Bipartisan Infrastructure Law
Requirements for
Risk-Based Inspections (RBI)

July 28, 2022

Office of Transit Safety and Oversight
Federal Transit Administration
Agenda

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• RBI Definition
• Impacted Agencies
• Major Provisions
• Special Directive and Toolkit
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Background

• In 2021, Congress passed the Bipartisan Infrastructure Law, which amended FTA’s Public Safety Transportation Program to require SSOAs to develop and implement risk-based inspections as part of SSOA oversight.

• The Bipartisan Infrastructure Law directs FTA to assess the capability of an SSOA to conduct risk-based inspections of the transit agencies they oversee.

• Congress has directed FTA to issue *Special Directives* to each SSOA requiring them to *develop and implement* a risk-based inspection program of the Rail Fixed Guideway Public Transportation Systems (RFGPTS) they oversee.
Risk-Based Inspection Definition

- A risk-based inspection program uses qualitative and quantitative data analysis to inform ongoing inspection activities. Risk-based inspection programs are designed to prioritize inspections to address safety concerns and hazards associated with the highest levels of safety risk.
# Bipartisan Infrastructure Law Requirements

| **FTA** | Must Issue a Special Directive to each SSOA requiring the Development and Implementation of Risk Based Inspection programs by November 15, 2022  
| | Must assess the capability of each SSOA’s to conduct risk-based inspections compliant with 49 U.S.C.§5329. |
| **SSOAs** | Must develop and implement a risk-based inspection program in accordance with 49 U.S.C.§5329 (k) and the Special Directive.  
| | The risk-based inspection program must be effective not later than 2 years after receiving Special Directive. |
| **RTAs** | Must coordinate with the SSOA on policies and procedures for inspection access and data collection and incorporation the policies into their ASP.  
| | Must share with SSOAs the data the RTA collects when identifying and evaluating safety risks. |

Requirements Applicable to FTA:

• Must issue a Special Directive to each SSOA on the development and implementation of risk-based inspection programs.
  
  – *FTA will issue identical Special Directives to each agency*

• Must ensure that inspection practices of each SSOA are commensurate with the number, size and complexity of the RFGPTS the SSOA oversees.

• Must ensure the inspection program of each SSOA is risk-based.

• Must ensure the SSOAs have sufficient resources to conduct inspections.

• Must ensure the risk-based inspection programs of SSOAs comply with 49 U.S.C. § 5329(k).

Requirements Applicable to SSOAs:

• Has authority to enter the facilities of each RTA that the SSOA oversees to inspect infrastructure, equipment, records, personnel, and data.

• Has policies and procedures created in consultation with each RTA to conduct risk-based inspections, including access for inspections that occur without advance notice.

• Has policies and procedures created in consultation with each RTA for data collection.

• Incorporates policies and procedures for inspection access and data collection into Program Standard.

• Has inspection practices that are risk-based and commensurate with the number, size and complexity of the RFGPTS.
Requirements Applicable to RTAS:

• Has policies and procedures created in consultation with the SSOA regarding access to the RFGPTS to conduct risk-based inspections, including access with and without advance notice.

• Has policies and procedures created in consultation with the SSOA for collecting and sharing data the RTA collects when identifying and evaluating safety risks.

• Incorporates policies and procedures for inspection access and data collection and sharing into the ASPs.
FEDERAL TRANSIT ADMINISTRATION

Risk-Based Inspections Implementation Timeline

NLT NOVEMBER 15, 2022
- FTA Issues a Special Directive to each SSOA requiring the development and implementation of a Risk-Based Inspection Program.

PROJECTED 2023
- CFR 49 Part 674 will be updated to incorporate Risk-Based Inspections.

~ NOVEMBER 15, 2024
- Deadline by which each SSOA must implement their Risk-Based Inspection Programs (implementation required two years after the Special Directive is issued).
Risk-Based Inspection
Special Directive and Toolkit
Special Directives

FTA has authority to issue directives with respect to the safety of the public transportation system of a recipient. Special Directives are:

• Issued for a few prescribed reasons, including if the public interest requires the avoidance or mitigation a hazard or risk.
• Include a statement of purpose of the directive, including a description of the subjects or issues involved.
• Include a statement of the actions being sought.
• Include effective and compliance dates.

49 U.S.C. § 5329(f)(2)
49 CFR 670.27
Special Directives (cont.)

Special Directive for Risk-Based Inspections:

• FTA was directed by Congress to issue Special Directives to SSOAs on the development and implementation of risk-based inspections.

• The Special Directive must:
  o Be issued not later than November 15, 2022.
  o Will Require that SSOAs submit documentation to demonstrate their inspection programs address the requirements.
  o Will be “closed” by FTA. The SSOA will be notified of closure once all requirements are satisfied.

49 U.S.C. § 5329(k)(5)
Section 30012(b) of the Bipartisan Infrastructure Law
RBI Special Directive and Toolkit

Risk-Based Inspection Program Special Directive

• *Legally Binding* Document that requires SSOAs to develop and implement an RBI.

Risk-Based Inspection Program Toolkit

• *Non-Binding* Document that further explains the requirements of 49 U.S.C. § 5329(k) and Special Directive.

• Intended to assist SSOAs in complying with the Special Directive.
## Components of Risk-Based Inspection Program

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The information provided on this slide is for illustrative purposes and may be subject to change.
Risk-based Inspections Data to Implementation

Data Collection

RTA collects and share safety data used when identifying and evaluating safety risks including

- Analyze and Prioritize:
  - Determine which safety metrics will be used by evaluating data.
  - Develop prioritization procedures.
  - Prioritize inspections within each RFGPTS and between each RFTPTS.

Inspection Prioritization

SSOA Develops Inspections of:
- Equipment, infrastructure, and practices specific to each RFGPTS.
- Incident verification.
- Ongoing monitoring (procedures, maintenance, and operations).
- Defects and corrective or remedial action.
- CAPs and safety risk mitigation verification.

Inspection Development

SSOA Conducts Inspections and Addresses Areas of Safety Risk:
- Equipment, infrastructure, and practices specific to each RFGPTS.
- Incident verification.
- Ongoing monitoring (procedures, maintenance, and operations).
- Defects and corrective or remedial action.
- CAPs and safety risk mitigation verification.

Conduct Inspections

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FEDERAL TRANSIT ADMINISTRATION

FTA Assessment of Existing Risk-Based Inspection Programs

Percentage of SSOAs with Existing Elements of RBI Program as of April 2022

- CATEGORY 1 - ACCESS: 95%
- CATEGORY 2 - POLICIES: 40%
- CATEGORY 3 - DATA: 50%
- CATEGORY 4 - RISK ASSESSMENT: 10%
- CATEGORY 5 - SIZE: 20%
- CATEGORY 6 - STAFFING: 20%
Risk-Based Inspections Industry Status

• FTA is aware that on-site inspections of transit agencies may have paused during COVID-19 and are only now resuming.

• FTA is aware that some SSOAs may need to hire additional staff to develop and/or implement its risk-based inspection program.

• FTA recommends that SSOAs examine their enabling legislation and program standard to ensure authority to conduct inspections, including access for inspections that occur without advance notice to the rail transit agency.
Questions?

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