

19th Biennial FTA State Programs Meeting and State Public Transportation Partnerships Conference

September 29, 2021



**FTA Safety and
Oversight Overview:**
COVID-19 Oversight
& Review Findings

Scott Giering

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Federal Transit Administration



U.S. Department of Transportation
Federal Transit Administration

FTA Oversight Approach for CARES, CRRSAA, and ARP

Congress has appropriated \$70 billion to support public transit's response to, and recovery from, COVID-19

Primary oversight of these funds is provided through the Triennial Review (TR) and State Management Review (SMR) programs.

Supplemental guidance for TR and SMR provides additional instructions on:

- Administrative relief related to COVID-19
- Flexibilities related to the use of COVID-19 relief funding

Supplemental oversight through financial spot reviews



COVID-19 Financial Oversight Spot Reviews

Universe of Recipients to Receive Proposed Reviews*

- **Group 1:** Recipients charging operating assistance not normally eligible to do so
- **Group 2:** All other recipients charging operating expenses

Scope of Review

- Sample of ECHO draws to review operating expense calculation and documentation
- Limited financial management system review to verify ability to track and account for new FTA funds with different local match requirements and eligibility criteria (Group 1 Only)

**Recipients scheduled to receive a TR or SMR would be excluded from supplemental oversight for that year*



COVID-19 Financial Oversight Spot Reviews (Continued)

Recipient Selection Process

- **Year 1:** All recipients in Group 1, risk-based sample of recipients in Group 2
- **Year 2 Onward:** Risk-based sample from Groups 1 and 2
- Risk-based indicators could include amount and frequency of ECHO draws, previous review findings, specific regional concerns

Program Resources

- Conducted under Financial Management Oversight (FMO) program with support from TR program
- Contractor support for 90 days after review to support resolution of findings
- Annual program to be continued as long as deemed necessary, but at least until FY23



Spot Review Progress by Region - 9/15/21

Region	Spot Reviews	Scoping Complete	Review Notification Sent to Recipient	Recipient Documentation Received	*Preliminary Report Sent to Recipient	**Technical Assistance Start	**Technical Assistance End	Final Report Sent to Recipient	Review Closed
1	7	6	6	6	3	0	0	0	0
2	5	1	1	1	0	0	0	0	0
3	10	10	10	7	1	0	0	0	0
4	21	19	16	13	0	0	0	0	0
5	21	8	8	8	1	1	0	1	0
6	15	15	10	10	0	0	0	0	0
7	3	3	3	1	0	0	0	0	0
8	4	4	4	3	1	0	0	1	0
9	29	18	18	16	0	0	0	0	0
10	4	3	2	2	0	0	0	0	0
Grand Total	119	87	78	67	6	1	0	2	0

*If no issues, the regional office has the discretion to finalize the report and close the review.

**Technical assistance is provided at the request of the recipient if there are issues identified during the review.



Spot Review Issues Identified

- Ineligible or disallowed costs
- Errors in calculating operating expenses
- Discrepancies between invoices and draw amounts
- Lack of clarity on how eligible costs were determined and that there was no duplication of billing
- Discrepancies with indirect cost charged vs approved rates
- Subrecipients oversight
 - Lack of sufficient backup documentation
 - Disallowed costs (rental charges for owned offices)
 - In-kind donations charged
 - Discrepancies in amounts charged and backup documentation



FY21 COVID-19 Related TR/SMR Findings

- 9 findings directly related to use of COVID 19 funds
 - Ineligible operating expense calculation (6)
 - ECHO documentation deficient (2)
 - Insufficient oversight of subrecipient operating assistance calculations



FY21 COVID-19 Related TR/SMR Findings

- 29 additional findings that while not directly related to use of COVID-19 funds, indicate risks in processes and systems that **could** impact the use of COVID-19 funds
 - Missing, insufficient, or out of date financial operating procedures (14)
 - Financial management systems deficiencies (5)
 - ECHO documentation deficient (3)
 - Ineligible indirect costs charged to awards (3)
 - Insufficient oversight of subrecipient operating assistance calculations (2)
 - Inadequate internal checks and balances
 - Missing financial qualifications
 - ECHO draws not properly approved



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**FTA Safety
and Oversight
Overview:**
Drug and Alcohol
Program Update

Lyon Rosario

Senior Drug and Alcohol Program Manager
Federal Transit Administration



U.S. Department of Transportation
Federal Transit Administration

Part 655 Program Components

- Omnibus Transportation Testing Act in 1991 authorized the Federal Transit Administration to issue regulations (49 CFR Part 655) to recipients of transit formula funds to establish a program to test safety-sensitive employees for the misuse of alcohol or the use of prohibited drugs
- Grantees receiving funding for:
 - **Section 5339, Bus and Bus Facilities**
 - **Section 5307, Urbanized Area**
 - **Section 5309, Capital Investment**
 - **Section 5311, Rural Area Program**
- Regulations cover 3,358 transit employers and over 280,000 safety-sensitive employees
- Required to test for Cocaine, Marijuana, Opiates, Amphetamines and Phencyclidine (PCP)
 - **As of January 1, 2018, DOT/FTA tests for Opioids**



Part 655 Program Components



The FTA Regulated Landscape (2020)

- 659 Grantees
- 3,358 Entities
- 284,637 Safety-Sensitive Employees
- 155,331 Random Drug Tests
- 62,478 Random Alcohol Tests
- 8,809 Post-Accident Drug Tests
- 8,278 Post-Accident Alcohol Tests



Revised Federal Drug Testing Custody and Control Form (CCF)

- Must be used beginning August 30, 2021
 - Required use by, DOT-regulated employers and service agents [collectors, laboratories, Medical Review Officers (MRO)]
- Most CCF revisions adopted to accommodate Oral Fluid Testing
 - Preparation for Oral Fluid Guidelines and DOT Approval
- If used “old” form after August 29, 2021
 - Must complete Memorandum for the Record (MFR)
 - Otherwise – test will be cancelled



Oral Fluid Testing

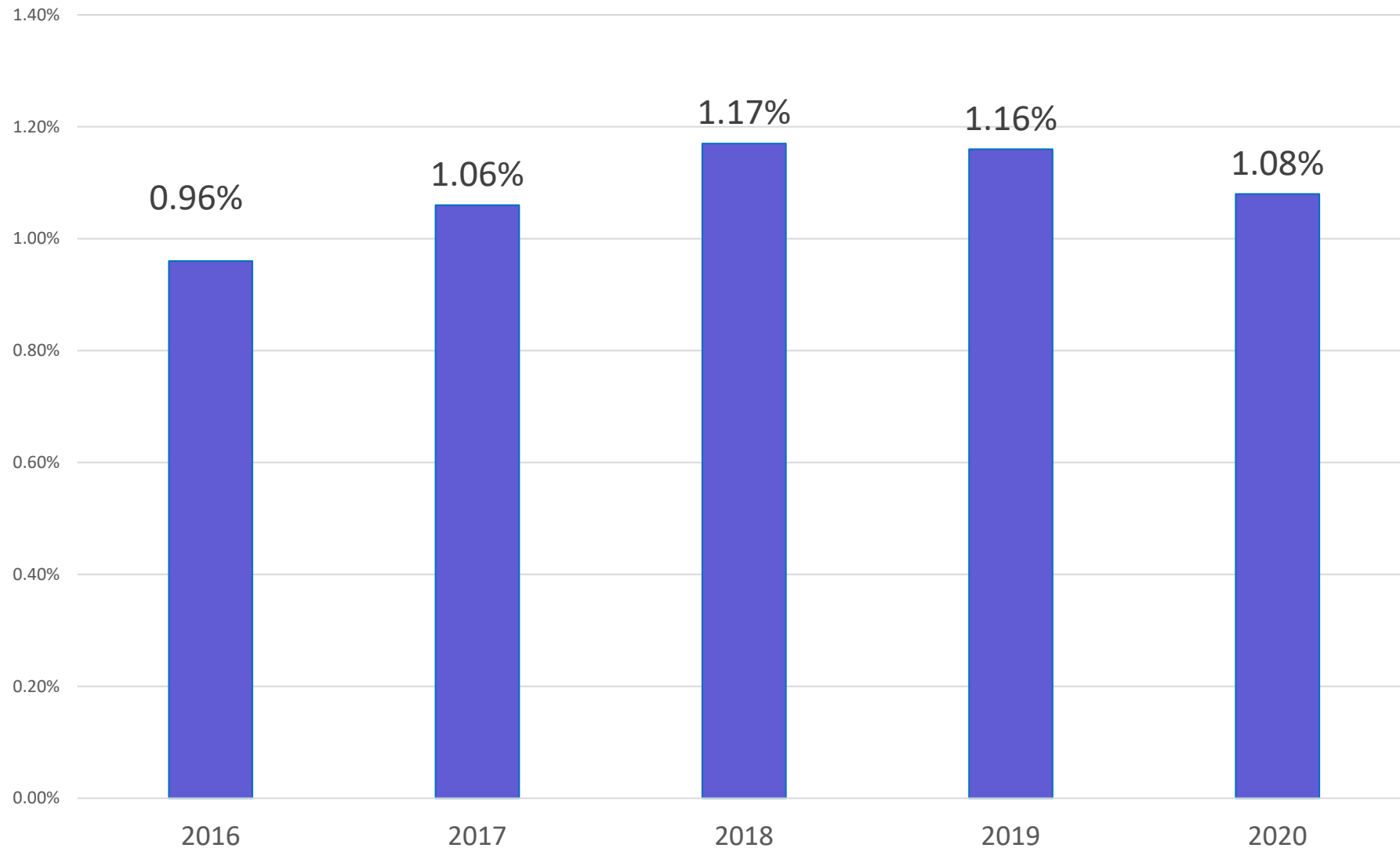
- Health and Human Service (HHS) – submitted rule to allow “oral fluids” as a “permissible methodology for Federal employee's drug testing”
- OTETA (Omnibus) requires DOT to follow HHS
- However, **Oral Fluid** drug testing is **not authorized in DOT's current drug testing program**
 - DOT must develop its own testing process / regulation
 - DOT regulations currently require:
 - Split Specimen
 - Test only for use... not exposure



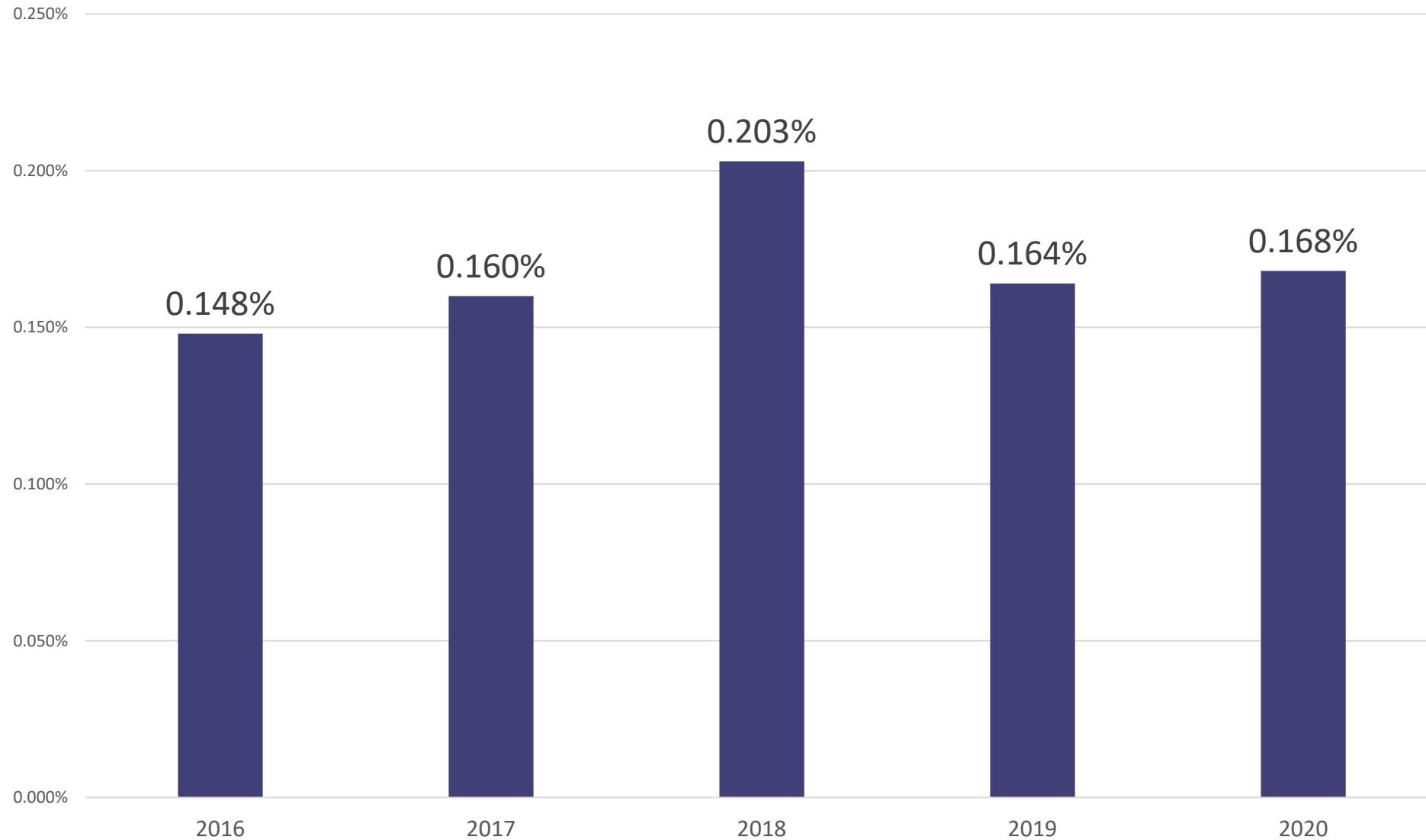
MIS Testing Data



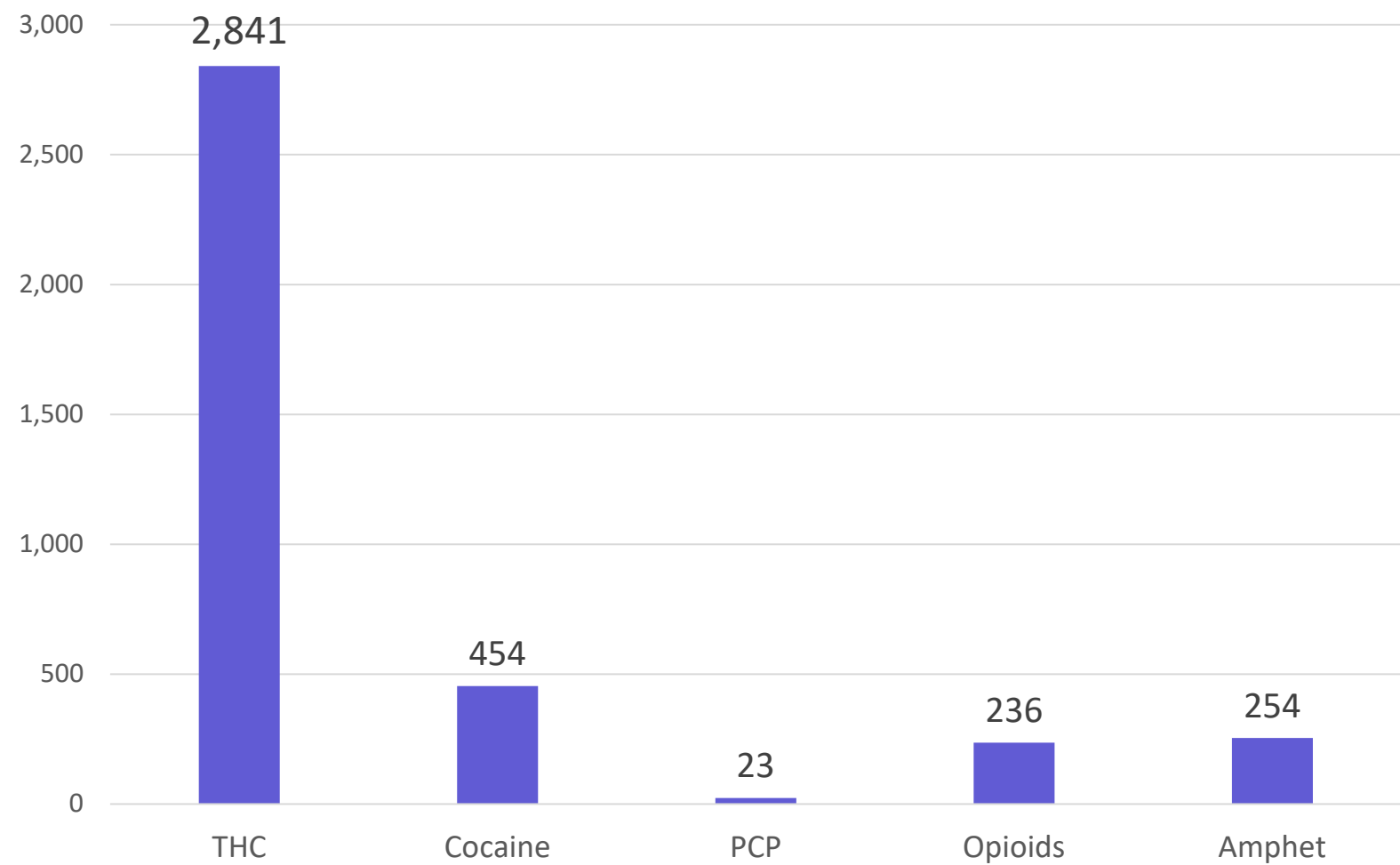
FTA Random Drug Testing Positive Rate (2016 - 2020)



FTA Random Alcohol Testing Violation Rate (2016 - 2020)



Number of Verified Positives – Drug Type (2020)



Resources!



Part 655 Program Components

- **FTA Drug and Alcohol Regulation *Updates* Newsletter**
 - <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Newsletters/Topics.aspx>
- **60 Minute Training Video**
 - Meets the requirements of section 655.14(b)
“Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.”
 - <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/DrugAwarenessVideo/Default.aspx>
- **FTA Policy Builder**
 - Reflects Recent Part 40 Revisions
 - <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/PolicyBuilder/CreatePolicy.aspx>
- **Trainings and Conferences**
 - Annual FTA Drug and Alcohol Program National Conference



Questions!



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Overview of FTA Requests for Information
September 29, 2021



Ray Biggs, II

Acting Director, Office of System Safety
Office of Transit Safety and Oversight
Federal Transit Administration



Background

The Federal Transit Administration (FTA) is responsible for administering a Public Transportation Safety Program to improve the safety performance of the Nation's transit systems. FTA adopted the principles and methods of Safety Management Systems (SMS):

- As the foundation of the Safety Program,
- To proactively identify safety risks, and
- To address safety risks at the industry level.



The recent and upcoming FTA Requests for Information (RFIs) solicit input from the public regarding transit industry safety concerns and safety mitigations related to Roadway Worker Protection (RWP) programs and transit worker assault prevention.

Transit Safety Concerns RFI Overview

Quick Facts

Date Open: July 15, 2021

Date Closed: September 22, 2021

Audience: Public (industry, transit providers, transit users, researchers, contractors, etc.)

Purpose: Solicit public input on safety concerns FTA should consider including in its next SRM Action Plan

Scope of Questions:

- Safety concerns for SRM analysis
- Emerging safety risks
- Data sources and considerations
- Safety concern identification best practices

FTA Docket Number: FTA-2021-0011

Purpose: FTA solicited input from the public to inform the development of the agency's next Safety Risk Management (SRM) Action Plan.

Next Steps:

- FTA will review and analyze the RFI responses.
- FTA leadership will determine which safety topics should be included in the next SRM Action Plan.
- FTA will use its SRM process to analyze the risk associated with each safety topic and implement mitigations, if warranted.



Transit Worker Safety RFI Overview

Quick Facts

Date Open: September 24, 2021

Date Close: November 23, 2021

Audience: Public (industry, transit providers, transit users, researchers, contractors, etc.)

Purpose: Solicit public input regarding transit worker safety mitigations related to RWP programs and transit worker assault prevention

Scope of Questions:

Types of redundant protections

- RWP and transit worker assault prevention best practices
- Minimum requirements recommendations
- Information, data, and technology

FTA Docket Number: FTA-2021-0012

Purpose:

- FTA is considering mitigations for reducing the safety risk to transit workers.
- FTA is soliciting the public's input regarding possible mitigations for both RWP and transit worker assaults.

Next Steps: FTA will review responses to the RFI and use them to inform the agency's next steps in response to these safety concerns.

You may file comments, identified by docket number FTA-2021-0012, by any of the methods listed in the RFI.



Thank You!

- FTA would like to thank its industry partners for their valuable feedback through comments to the two RFIs.
- Should you have any questions, please direct them to the contact information below:

Ray Biggs, II

Federal Transit Administration

Acting Director, Office of Transit Safety and Oversight

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