed to the ATS' current practice of laboriously tracking Vehicle Inspection Records (VIRs) in Excel after-the-fact). (For further details please see recommendations for DARTS later in this report.)

Management Response

Agree.

After consideration and consultation with City of Hamilton Information Technology division and Enterprise Asset Management team, ATS has decided to work with staff to develop an interim FMIS solution that the contractor will use.

Anticipated completion: Q2 2023.

Recommendation 15

DARTS and DARTS subcontractor's driver's daily inspections should be in electronic format (as opposed to paper-based as they are now). ATS should have real-time access to drivers' inspection electronic records. Driver's electronic daily reports should be integrated into a fleet maintenance information system (FMIS) managed by DARTS. ATS should always have online access to the system to confirm actions are being taken by DARTS and subcontractors when defects are reported by drivers.

Management Response

Agree in part.

ATS is now regularly conducting on-site inspections of DARTS and subcontractor vehicle records, including driver's daily inspections. ATS also requests additional records based on repair history or third-party inspection outcomes, as it deems necessary. The contractor has advised its current paper-based form has been updated to include more focus on undercarriage, tire check, visible fluids on ground. Proper completion of circle checks is part of new driver training. The process for driver reporting for major defect going into service aligns with industry norms. There are few known technologies for electronic pre-trip checks. The contractor is not acting on this recommendation at this time.

ATS notes that some of this functionality for electronic access to records will be addressed in the response to Recommendation 14.

Anticipated completion: Not Applicable.

Recommendation 16

Vehicle inspection worksheets prepared to guide technicians in completing DARTS and subcontractor vehicle safety inspections should be reviewed by the ATS to confirm full compliance with applicable MTO Safety Standards Inspection guidelines (see previous point).

Management Response

Agree.

Working with the HSR Manager of Fleet Maintenance, ATS has reviewed monthly inspection forms in use by the contractor to provide direction for improvement and sample forms to use to ensure MTO compliance. The contractor is working with its subcontractors and with ATS to ensure all recommended amendments are clearly applied.

Anticipated completion: Complete (review and direction from ATS).

Recommendation 17

ATS should review and ensure that vehicle inspection worksheets prepared to guide technicians in completing DARTS and subcontractor vehicle safety inspections must be signed by the licenced mechanic completing the inspections.

Management Response

Agree.

Working with the HSR Manager of Fleet Maintenance, ATS has reviewed monthly inspection forms in use by DARTS and provided direction for improvement and sample forms to use to ensure MTO compliance. The contractor is working with its subcontractors and with ATS to ensure all recommended amendments are clearly applied. Mechanic's name, signature and license number are now added to all vehicle inspection worksheets.

Anticipated completion: Complete (review and direction from ATS).

Recommendation 18

DARTS and DARTS subcontractors should provide ATS with current copies of the trade licences for their technicians/mechanics engaged in completing their MTO safety inspections and advise the ATS in the event of mechanic's trade certificate suspensions.

Management Response

Agree.

All DARTS and DARTS subcontractor mechanic's license numbers have been provided to ATS for verification in the Skilled Trades Ontario public register. Expectations regarding updates to ATS in the event of license suspensions will be set in the revised contractor Agreement.

Anticipated completion: Complete (review of DARTS and subcontractor mechanic's licenses); Q2 2023 (refine and document expectations as part of amending agreement to existing contract).

Recommendation 19

Major portions of the DARTS Master Operating Agreement (MOA) are no longer relevant. A new MOA is needed, ideally prepared with a clean slate approach. (Please see Contracts section of this report.)

Management Response

Agree.

ATS acknowledges that the existing contract between the parties is insufficient. The overall approach to arrive at a new agreement will be undertaken in two parts:

- For existing terms which require minor updates or revisions, the Transit Division will work with internal legal counsel to issue an amending agreement to the existing contract between the parties, where it is practical to do so to cover interim matters pending the preparation of a new agreement. (In progress)
- For areas which require either substantive changes or new requirements, the Director of Transit will define business terms through discussions with the contractor. Legal counsel will thereafter prepare the appropriate terms and conditions for inclusion in a new agreement for the parties to execute. (Not yet started)

Anticipated completion: Q2 2023 (amending agreements); Q4 (new Agreement).

Recommendation 20

An approval process and protocol to be followed by DARTS and ATS should be in place in the MOA regarding fuel rates and upcharges, weekend rates and in general, all relevant pricing and rate structures. (Please see Contracts section of this report.)

Management Response

Agree.

ATS acknowledges that the existing contract between the parties is insufficient. The overall approach to arrive at a new agreement will be undertaken in two parts:

- For existing terms which require minor updates or revisions, the Transit Division will work with internal legal counsel to issue an amending agreement to the existing contract between the parties, where it is practical to do so to cover interim matters pending the preparation of a new agreement. (In progress)
- For areas which require either substantive changes or new requirements, the Director of Transit will define business terms through discussions with the contractor. Legal counsel will thereafter prepare the appropriate terms

and conditions for inclusion in a new agreement for the parties to execute.
(Not yet started)

Anticipated completion: Q2 2023 (amending agreements); Q4 2023 (new Agreement).

Recommendation 21

Language in the DARTS subcontractors Service Agreements regarding Validated Registered Drivers should be reviewed to include pre-hire driver abstracts, and follow-up abstracts after hire. (Please see Contracts section of this report.)

Management Response

Agree.

DARTS will include language from its contract into those of their subcontractors for consistency.

Anticipated completion: Q4 2023.

Recommendation 22

Language in the DARTS subcontractors Service Agreements regarding Validated Registered Drivers should be reviewed to define the minimum standards for drivers and include a maximum demerit point threshold. (Please see Contracts section of this report.)

Management Response

Agree.

DARTS will include language from its contract into those of their subcontractors for consistency.

Anticipated completion: Q4 2023.

Recommendation 23

Language in the DARTS subcontractors Service Agreements should include a commitment to professional driver improvement courses (PDIC) or remedial training, rather than taking a punitive approach when driver complaints are received, as is the current practice. (Please see Contracts section of this report.)

Management Response

Agree.

Agreed. DARTS will include language from its contract into those of their subcontractors for consistency.

Anticipated completion: Q4 2023.

Theme D: Recommendations for DARTS

Recommendation 24

DARTS should practice vigilance regarding the contractual vehicle safety inspection requirements and maintenance procedures of its subcontractors to prevent a recurrence of unsafe subcontractor vehicles being operated in the DARTS fleet.

Management Response

Agree.

DARTS reports it has directed all sub-contractors vehicles to subject vehicles to monthly inspections and forward the paperwork to DARTS to monitor vehicle repairs; random selections for inspection by DARTS are now in effect in addition to the 6-month safety inspections in place.

Anticipated completion: Ongoing (DARTS implementation of internal monthly inspections process); Complete (6-month safety inspections implemented).

Recommendation 25

DARTS preventive maintenance (PM) inspections should be increased in intensity and frequency to reduce or eliminate safety defects – how much they need to increase would be determined by a new fleet maintenance information system (FMIS) (See point #28 below regarding fleet maintenance systems) based on "uptime" tracking functionalities of the FMIS.

Management Response

Agree.

After consideration and consultation with City of Hamilton Information Technology division and Enterprise Asset Management team, ATS has decided

to work with staff to develop an interim FMIS in that will align with City of Hamilton practices.

ATS notified DARTS that it should be completing internal inspections at least monthly for all vehicles used to provide service. ATS audits sample records and then flags vehicles each month for third party inspections at an MVIS location based on both a minimum random selection, and on available records and previous inspection outcomes.

DARTS and subcontractors have been compliant with the third-party inspection process as communicated by ATS. DARTS reports it has implemented monthly vehicle inspection process for their fleet and that of their subcontractors, but ATS notes this has not yet been fully realized.

Anticipated completion: Complete (ATS third-party vehicle and ATS records inspections process implemented); Q2 2023 (FMIS); ongoing (DARTS internal monthly inspections process implemented).

Recommendation 26

The requirement for subcontractors' drivers to complete daily vehicle circle checks, and the processes of managing the checks, and in particular, defects reported by drivers, should be defined in the subcontractor's service agreements (SAs).

Management Response

Agree.

DARTS reports that all defect paperwork and maintenance checks for operators and subcontractors are being updated; DARTS will set expectations for subcontractors in updated subcontractor service agreements.

Anticipated completion: Q4 2023.

Recommendation 27

DARTS should immediately implement quality assurance measures. In its current preventive maintenance practices, there are no quality assurance processes in place at DARTS. We feel this is likely the root cause of the high rate of safety inspection failures during the recent safety inspection campaign.

The DARTS Maintenance/Driver Supervisor is not a licenced mechanic and therefore not in possession of the skills and accreditations required to confirm that the work of the mechanics is satisfactory.

As one option, DARTS should consider a new Lead Mechanic job classification, in which a licensed mechanic would be given responsibility for final inspection of work completed by DARTS mechanics thusly assuring quality and increasing adherence to safety protocols.

Management Response

Agree.

DARTS advised it has restructured its Maintenance area, hiring a shop assistant, three technicians (mechanics) and recruited a Lead Mechanic. Additionally, one of its existing technicians has been promoted to a Supervisor position. ATS is working with City staff to explore a QMS database solution for DARTS that aligns with City processes, but DARTS will be required to have their own internal QMS.

DARTS reports they continue to use various software programs with tiered access according to position responsibilities; DARTS is currently investigating International Organization for Standardization (ISO) 9001 quality management training for the DARTS Supervisor of Quality Assurance, to be pursued in 2023.

Anticipated completion: Complete (licensed supervising mechanic and shop assistant); Q2 2023 (Quality Management System database); Q4 2023 (DARTS staff QMS training).

Recommendation 28

DARTS should invest in a proper fleet maintenance information system (FMIS) to replace the current whiteboard. The fleet maintenance scheduling and management functionalities of the current program, which was developed in-house, are far inadequate for the needs of a modern fleet.

Management Response

Agree.

After consideration and consultation with City of Hamilton Information Technology division and Enterprise Asset Management team, ATS has decided to work with staff to develop an interim FMIS in that will align with City of Hamilton practices.

Anticipated completion: Q2 2023.

Recommendation 29

The recommended FMIS (see above) should be capable of multi-criteria preventive maintenance (PM) scheduling, tracking DARTS and subcontractor maintenance and safety inspection histories (now tracked by ATS externally in Excel), enable complex cost-analysis, track fuel usage and driver profiles, abstracts and a myriad of other functions required by a modern fleet. Electronic drivers' daily inspections should be connected to the FMIS to replace paper-based records now in place.

Management Response

Agree.

After consideration and consultation with City of Hamilton Information Technology division and Enterprise Asset Management team, ATS has decided to work with staff to develop an interim FMIS in that will align with City of Hamilton practices.

Anticipated completion: Q2 2023.

Recommendation 30

In the long-term, and once quality assurance processes are in place and the issue of safety inspections failures has been fully addressed in a manner that is acceptable to the ATS, DARTS should consider re-applying to become a licenced, accredited Ministry of Transportation (MTO) Motor Vehicle Inspection Station (MVIS).

If successful in becoming an MVIS, it would lower costs and increase efficiencies by eliminating the dependency on third-party garages for performing its MTO safety inspections.

That stated, without having quality assurance processes in place, as is the situation now, it would be risky if DARTS was able to complete its own MTO safety inspections given the results (~26% fail rate) from our independent safety inspections. At this time, a licenced, independent third-party MTO Motor Vehicle Inspection Station (MVIS) of the City's choosing would be a more prudent choice.

Management Response

Agree in part.

The DARTS location is unsuitable as an MVIS station as DARTS does not hold a lease to occupy its operating location at a facility that is shared by several different City divisions. To ensure our absolute confidence in MTO inspection

outcomes, ATS has arranged a location for external third party MTO-grade inspections, as the prudent choice outlined in Recommendation 30 (above).

Anticipated completion: Not Applicable (Contractor as MVIS); Complete (process in place for third party MVIS inspections).

Recommendation 31

Under the terms of the MOA, there is a contractual requirement for DARTS use of subcontractors to be approved by the General Manager of Public Works. DARTS management should immediately seek this approval for existing and future subcontractors and ensure that documentation of the approval(s) is available at all times.

Management Response

Agree.

There are currently 3 subcontractors that DARTS utilizes to provide shared ride specialized transit service. DARTS reports all subcontractor contracts are currently with DARTS legal, and changes are being applied as requested by the City in response to Audit recommendations. DARTS anticipates completion of the sub-contractor contract drafts by March 2023, for submission to the City for review, noting that the drafts will be more fully informed by the terms in the new City and DARTS Agreement.

ATS notes that since September of 2022, challenges with subcontractors have continued.

Anticipated completion: Q2 2023 (DARTS draft revised subcontractor agreements).

Recommendation 32

DARTS should conduct a detailed financial review to compare the cost of subcontractor vehicles versus similar vehicles being obtained by DARTS through leases, rentals, or purchases. The latter options may be more cost-effective than previously expected. Consider issuing an RFQ/Q for the provision options (i.e., buy, rent or lease) for acquisition of light-duty vans now being provided by its subcontractors.

Management Response

Agree.

DARTS has committed to undertaking this assessment, however, note that their current rented location at 330 Wentworth cannot house additional vehicles if expansion was considered. DARTS will perform this cost analysis and report back to ATS by Q2 2023.

Anticipated completion: Q2 2023.

Theme E: Recommendations for DARTS Regarding its Subcontractors

Recommendation 33

DARTS should take a vigilant approach in managing its subcontractors as far as their vehicle safety inspections and quality standards. For example, DARTS should require that annual MTO Safety Standards Inspections and 6-month accessible vehicle MTO Safety Standards Inspections required under the subcontractor Service Agreements to be carried out at MTO licenced Motor Vehicle Inspection Stations (MVIS') of DARTS choice, not the subcontractors.

Management Response

Agree.

DARTS reports all subcontractors have been contacted with dates for 6-month safety inspections at the MVIS station of DARTS' choice.

In the intermission, ATS is reviewing subcontractor vehicle information with DARTS and sending vehicles for third party assessment when required. ATS can advise that challenges with the subcontractors has not resolved since October of 2022.

Anticipated completion: Ongoing.

Recommendation 34

DARTS should re-investigate its dependency on outsourced subcontractors. Cost-effective alternatives may include in-sourcing the services now outsourced to the sub-contractors.

Management Response

Agree.

DARTS has committed to undertaking this assessment, however, note that their current rented location at 330 Wentworth cannot house additional vehicles if expansion was considered.

ATS also notes that if subcontractors are no longer used, there is a risk of having no alternatives for service. DARTS will perform this cost analysis and report back to ATS by Q2 2023. ATS will also consider other alternatives.

Anticipated completion: Q2 2023.

Recommendation 35

DARTS should complete comprehensive business case analysis to revisit the lowest cost options between insourcing or outsourcing to subcontractors.

Management Response

Agree.

DARTS has committed to undertaking this assessment, however, note that their current rented location at 330 Wentworth cannot house additional vehicles if expansion was considered.

ATS also notes that if subcontractors are no longer used, there is a risk of having no alternatives for service. DARTS will perform this cost analysis and report back to ATS by Q22023. ATS will also consider other alternatives.

Anticipated completion: Q2 2023.

Recommendation 36

For vehicles now provided and driven by DARTS subcontractors, DARTS should consider a hybrid business model in which DARTS would provide and maintain the vehicles while drivers would be provided and managed by contracted driver pool service-provider(s).

Management Response

Agree in part.

ATS agrees with the investigation of alternative service models. Our immediate priority is public safety and the above suggestion would add management and oversight complexity.

DARTS reports its current location cannot accommodate housing and maintaining the vehicles currently housed on two subcontractor lots, and one

subcontractor employs unionized staff who are allowed to bring their vehicles directly home at the end of their shift, as part of their collective bargaining agreement.

Anticipated completion: Not Applicable.

Recommendation 37

DARTS subcontractor Service Agreements should set a limit regarding the maximum age and total kilometres for subcontractor vehicles. As a starting point, we recommend vehicles should be no older than five model years and 200,000 total kilometres, but these thresholds should be confirmed through historical operating data and safety inspection failure rate analysis.

Management Response

Agree.

This is a material change in existing agreements. ATS will work directly with DARTS to review repair and inspection history of vehicles with more than 200,000 total kilometres and older than 10 model years to determine if this should be adjusted in the subcontractor agreements.

DARTS reports it has directed subcontractors to retire vehicles after 10 model years but have not applied a cap to kilometres.

Anticipated completion: Q2 2023 (amending agreements).

Theme F: Recommendations – Insurance

Recommendation 38

DARTS should require subcontractors to obtain insurance coverage that applies to all vehicles owned or operated by the insured (as opposed to insurance coverage for specific vehicles identified by their vehicle identifications numbers, fleet unit numbers, makes/model/year of units or other methods).

Management Response

Agree.

ATS is requesting copies of Certificate of Insurance (COI) for all vehicles owned and operated, as COIs are renewed. The type of policy used to cover all owned and operated vehicles is dependent on insurance policies obtained by subcontractors under the current DARTS MOA and subcontractor service

agreements. COIs are reviewed for compliance under these agreements and sent for review by the City of Hamilton Legal and Risk Management Service. Contract language governing insurance in both the DARTS MOA and subcontractor service agreements will be reviewed to include the requirement for vehicle coverage that applies to "all owned or leased" as opposed to vehicle-specific "as described" coverage, to avoid the extra administrative work necessary to track coverage for individual vehicles added or removed from service. There may be circumstances wherein subcontractors are only able to procure "as described" coverage. In these instances, Risk Management Services will review the coverage to ensure compliance.

Anticipated completion: Q4 2023 (revised subcontractor service agreement).

Recommendation 39

DARTS and ATS, as additional named insureds, on subcontractor's insurance policies should be provided legally notarized copies of the subcontractor's certificates of insurance (COIs).

Management Response

Agree.

An alternative and more vigilant approach as determined in consultation with the subject matter experts in Legal and Risk Management Services is to be implemented. Insurance documents from DARTS and/or their subcontractors should be submitted to ATS directly from the insurers, and then provided to Risk Management for a fulsome review, with a reserved right to request additional information and/ or notarized copies as needed to satisfy the City. Subject matter experts in Risk Management will reach directly out to these insurers as required. ATS has provided this direction to DARTS in a letter reviewed by Legal and Risk Management Services.

Anticipated completion: Q3 2023 (last subcontractor renewal due).

Recommendation 40

In subcontractor COIs, DARTS and ATS should be provided full details including Declarations (e.g., at minimum the risks that are covered, policy limits, and deductibles), Insuring Agreements (e.g., policy conditions, exclusions and special limits, risks that are covered, policy limits, and deductibles, other insureds, a list of form numbers and endorsements that add to or alter the policy, losses covered, the subject matter of the insurance and description of the property covered, the perils insured against and circumstances when the insured may receive the proceeds of the insurance), Policy Conditions and Exclusions and Special Limits.

Management Response

Agree.

An alternative and more vigilant approach as determined in consultation with the subject matter experts in Legal and Risk Management Services is to be implemented. Insurance documents from DARTS and/or their subcontractors should be submitted to ATS directly from the insurers, and then provided to Risk Management for a fulsome review, with a reserved right to request additional information and/ or notarized copies as needed to satisfy the City. Subject matter experts in Risk Management will reach directly out to these insurers as required. ATS has provided this direction to DARTS in a letter reviewed by Legal and Risk Management Services.

Anticipated completion: Q3 2023 (last subcontractor renewal due).

Recommendation 41

DARTS and ATS should be provided legally notarized subcontractor insurance COIs at least annually, any time changes are made to the policies, whenever a vehicle is added to the subcontractor's fleet, or any time a vehicle is returned to active DARTS service.

Management Response

Agree.

An alternative and more vigilant approach as determined in consultation with the subject matter experts in Legal and Risk Management Services is to be implemented. Insurance documents from DARTS and/or their subcontractors should be submitted to ATS directly from the insurers, and then provided to Risk Management for a fulsome review, with a reserved right to request additional information and/ or notarized copies as needed to satisfy the City. Subject matter experts in Risk Management will reach directly out to these insurers as required. ATS has provided this direction to DARTS in a letter reviewed by Legal and Risk Management Services.

Anticipated completion: Q3 2023 (last subcontractor renewal due).

Recommendation 42

City of Hamilton Risk Management should review and approve in writing to DARTS and ATS management, the legally notarized COIs provided by each subcontractor's insurers before vehicles are put into active service in the DARTS operation.

Management Response

Agree.

An alternative and more vigilant approach as determined in consultation with the subject matter experts in Legal and Risk Management Services is to be implemented. Insurance documents from DARTS and/or their subcontractors should be submitted to ATS directly from the insurers, and then provided to Risk Management for a fulsome review, with a reserved right to request additional information and/ or notarized copies as needed to satisfy the City. Subject matter experts in Risk Management will reach directly out to these insurers as required. ATS has provided this direction to DARTS in a letter reviewed by Legal and Risk Management Services.

Anticipated completion: Q3 2023 (last subcontractor renewal due).

Recommendation 43

City of Hamilton Risk Management should review subcontractor insurance requirements at least annually.

Management Response

Agree.

City of Hamilton Risk Management reviews all COI's upon renewal and requests amendments where any deficiencies are noted.

Anticipated completion: Complete (all COIs and any amendments as required are submitted by ATS to Risk Management for review).

Theme G: Recommendations – Contracts – the MOA

Recommendation 44

The DARTS Master Operating Agreement (MOA) should be re-written or replaced in its entirety. Although DARTS business structure has changed significantly over the years the MOA was executed almost ten years ago and has remained much the same:

- MOA Schedule A is irrelevant as it relates to vehicles and buses, they (the City) leased to DARTS, however there are no buses leased to the City as of last year

- MOA Schedule B relates to IT Services and has been stricken as DARTS procure their own servers and licences
- MOA Schedule C relates to City-owned land, offices & parking used by DARTS
- ATS no longer handles reservations – now DARTS manages

Recommendation 45

The terminology used in the MOA section 3.3.13 c): "Certificate of Mechanical Fitness" should be referred to as the Ministry of Transportation (MTO) Safety Standards Inspection (SSI) program.

Recommendation 46

The MOA should define requirements of accessible vehicles that must receive MTO accessible vehicle safety inspections every 6-months.

Recommendation 47

The MOA should be re-worded to require the Contractor (DARTS) to keep records of vehicle maintenance (it now refers to Schedule A regarding leased City-owned vehicles).

Recommendation 48

The MOA should define the requirement for driver's daily pre-trip inspections and the processes for managing documentation of, and actions resulting from these inspections.

Recommendation 49

The MOA should set out the requirements regarding driver screening and driver's abstracts, both pre-hire and during employment.

Recommendation 50

The MOA contract language should define the minimum standards as far as DARTS driver's demerit point status.

Management Response for Themed Recommendations 44-50

Agree.

ATS acknowledges that the existing contract between the parties is insufficient. The overall approach to arrive at a new agreement will be undertaken in two parts:

- For existing terms which require minor updates or revisions, the Transit Division will work with internal legal counsel to issue an amending agreement to the existing contract between the parties, where it is practical to do so to cover interim matters pending the preparation of a new agreement. (In progress)
- For areas which require either substantive changes or new requirements, the Director of Transit will define business terms through discussions with the contractor. Legal counsel will thereafter prepare the appropriate terms and conditions for inclusion in a new agreement for the parties to execute. (Not yet started)

Anticipated completion: Q2 2023 (amending agreements) Q4 (new Agreement).

Theme H: Recommendations – Contracts - Subcontractor Service Agreements (SAs)

Recommendation 51

Subcontractor Service Agreements (SAs) should be aligned with the DARTS MOA contractual obligations to the City.

Recommendation 52

Contract language throughout the subcontractor SAs including current references to “Certificate of Mechanical Fitness”, should be updated to correctly refer to the Ministry of Transportation (MTO) Safety Standards Inspection (SSI) program.

Recommendation 53

The SAs should define requirements for accessible vehicles to receive MTO accessible vehicle safety inspections every 6-months.

Recommendation 54

The SAs should be re-worded to require the subcontractors to keep records of vehicle maintenance and promptly provide such records to DARTS.

Recommendation 55

The SAs should define minimum acceptable vehicle safety and preventive maintenance (PM) standards consistent with MTO safety standards.

Recommendation 56

The SAs should set out the consequence of non-compliance with MTO safety standards.

Recommendation 57

The SAs should define the consequence of non-compliance with MTO safety and PM standards, up to and including cancellation of their SA contracts.

Recommendation 58

The SAs should define the requirement for driver's daily pre-trip inspections, the processes for managing documentation of, and corrective actions resulting from these inspections.

Recommendation 59

The SAs should set out the requirements regarding driver screening and driver's abstracts, both pre-hire and during employment.

Recommendation 60

The SAs contract language should define the minimum standards as far as driver's demerit point status.

Recommendation 61

The SAs should include specific language requiring subcontractor vehicles to conform to safety requirements for the modification and construction of accessible vehicles.

Recommendation 62

Language in the SAs regarding Validated Registered Drivers should be reviewed to include pre-hire driver abstracts, and follow-up abstracts after hire.

Recommendation 63

Language in the SAs regarding Validated Registered Drivers should be reviewed to define the minimum standards for drivers and a maximum demerit point threshold.

Recommendation 64

Language in the SAs should include remedial measures such as professional driver improvement courses (PDIC) or training, rather than taking a punitive approach when driver complaints are received.

Management Response for Themed Recommendations 51-64

Agree.

ATS acknowledges that the existing contract between the parties is insufficient. The overall approach to arrive at a new agreement will be undertaken in two parts:

- For existing terms which require minor updates or revisions, the Transit Division will work with internal legal counsel to issue an amending agreement to the existing contract between the parties, where it is practical to do so to cover interim matters pending the preparation of a new agreement. (In progress)
- For areas which require either substantive changes or new requirements, the Director of Transit will define business terms through discussions with the contractor. Legal counsel will thereafter prepare the appropriate terms and conditions for inclusion in a new agreement for the parties to execute. (Not yet started)

Anticipated completion: Q2 2023 (amending agreements) Q4 (new Agreement).