



U.S. Department
of Transportation

**Federal Transit
Administration**

Headquarters

1200 New Jersey Avenue, SE
Washington, DC 20590

SENT VIA EMAIL

December 16, 2022

Mr. Matthew H. Nelson
Chair
Massachusetts Department of Public Utilities
One South Station
Boston, MA 02110

Subject: Review of the Massachusetts Department of Public Utilities (DPU) Resubmitted Response to Special Directive 22-8.

Dear Mr. Nelson,

Thank you and your team for submitting a revised Inspection and Verification (InV) Procedure to address comments from the Federal Transit Administration (FTA) regarding DPU’s previous submittal to address Special Directive 22-8. FTA received the resubmittal on time as requested in FTA’s letter dated November 18, 2022.

FTA Approval of InV Procedure

FTA approves your submission to resolve the following action items for SD 22-8:

- Findings 3 & 4, Required Action 3, Action Item 1 (3-3-1 and 4-3-1) – InV Procedures.

The InV Procedure, as revised and effective December 9, 2022, should be used for validating the implementation of each Corrective Action Plan (CAP) developed by the Massachusetts Bay Transportation Authority (MBTA), not just those CAPs associated with FTA’s SD 22-4 through 22-7.

DPU Submission of InV Plans Using Approved InV Procedure

With the approval of DPU’s InV Procedure, DPU must begin submitting the InV Plans required by SDs 22-4 through 22-7. **FTA has revised the due dates for submission of the InV Plans as follows:**

MBTA Special Directive	New Due Date for DPU InV Plans
SD 22-4 (TRA)	December 30, 2022
SD 22-5 (VSC)	January 6, 2022

SD 22-6 (OCC)*	January 13, 2022
SD 22-7 (LC)*	January 20, 2022

* Note: for SDs 22-6 & 22-7, the InV Plans for the Immediate Actions had different due dates than the Plans for CAPs. For simplicity, those due dates have been consolidated.

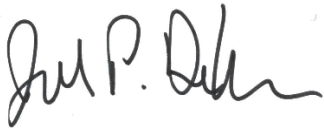
FTA Tracking of DPU Enforcement Procedure and Plans

Special Directive 22-13 requires that DPU revise its Enforcement Procedure and the submission of DPU's Enforcement Plans for SDs 22-4 through 22-7 are contingent upon FTA approval of that Enforcement Procedure. Therefore, both **the Enforcement Procedure and Enforcement Plans will be tracked exclusively through SD 22-13**. While these remain Required Actions for 22-8, updates to their status will no longer appear on the 22-8 evaluation matrix but instead will be tracked on the SD 22-13 evaluation matrix.

Conclusion

We appreciate your efforts to enhance DPU's performance and implementation of the SSO program in the Commonwealth of Massachusetts, and we look forward to working with you and your team to address FTA's findings and required actions. Please contact our SMI Coordinator, Erin Powell, by phone at (771) 200-8016 or by email at Erin.Powell@dot.gov with any questions.

Sincerely,



Joe DeLorenzo
Associate Administrator and
Chief Safety Officer
Office of Transit Safety and Oversight

Enclosure: DPU 22-8 Evaluation Matrix

cc. Peter Butler, Regional Administrator, FTA Region 1
Elizabeth Cellucci, Director, Transportation Oversight Division, DPU



Special Directive 22-8: Evaluation Matrix

Identification Number	Finding and Required Action	DPU Submissions	Date Submitted	FTA Comments
<p>Specific Activities</p>	<p>Required Action: The DPU must identify the specific activities that it will undertake to ensure the MBTA's completion of the required actions, a milestone schedule for completion of the MBTA's required actions, and the parties at the DPU and MBTA responsible for completing the required actions. In addition, the DPU must develop and submit a Corrective Action Plan to FTA to address how it intends to ensure the MBTA's completion of the required actions.</p>	<ol style="list-style-type: none"> 1. CAP Table for July 15 Submission 2. DPU Safety Directive CAP Tracker 3. DPU CAP Review Checklist 4. DPU CAP Review and Assessment Form 5. DPU Procedure for CAP Oversight 	7/15/2022	Submissions Accepted
	<p>Fully address FTA's open non-compliant audit findings of DPU's Program</p>	<ol style="list-style-type: none"> 1. NA 	NA	Ongoing. FTA has directed DPU to first address the other required action and will communicate requirements for the closure of these findings at a future date.
	<p>FTA will conduct weekly meetings with DPU to review the MBTA's weekly progress reports and the DPU's progress in effectively exercising its oversight responsibilities until such time as FTA determines that these meetings are no longer needed or may be conducted with less frequency.</p>	<ol style="list-style-type: none"> 1. DPU has attended all weekly meetings with FTA. 	Ongoing	Ongoing
<p>Finding 1 FTA DPU-22-001 The DPU has not ensured that the</p>	<p>Required Action 1: DPU must independently review and assess the CAPs received by the MBTA. DPU must provide documentation to the FTA that demonstrates how the DPU assessed and determined the CAP was sufficient to address the finding.</p>	<ol style="list-style-type: none"> 1. CAP Review and Assessment Forms for each of 9 CAPs MBTA submitted for SD 22-4. 2. CAP Review Checklist for each of 9 CAPs MBTA submitted for SD 22-4. 	8/4/2022	Submissions Accepted



Special Directive 22-8: Evaluation Matrix

Identification Number	Finding and Required Action	DPU Submissions	Date Submitted	FTA Comments
<p>MBTA maintains its track.</p>	<p>Required Action 2: DPU must identify any existing findings and associated CAPs the DPU has already issued to the MBTA and must ensure these findings and CAPs are deconflicted from the new findings issued due to FTA SD 22-4. FTA’s findings and subsequently approved CAPs supersede any prior inconsistent CAPs from DPU.</p>	<p>1. DPU reviewed existing CAPS (as of June 30, 2022) and submitted those relating to SD 22-4.</p>	<p>7/15/2022</p>	<p>Submissions Accepted</p>
	<p>Required Action 3: DPU must provide to FTA an inspection and verification plan that outlines the processes DPU will utilize to close each CAP.</p>	<p>1. Inspection and Verification Plans (InV) for each of 9 CAPs proposed by MBTA for SD 22-4.</p>	<p>8/4/2022</p>	<p>Action Required DPU must revise and resubmit InV plans based on the Supplemental Evaluation Matrix for Inspection and Verification Plans sent September 9, 2022, and the revised InV Procedure approved by FTA on December 16, 2022. The due date for this item has been revised to December 30, 2022.</p>
	<p>Required Action 4 (1-4): DPU must provide to FTA a plan for the DPU to utilize its enforcement authority if the MBTA fails to adequately address any approved CAPs.</p>	<p>1. No Plans Submitted</p>	<p>N/A</p>	<p>Action Item Tracked Through SD 22-13 SD 22-13 requires that DPU revise its Enforcement Procedure. The submission of DPU’s Enforcement Plans for SDs 22-4 through 22-7 are contingent upon FTA approval of that Enforcement Procedure. Therefore, DPU’s submission of both the Enforcement Procedure and Enforcement Plans will be tracked exclusively through SD 22-13. While these remain Required Actions for 22-8, updates to their status will no longer appear on the 22-8 tracking table.</p>



Special Directive 22-8: Evaluation Matrix

Identification Number	Finding and Required Action	DPU Submissions	Date Submitted	FTA Comments
	<p>Required Action 5: DPU must attend the meetings the FTA will hold with MBTA as a result of SD 22-4.</p>	<ol style="list-style-type: none"> DPU provided a list of known meetings and those staff members who are assigned to attend. DPU staff have attended all bi-weekly meetings related to SD 22-4. 	Ongoing	Ongoing
<p>Finding 2 FTA-DPU-22-8-002</p> <p>DPU has not ensured that the MBTA has sufficient policies and procedures to address unintended train movements.</p>	<p>Required Action 1: DPU must independently review and assess the CAPs received by the MBTA. DPU must provide documentation to the FTA that demonstrates how the DPU assessed and determined the CAP was sufficient to address the finding.</p>	<ol style="list-style-type: none"> CAP Review and Assessment Forms for the 3 CAPs proposed by MBTA for SD 22-5. CAP Review Checklist for each of 3 CAPs proposed by MBTA for SD 22-5. 	7/20/2022	Submissions Accepted
	<p>Required Action 2: DPU must identify any existing findings and associated CAPs the DPU has already issued to the MBTA and must ensure these findings and CAPs are deconflicted from the new findings issued due to FTA SD 22-5. FTA’s findings and subsequently approved CAPs supersede any prior inconsistent CAPs from DPU.</p>	<ol style="list-style-type: none"> DPU reviewed the existing CAPS (as of June 30, 2022) and submitted those relating to SD 22-5. 	7/15/2022	Submissions Accepted
	<p>Required Action 3: DPU must provide to FTA an inspection and verification plan that outlines the processes DPU will utilize to close each CAP.</p>	<ol style="list-style-type: none"> Inspection and Verification Plans for the 3 CAPs proposed by MBTA for SD 22-5. 	7/20/2022	<p>Action Required DPU must revise and resubmit InV Plans based on the “Inspection and Verification and Evaluation Plans Matrix” sent on September 16, 2022, and the revised InV Procedure approved by FTA on December 16, 2022. The due date for this item has been revised to January 6, 2022.</p>
	<p>Required Action 4: DPU must provide to FTA a plan for the DPU to utilize its enforcement</p>	<ol style="list-style-type: none"> Enforcement Plans for the 3 CAPs proposed by MBTA for SD 22-5. 		<p>Action Item Tracked Through SD 22-13 See FTA comments to Finding 1 Action 4 (1-4).</p>



Special Directive 22-8: Evaluation Matrix

Identification Number	Finding and Required Action	DPU Submissions	Date Submitted	FTA Comments
			7/25/2022	<p>oversight. DPU must resubmit an effective InV plan for these CAPs based on the revised InV Procedure approved by FTA on December 16, 2022. Per FTA letter sent December 16, 2022, the due date for this item has been revised to January 13, 2022.</p> <p><u>Action Item 3 (3-3-3)</u> Action Required DPU must revise and resubmit InV plans based on the “Inspection and Verification and Enforcement Plans Evaluation Matrix” sent September 16, 2022, and the revised InV Procedure approved by FTA on December 16, 2022. Per FTA letter sent December 16, 2022, the due date for this item has been revised to January 13, 2022.</p>
	<p>Required Action 4: DPU must provide to FTA a plan for the DPU to utilize its enforcement authority if the MBTA fails to adequately address any approved CAPs.</p>	<ol style="list-style-type: none"> 1. Revised SOG procedure for Using Enforcement Authority. 2. A plan for enforcement actions should the MBTA fail to successfully implement the immediate actions required by SD 22-6. 3. Enforcement Plans for the 4 CAPs proposed by MBTA for SD 22-6. 		<p>Action Items Tracked Through SD 22-13 See FTA comments to Finding 1 Action 4 (1-4).</p>
	<p>Required Action 5: DPU must attend the meetings the FTA will hold with MBTA as a result of SD 22-6.</p>	<ol style="list-style-type: none"> 1. DPU provided a list of known meetings and those staff members who are assigned to attend. 2. DPU staff have attended all bi-weekly meetings related to SD 22-6. 	Ongoing	Ongoing



Special Directive 22-8: Evaluation Matrix

Identification Number	Finding and Required Action	DPU Submissions	Date Submitted	FTA Comments
<p>Finding 4 <u>FTA-DPU-22-004</u></p> <p>DPU has not ensured that the MBTA has sufficient policies and procedures related to lapsed certifications.</p>	<p>Required Action 1: DPU must independently review and assess the CAPs received by the MBTA. DPU must provide documentation to the FTA that demonstrates how the DPU assessed and determined the CAP was sufficient to address the finding.</p>	<ol style="list-style-type: none"> 1. CAP Review and Assessment Forms for the 2 CAPs proposed by MBTA for SD 22-7. 2. CAP Review Checklists for the 2 CAPs proposed by MBTA for SD 22-7. 	8/9/2022	Submissions Accepted
	<p>Required Action 2: DPU must identify any existing findings and associated CAPs the DPU has already issued to the MBTA and must ensure these findings and CAPs are deconflicted from the new findings issued due to FTA SD 22-7. FTA’s findings and subsequently approved CAPs supersede any prior inconsistent CAPs from DPU.</p>	<ol style="list-style-type: none"> 1. DPU reviewed existing CAPs (as of June 30, 2022) and submitted those relating to SD 22-7. 	7/15/2022	Submissions Accepted
	<p>Required Action 3 (4-3): DPU must provide to FTA an inspection and verification plan that outlines the processes and procedures the DPU will utilize to close each CAP.</p> <p><u>(Relevant to SD 22-7, immediate actions only)</u></p>	<ol style="list-style-type: none"> 1. Revised SOG procedure for Inspection and Verification Plans. 2. Inspection and Verification Plan for immediate actions taken by MBTA for SD 22-7. 3. Inspection and Verification Plans (InV) for the 2 CAPs proposed by MBTA for SD 22-7. 	<p>12/9/2022</p> <p>7/15/2022</p>	<p><u>Action Item 1 (4-3-1):</u> Submission Accepted Revised InV Procedure clarifies that the procedures are for all CAPs</p> <p><u>Action Item 2 (4-3-2):</u> Action Required DPU’s InV plan for SD 22-7 does not ensure a sufficient frequency of oversight. DPU must resubmit an effective InV plan for these CAPs based on the revised InV Procedure approved by FTA on December 16, 2022. Per FTA letter sent December 16, 2022, the due date for this item has been revised to January 20, 2022.</p>



Special Directive 22-8: Evaluation Matrix

Identification Number	Finding and Required Action	DPU Submissions	Date Submitted	FTA Comments
			8/9/2022	<p>Action Required DPU must revise and resubmit InV plans based on the “Inspection and Verification and Enforcement Plans Evaluation Matrix” sent September 16, 2022, and the revised InV Procedure approved by FTA on December 16, 2022. Per FTA letter sent December 16, 2022, the due date for this item has been revised to January 20, 2022.</p>
	<p>Required Action 4: DPU must provide to FTA a plan for DPU to utilize its enforcement authority if the MBTA fails to adequately address any approved CAP.</p>	<ol style="list-style-type: none"> 1. Revised SOG procedure for Utilizing Enforcement Authority. 2. A plan for enforcement actions should the MBTA fail to successfully implement the immediate actions required by SD 22-7. 3. Enforcement Plans for the 2 CAPs proposed by MBTA for SD 22-7. 		<p>Action Items Tracked Through SD 22-13 See FTA comments to Finding 1 Action 4 (1-4).</p>
	<p>Required Action 5: DPU must attend the meetings the FTA will hold with MBTA as a result of SD 22-7.</p>	<ol style="list-style-type: none"> 1. DPU provided a list of known meetings and those staff members who are assigned to attend. 2. DPU staff have attended all bi-weekly meetings related to SD 22-7. 	Ongoing	Ongoing