



U.S. Department  
of Transportation

**Federal Transit  
Administration**

Administrator

1200 New Jersey Avenue, SE  
Washington, DC 20590

August 18, 2016

The Honorable Pete K. Rahn  
Secretary of Transportation  
Maryland Department of Transportation  
7201 Corporate Center Drive  
Hanover, MD 21076

The Honorable Aubrey Layne  
Secretary of Virginia  
Virginia Department of Transportation  
Patrick Henry Building, 3<sup>rd</sup> Floor  
1111 East Broad Street  
Richmond, VA 23219

The Honorable Leif Dormsjo  
Director  
District of Columbia Department of Transportation  
55 M Street, SE, Suite #400  
Washington, DC 20003

Mr. Roger Berliner  
Chairman  
Metropolitan Washington Council of Governments  
777 North Capitol Street NE, Suite #300  
Washington, DC 20002

Dear Secretary Rahn, Secretary Lane, Director Dormsjo, and Chairman Berliner:

In October 2015, under the authority granted to the Federal Transit Administration (FTA) in the Moving Ahead for Progress in the 21<sup>st</sup> Century Act, FTA assumed the direct, but temporary, safety oversight role of the Washington Metropolitan Area Transit Authority (WMATA) Metrorail system. As you know, Transportation Secretary Anthony Foxx directed FTA to assume this responsibility because FTA had determined that the Tri-State Oversight Committee (established by the State of Maryland, the Commonwealth of Virginia and the District of Columbia) was incapable of providing adequate safety oversight as required by law.

Secretary Foxx also has repeatedly informed the three jurisdictions that he expects them to have a federally-compliant State Safety Oversight (SSO) program certified by the FTA and in place by February 9, 2017. He recently reiterated this expectation in a July 29, 2016 letter to Governor Hogan, Governor McAuliffe, and Mayor Bowser, calling on the jurisdictions to pass SSO legislation “well before February 9, 2017.”

To support the jurisdictions’ efforts to implement an effective SSO program by the February 2017 deadline, FTA has regularly provided technical assistance and feedback to the jurisdictions for a number of months.

The Honorable Pete K. Rahn, The Honorable Aubrey Layne, The Honorable Leif Dormsjo, and Mr. Roger Berliner

Additionally, FTA continues to look for ways to ensure that the jurisdictions have the requisite skills and expertise to fulfill the legal requirements set out in 49 U.S.C. § 5329(e) and 49 C.F.R. Part 674 as soon as practicably possible.

To that end, FTA reached out to representatives from the three jurisdictions earlier this summer to explore whether the jurisdictions would make individuals available to FTA to participate as either investigators or inspectors in carrying out FTA's oversight functions with respect to Metrorail. As we explained, participation by these individuals (whether employees of the jurisdictions or contractors) would help the jurisdictions better understand and prepare for the nature and extent of their safety oversight obligations and would facilitate a faster, more efficient transition of oversight authority from FTA to the SSO Agency (SSOA) entity at an appropriate time after the entity is established.

We discussed our proposal several times with representatives from the jurisdictions and explained our rationale, including at a July 20, 2016 meeting. At that meeting Deputy Secretary Mendez and I discussed with the jurisdictions the status of efforts to establish a new SSOA through legislation and build the foundations of a legally compliant SSO program. Deputy Secretary Mendez renewed FTA's request that the jurisdictions provide a limited number of individuals to participate in FTA inspections and investigations of Metrorail safety to facilitate the transition to a new SSOA. To date we have not received any assurances from the jurisdictions that you intend to provide the requested resources.

The FTA continues to believe that the jurisdictions' daily involvement in the current oversight of Metrorail will prepare the new SSOA to more quickly and more effectively assume oversight responsibilities for WMATA. To assist with the transition, FTA will withhold up to \$900,000 from the 49 U.S.C. § 5329(e) funds allocated to the three jurisdictions for WMATA oversight to hire contractors to participate in FTA's ongoing efforts, including inspections, investigations, and incident response. These contractors will gain experience and training for appropriate safety oversight procedures that will be critical to the new SSOA once it is established. The FTA will begin the process to transfer these safety oversight funds immediately. Any funds not used by FTA will be made available to the jurisdictions for future SSOA purposes.

We are appreciative of the work that the Council of Governments is doing to assist the jurisdictions in the development of an effective SSOA and have concluded that the action we are taking will further expedite that development and strengthen the new SSOA.

If I can provide further information or assistance, please feel free to contact me.

Sincerely yours,



Carolyn Flowers  
Acting Administrator

cc: Kevin C. Reigrut, Assistant Secretary for Operations, Maryland Department of Transportation  
Jennifer Mitchell, Director, Virginia Department of Rail and Public Transit  
Todd McIntyre, Deputy Chief of Staff, District of Columbia Department of Transportation  
Chuck Bean, Executive Director, Metropolitan Washington Council of Governments  
Nick Ramfos, Director, Transportation Operations Programs, Metropolitan Washington Council of Governments