



June 17, 2015

FINAL AUDIT REPORT

State Safety Oversight Audit of the Tri-State Oversight Committee

Conducted by the Federal Transit Administration
Office of Transit Safety and Oversight

March 9-11, 2015



Table of Contents

Acronyms	iv
List of Findings	1
Introduction	4
Background	4
FTA’s Approach for SSO Audit.....	5
49 CFR Part 659, State Safety Oversight Rule	5
Audit Methodology	6
Report Organization	6
1.0 Designation of SSO Agency.....	7
Summary of Activities	7
Evaluation Criteria	7
Status and Assessment	7
Findings.....	9
2.0 Program Resources.....	11
Summary of Activities	11
Evaluation Criteria	11
Status and Assessment	11
Findings.....	14
3.0 Development of Program Standard and Agency Safety and Security Plans.....	15
Summary of Activities	15
Evaluation Criteria	15
Status and Assessment	15
Findings.....	16
4.0 Oversight of the Implementation of Agency Safety and Security Plans.....	17
Summary of Activities	17
Evaluation Criteria	17
Status and Assessment	17
Findings.....	18
5.0 Hazard Management Program.....	19



Summary of Activities	19
Evaluation Criteria	19
Status and Assessment	20
Findings	23
6.0 Accident Notification, Reporting, and Investigation	24
Summary of Activities	24
Evaluation Criteria	24
Status and Assessment	25
Findings	26
7.0 Corrective Action Plans.....	27
Summary of Activities	27
Evaluation Criteria	27
Status and Assessment	27
Findings	29
8.0 Oversight of Internal Reviews and Annual Reporting.....	30
Summary of Activities	30
Evaluation Criteria	30
Status and Assessment	30
Findings	31
9.0 State Oversight Agency Three-Year Safety and Security Reviews.....	32
Summary of Activities	32
Evaluation Criteria	32
Status and Assessment	32
Findings	32
10.0 Reporting to FTA.....	33
Summary of Activities	33
Evaluation Criteria	33
Status and Assessment	33
Findings	34
Appendix A – List of Requested Materials	35
Appendix B – Audit Findings Tracking Matrix	36



Appendix C – TOC-MSR Transition Action Item List	39
---	-----------



Acronyms

CAP	Corrective Action Plan
CAPTURE	Corrective Action Plan Technical Review Entity
CFR	Code of Federal Regulations
CWP	Certification Work Plan
CY	Calendar Year
DDOT	District of Columbia Department of Transportation
DRPT	(Virginia) Department of Rail and Public Transportation
ESC	Executive Safety Committee
FTA	Federal Transit Administration
FY	Fiscal Year
GM/CEO	General Manager/Chief Executive Officer
LSC	Local Safety Committee
MAP-21	Moving Ahead for Progress in the 21st Century (Act)
MDOT	Maryland Department of Transportation
MOU	Memorandum of Understanding
MSC	Metro Safety Commission
MTPD	Metro Transit Police Department
MWCOG	Metropolitan Washington Council of Governments
NTSB	National Transportation Safety Board
PSP	Program Standard and Procedures
RFGPTS	Rail Fixed Guideway Public Transportation System
SAFE	Department of Safety and Environmental Management
SEPP	Security and Emergency Preparedness Plan
SMI	Safety Management Inspection
SMS	Safety Measurement System
SSO	State Safety Oversight
SSOA	State Safety Oversight Agency
SSPP	System Safety Program Plan
TOC	Tri-State Oversight Committee
WMATA	Washington Metropolitan Area Transit Authority



List of Findings

During March 9 through 11, 2015, the Federal Transit Administration (FTA) conducted an audit of the Tri-State Oversight Committee (TOC) and its safety oversight of the Washington Metropolitan Area Transit Authority (WMATA) rail system. The audit resulted in FTA issuing 11 findings to TOC, for which TOC must develop and propose corrective actions, subject to FTA approval.

Historically, FTA's audits have focused on compliance with 49 CFR Part 659, the State Safety Oversight (SSO) regulation. With the passage of the Moving Ahead for Progress in the 21st Century Act (MAP-21), and implementation of FTA's SSO pre-certification process, beginning in September 2013, FTA augmented its SSO audit process to include an assessment of State progress towards meeting new MAP-21 certification and grant program requirements.

To incorporate these new items into the SSO audit program, FTA reviews the State's approved Certification Work Plan (CWP) and SSO grant program application and award, along with its 49 CFR Part 659 program implementation. FTA now issues "Findings" that address any gaps in the State's activity to implement 49 CFR Part 659, its CWP, and the corresponding SSO grant program milestones. Such findings require a course of action to mitigate. All State activity undertaken to resolve the Findings, as approved by FTA, constitutes an eligible expense under FTA's SSO grant program.

Through the course of the TOC audit, FTA found that TOC members actively engage with WMATA leadership, safety, supervisory, and frontline personnel across a number of technical and programmatic areas, and that TOC implements an SSO program that generally exceeds minimum 49 CFR Part 659 requirements. FTA must emphasize, however, that TOC's compliance with the minimum requirements of 49 CFR Part 659 falls far short of what is expected of a SSO program under MAP-21.

FTA describes the MAP-21 requirements for State Safety Oversight in detail in the Notice of Proposed Rulemaking published on February 27, 2015, at 80 Fed.Reg. 11002-11030, and the Apportionments Notice published on March 10, 2014, at 79 Fed.Reg. 13380-13387. At this time, the three States that share the responsibility for State Safety Oversight of the WMATA system have yet to explain their intentions for meeting the requirements of MAP-21.

Specifically, the District of Columbia, the State of Maryland, and the Commonwealth of Virginia have yet to clarify their proposed approach for meeting MAP-21 legal and financial requirements; thus, many of FTA's findings in this report prioritize attention on the time-sensitive components of the SSO program. These components must occur in the next 6-18 months in order for the TOC jurisdictions to maintain eligibility for apportioned SSO grant funds and be prepared to engage in the creation of a multi-State agency, as described in the Introduction and Section 1 of this report, within the restrictive timeframes specified in 49 U.S.C. Section 5329(e). If the TOC jurisdictions fail to meet this deadline, then FTA will be prohibited from obligating Federal funds apportioned for the WMATA Metrorail system.

Appendix B contains an Audit Findings Tracking Matrix in which TOC may document their responses to these audit findings. TOC's responses must include proposed actions to address the needed enhancements to its 49 CFR Part 659 program as identified by FTA, as well as the actions the TOC members and their jurisdictional partners will take to address critical CWP items and activities, apply for available SSO grant funding, and establish legal readiness for MAP-21 implementation.



Section 1: Designation of SSO Agency

- **Finding 1:** *As specified in 49 U.S.C. 5329 and 5330* – The TOC jurisdictions and the Metropolitan Washington Council of Governments (MWCOC) must complete the required SSO program grant funding requirements, and are at risk of losing Fiscal Year 2013 grant monies.
- **Finding 2:** *As specified in the TOC CWP and the TOC-MSA Transition Action Item List* – The TOC jurisdictions must prioritize the transition from TOC to the Metro Safety Commission (MSC), and ensure compliance with the schedule specified in TOC's Certification Work Plan. FTA will initiate quarterly progress review sessions with the jurisdictions and will communicate directly with the Governors of Virginia and Maryland and the Mayor of the District of Columbia regarding recovery plans for failure to meet deadlines.

Section 2: Program Resources

- **Finding 3:** *As specified in 49 CFR § 659.13* – TOC must conduct a resource assessment to ensure its structure, membership, and staffing is sufficient to implement the Program Standard and Procedures (PSP) requirements and to manage the transition activities associated with creation of the MSC.
- **Finding 4:** *As specified in TOC PSP Section 3.2.2* – The TOC Executive Committee must meet regularly to address policy concerns as required by the PSP.

Section 3: Development of Program Standard and Agency Safety and Security Plans

No Findings.

Section 4: Oversight of the Implementation of Agency Safety and Security Plans

- **Finding 5:** *As specified in 49 CFR §§ 659.17 and 659.19* – TOC must ensure that WMATA complies with approved schedules for resolving Corrective Action Plans (CAPs), reports, analyses, and responses.

Section 5: Hazard Management Program

- **Finding 6:** *As specified in 49 CFR § 659.31* – TOC must ensure that WMATA adheres to the hazard management process outlined in the WMATA System Safety Program Plan (SSPP).

Section 6: Accident Notification, Reporting, and Investigation

- **Finding 7:** *As specified in 49 CFR § 659.35* – TOC must ensure that WMATA provides the necessary information for accident notifications and reports, such that the need for follow-up submission is minimized. TOC must implement accident investigation checklists or procedures to ensure required elements are consistently submitted.



- **Finding 8:** *As specified in the TOC/WMATA Memorandum of Understanding (MOU) Section 2.5 and PSP Section 9.2* – TOC must ensure that WMATA develops a recovery plan for all investigation reports that have not been completed within six (6) months. TOC must consistently require WMATA to submit an investigation status report for investigations that do not meet the 30-day reporting requirements.

Section 7: Corrective Action Plans

- **Finding 9:** *As specified in 49 CFR § 659.37* – TOC must ensure that WMATA develops and submits comprehensive CAPs for all necessary safety and security activities in a timely manner.

Section 8: Oversight of Internal Safety and Security Reviews and Annual Rail Transit Agency Reporting

- **Finding 10:** *As specified in 49 CFR § 659.27(b)(2)* – TOC must ensure that the WMATA Department of Safety and Environmental Management (SAFE) and Metro Transit Police Department (MTPD) Internal Safety and Security Reviews and annual audit reports are submitted and approved within the timeframe required by the PSP.

Section 9: State Oversight Agency Three-Year Safety and Security Reviews

- **Finding 11:** *As specified in 49 CFR § 659.29* – TOC must conduct an assessment of its Three-Year Safety and Security process to ensure that all necessary WMATA elements are reviewed and the findings are released in a timely manner.



Introduction

During March 9 through 11, 2015, the Federal Transit Administration (FTA) conducted an audit of the Tri-State Oversight Committee (TOC) and the safety oversight program it manages for the Washington Metropolitan Area Transit Authority (WMATA) rail system. This report documents key findings resulting from the audit. FTA and TOC conducted a factual review of the information contained in this report on June 11, 2015. As a result, FTA is issuing this report as final. TOC must complete the audit tracking matrix located in Appendix B within 60 days and submit it to FTA. In addition, FTA and TOC have agreed to conduct quarterly meetings beginning in July 2015 to review SSO program activities and transition plans required under the mandates of the Moving Ahead for Progress in the 21st Century Act (MAP-21).

Background

Section 20021(a) of the Moving Ahead for Progress in the 21st Century Act (MAP-21), adopted in its entirety as section 5329 of U.S.C. Title 49 Chapter 53, requires each State to develop a State Safety Oversight (SSO) program with the authority to require, oversee, and enforce rail transit agency safety plans; to investigate accidents and safety concerns at rail transit systems; and to require rail transit agencies to correct and resolve safety deficiencies and hazards. MAP-21 also requires each SSO agency to be legally and financially independent from the rail transit agencies it oversees.

On October 1, 2013, FTA notified the Secretaries of Transportation in the Commonwealth of Virginia and the State of Maryland, and the Associate Director of the District Department of Transportation, that TOC, as a committee created by Memorandum of Understanding (MOU) between the Virginia Department of Rail and Public Transportation (DRPT), the Maryland Department of Transportation (MDOT), and the District of Columbia Department of Transportation (DDOT), *did not* meet the legal parameters for an SSO agency as established in 49 U.S.C. 5329(e)(3) and 49 U.S.C. 5329(e)(4). FTA determined that TOC was not an actual legal entity, capable of hiring staff, promulgating and enforcing regulations, or executing an oversight program.

On December 16, 2013, FTA's Administrator and legal staff met with high-level representatives from the TOC jurisdictions to present FTA's determination regarding TOC's MAP-21 status. FTA explained its concerns about TOC's structure as a committee that relies on DDOT, DRPT, and MDOT for financial and staff support. FTA also pointed out that, as a committee, TOC must carry out standards for hiring, training, and promoting staff as specified by each jurisdictional member. TOC, in its current organization, also requires approval from all three jurisdictions for major policy decisions, an occasionally challenging process that can weaken the independence and effectiveness of the oversight program.

FTA also determined that DDOT, DRPT, and MDOT have legal and financial connections with WMATA, including members with positions on WMATA's Board of Directors, joint funding, and construction projects with WMATA, and clear financial interest in the funding and construction of the Dulles Corridor extension, which are inconsistent with the requirements of MAP-21. Finally, the TOC's MOU with WMATA, while an important step forward in enhancing TOC's oversight program, is not equivalent to regulatory and enforcement authority.

On February 26, 2014, the Governors of Maryland and Virginia, and the Mayor of the District of Columbia issued a formal letter to the U.S. Secretary of Transportation authorizing their transportation



executives to create an independent Metro Safety Commission (MSC), in conformance with the April 20, 2010, *White Paper on Optimizing State Safety Oversight of the WMATA Metrorail System*.

As specified in the White Paper and the February 26, 2014 correspondence, the jurisdictions' plan is to establish the MSC as a distinct legal entity, independent from the three jurisdictions, and fully authorized to oversee WMATA's Metrorail system, having the power to conduct and enforce safety oversight and hire and fire staff. This structure would ensure that the three jurisdictions would no longer facilitate and process all oversight items, from policy to staff-level, on an individual basis.

Further, the MSC, under its legal authority, would promulgate its own policies, rules, and regulations that dictate staff-level decisions and ensure that the MSC can effectively respond to critical oversight issues in a timely manner. The MSC Director and staff would be completely independent from WMATA, the WMATA Board of Directors, and the jurisdictions' transportation agencies.

On May 1, 2014, TOC submitted its Certification Work Plan (CWP) for the MAP-21 program to FTA, which FTA approved on May 16, 2014. TOC's CWP specifies how the three jurisdictions will manage the transition to the MSC. Most recently, the three jurisdictions have entered into MOUs with the Metropolitan Washington Council of Governments (MWCOC), the designated MAP-21 SSO program grantee for WMATA's oversight agency.

MWCOG will work with the jurisdictions to establish and manage budgets for TOC, as well as MSC-transition activities, and MWCOG will assist the jurisdictions in developing a legal strategy for creating and empowering the MSC. TOC plays a critical role in managing the MAP-21 transition process with both MWCOG and leadership in their home jurisdictions while continuing to provide implementation of 49 CFR Part 659 minimum requirements.

FTA's Approach for SSO Audit

Given the changing oversight environment and TOC's current and anticipated CWP activities, FTA took the following approach during this audit:

- Assess TOC's SSO program as currently implemented to ensure conformance with 49 CFR Part 659 requirements and identify opportunities for oversight enhancement during the transition to the MSC; and
- Support TOC and its represented jurisdictions in working through CWP activities required to enter FTA's MAP-21 SSO program and receive over \$4.5 million in fiscal year 2013, 2014, and partial-year 2015 Federal SSO program grant funds.

49 CFR Part 659, State Safety Oversight Rule

FTA's audit program is authorized under 49 CFR § 659.7. Under this authority, FTA monitors and evaluates State compliance with the SSO rule. Monitoring is an essential function, both to ensure the implementation of the rule and to support legislative withholding requirements.



49 CFR § 659.7 states (in part):

“(a) The Administrator of the FTA may withhold up to five percent of the amount required to be distributed to any state or affected urbanized area in such state under FTA’s formula program for urbanized areas, if:

- 1) The State in the previous fiscal year has not met the requirements of this part; and
- 2) The Administrator determines that the State is not making adequate efforts to comply with this part.”

Audit Methodology

FTA’s SSO audit took place at DDOT Headquarters, located at 55 M Street, SE, Washington, DC 20003. Prior to arriving on-site at DDOT’s offices, FTA’s SSO audit team requested that TOC submit documents and materials related to its SSO program and to WMATA’s safety and security programs under its jurisdiction as applicable to 49 CFR Part 659. FTA’s audit team also reviewed TOC’s SSO Gap Analysis and CWP submittals and approval packages, as well as a relevant provisions under 49 U.S.C. 5329(e). The audit team reviewed the submitted items prior to arriving on-site and reviewed additional documents during the course of the audit. **Appendix A** contains a complete list of the documents and materials received and reviewed by the audit team.

While on-site in Washington, D.C., the audit team conducted interviews with TOC staff and contractors responsible for key safety and security programs and functions. FTA also invited TOC members to observe FTA’s Safety Management Inspection (SMI) conducted at WMATA from March 16 through April 3, 2015. In conducting and completing this SMI, FTA carefully reviewed TOC corrective action plans, audit reports, and initiatives with WMATA over the last three years.

Report Organization

The remainder of this report presents the results of FTA’s audit of TOC’s and WMATA’s implementation of 49 CFR Part 659 requirements, organized into the following sections:

1. Designation of SSO Agency
2. Program Resources
3. Development of Program Standards and Agency Safety and Security Plans
4. Oversight of the Implementation of Agency Safety and Security Plans
5. Hazard Management Program
6. Accident Notification, Reporting, and Investigation
7. Corrective Action Plans
8. Oversight of Internal Safety and Security Reviews and Annual Rail Transit Agency Reporting
9. State Oversight Agency Three-Year Safety and Security Reviews
10. Reporting to FTA



1.0 Designation of SSO Agency

Summary of Activities

For this portion of the audit, FTA evaluated the designation of TOC and its authority to implement the requirements of 49 CFR § 659.9.

Evaluation Criteria

49 CFR § 659.9 – Designation of oversight agency

49 CFR § 659.9 requires that each State with a rail fixed guideway public transportation system (RFGPTS) in its jurisdiction designate an oversight agency to implement the provisions of 49 CFR Part 659. In cases where a RFGPTS operates in more than one State, the associated States may agree to designate one agency from one State to implement 49 CFR Part 659 requirements, or they may designate one or more agencies representative of all States to implement the requirements. In the event that multiple States share oversight responsibility for a RFGPTS, the States must agree upon a single set of requirements for the RFGPTS.

Status and Assessment

49 CFR § 659.9(e) specifies that, “In the cases of a rail fixed guideway system that will operate in more than one state, each affected state must designate an agency of the state, other than the rail transit agency, as the oversight agency to implement the requirements in this part.”

The three State jurisdictions in which WMATA provides rail service (the District of Columbia, the Commonwealth of Virginia, and the State of Maryland) created TOC via a MOU in 1997 to serve as the oversight body for WMATA. TOC’s oversight activities generally meet and, in some cases, exceed, the oversight requirements set forth in 49 CFR Part 659, as illustrated in TOC’s Program Standard and Procedures. For example, TOC’s oversight activities include safety reviews of major capital projects, including the Dulles Corridor extension and WMATA’s new 7000 series railcars, and on-site audits of high-risk WMATA system elements, including review of WMATA’s fatigue management program, WMATA’s roadway worker protection program, and WMATA’s passenger and emergency communications systems.

Section 20021(a) of MAP-21, adopted in its entirety as Section 5329 in Chapter 53 of U.S.C. Title 49, creates a new regulatory role for FTA and the States with RFGPTS in their jurisdictions. These provisions require State Safety Oversight Agencies (SSOAs) to assume oversight responsibility for the safety of the RFGPTS and to adopt and enforce Federal and relevant State laws. As discussed in the introduction to this report, TOC is not an independent agency or legal entity, and as such, it does not and cannot meet these fundamental requirements set forth for an SSOA.

In March 2010, FTA issued audit findings directing TOC to assess the level of resources necessary to meet oversight requirements, evaluate the technical and professional skills required for oversight representatives, explore methods to respond to WMATA safety concerns, and to ensure that unresolved concerns are elevated to the highest possible level within the jurisdictions. In response, the jurisdictions produced a White Paper in April 2010 that proposed the legal creation of an independent oversight



agency, the Metro Safety Commission (MSC), to replace TOC as the oversight agency for WMATA and address FTA's findings.

At the time of the proposal, the jurisdictions anticipated that, as an independent oversight agency, the MSC would have sufficient legal standing to meet the enforcement authority and financial and legal separation requirements set forth in the new program that had been proposed by the Obama Administration in December 2009, and which eventually became 49 U.S.C. Section 5329(e).

As discussed in the introduction of this report, in February 2014, the TOC jurisdictions re-committed to the MSC as the best approach for overseeing WMATA. The jurisdictions also confirmed that TOC would continue its oversight activities throughout the transition period while the MSC is authorized and stood up and while the MSC personnel are addressing FTA's new training and qualification requirements.

49 USC § 5329 (e)(3)(D) requires that, "In order to obligate funds apportioned under section 5338 to carry out this chapter, effective three years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary." This provision prohibits FTA from obligating Federal funding to any RFGPTS if its designated SSOA has not come into full compliance with the more stringent MAP-21 SSO program requirements by three years after FTA's issuance of its new SSO final rule. On February 27, 2015, FTA issued its State Safety Oversight Proposed Rule, 49 CFR Part 674.

The TOC jurisdictions currently anticipate that the MSC will be ready to assume oversight responsibilities within three years of the issuance of the SSO final rule, as allowed in MAP-21. During the transition period, TOC will not only continue its current oversight activities, but also actively pursue additional oversight capabilities as required in MAP-21 and as guided by their Certification Work Plan. To this end, TOC and the local jurisdictions have memorialized their intended course of action in a TOC-MSC Transition Action Item List. This list is replicated as **Appendix C** to this report.

Key activities to be performed by the jurisdictions include:

- Establishing the stringent MAP-21 conflict of interest policies regarding legal and financial separation from WMATA and from the jurisdictional offices that work with and fund WMATA;
- Establishing a legal and financial strategy for creation of the multi-State commission, including potential Congressional approvals;
- Establishing enforcement and investigative authority for the MSC through each of the local jurisdictions;
- Establishing SSO program procedures and requirements to govern the program and direct MSC staff activities at WMATA;
- Establishing office space, facilities, and equipment;
- Hiring and developing qualified staff; and
- Managing Federal and State grant program requirements.

Given the complexity of this undertaking, and the number of activities to be performed, FTA finds that the local jurisdictions have not committed to the creation of the MSC with the sense of urgency warranted



by both 1) WMATA's safety performance and challenges, and 2) the potentially devastating financial impact that failure to stand up this agency as required in MAP-21 could have on WMATA.

Little has been accomplished since the initial April 2010 White Paper to address the significant legal, administrative and organizational issues involved in standing up the MSC. MWCOG has now been engaged to lead this transition. MWCOG is an independent nonprofit association that coordinates policies and responses to regional issues in the District of Columbia, the Commonwealth of Virginia, and the State of Maryland. MWCOG has extensive experience in Federal grant programs and coordinates programs across the TOC jurisdiction members.

FTA approved TOC's CWP for the MAP-21 program on May 16, 2014. Since that time, the TOC jurisdictions have entered into MOUs with MWCOG, which allow the agency to serve as the designated MAP-21 SSO program grantee for WMATA's oversight agency.

FTA appreciates that MWCOG will work with the jurisdictions to establish and manage budgets for TOC, as well as MSC-transition activities, and that MWCOG will assist the jurisdictions in developing a legal strategy for creating and empowering the MSC. FTA also recognizes that TOC has a dedicated Policy Committee that will work with MWCOG to lead the transition planning and to coordinate with executive leadership in the jurisdictions regarding legal and policy issues. Nevertheless, FTA is concerned by the length of time required to get these MOUs in place, and the reality that MWCOG may not be able to meet FTA's initial deadline for obligating SSO grant funding.

During the SSO audit, FTA clarified that activities designed to improve and enhance the implementation of 49 CFR Part 659 by TOC, as well as actions taken to address FTA's audit program, are eligible expenses in the MAP-21 SSO grant program. Current TOC members play a critical role in managing the MAP-21 transition process with both MWCOG and leadership in their home jurisdictions while continuing to provide implementation of 49 CFR Part 659 minimum requirements.

To fund safety oversight enhancements for WMATA, MAP-21 authorized and FTA apportioned \$4,574,708 in combined Fiscal Years (FY) 2013, 2014, and partial-year 2015 grant funds to the jurisdiction in which the WMATA system is headquartered – the District of Columbia. MWCOG will be charged with managing these grant funds, and coordinating the 20 percent local match, ensuring that at least \$5,489,649.60 is available in three-year minimum funding to support safety oversight enhancements for WMATA, including creation of the MSC.

TOC and MWCOG are in the beginning stages of the MAP-21 grant application process. However, FTA is concerned with the length of time the jurisdictions have taken to complete the SSO program grant funding requirements. The CWP provided a schedule for several activities, including developing draft legislation by August 2014, and implementing a multi-State agreement among the jurisdictions to collect and match the Federal funds, which have not been implemented.

Findings

- **Finding 1:** *As specified in 49 U.S.C. 5329 and 5330* – The TOC jurisdictions and the Metropolitan Washington Council of Governments (MWCOG) must complete the required SSO program grant funding requirements, and are at risk of losing Fiscal Year 2013 grant monies.
- **Finding 2:** *As specified in the TOC CWP and the TOC-MSC Transition Action Item List* – The TOC jurisdictions must prioritize the transition from TOC to the Metro Safety Commission



(MSC), and ensure compliance with the schedule specified in TOC's Certification Work Plan. FTA will initiate quarterly progress review sessions with the jurisdictions and will communicate directly with the Governors of Virginia and Maryland and the Mayor of the District of Columbia regarding recovery plans for failure to meet deadlines.



2.0 Program Resources

Summary of Activities

For this portion of the audit, FTA evaluated TOC's management of the SSO program, its assignment of resources and responsibilities, and use of contractors. FTA also assessed the resources committed to implementing 49 CFR Part 659 requirements, including the System Safety Program Plan (SSPP).

Evaluation Criteria

49 CFR § 659.13 – Role of the SSOA

49 CFR § 659.13 requires the designated SSOA to establish standards for rail safety and security practices and procedures to be used by an RFGPTS within the SSOA's jurisdiction. It further requires the designated oversight agency to oversee the execution of these practices and procedures with appropriate resources and authority to ensure compliance with the provisions of 49 CFR Part 659.

Status and Assessment

TOC SSO Program Organization and Resources

TOC's program to implement FTA's 49 CFR Part 659 SSO final rule is defined by its Program Standard and Procedures (PSP) and three (3) Memoranda of Understanding (MOUs):

- An MOU between the jurisdictions (the District of Columbia, Maryland, and Virginia) creating TOC, dating back to 1997 with a major revision in 2010,
- An MOU with the MWCOC to manage contractor services for the TOC, dating back to 1999 with 5 major revisions, and
- An MOU with WMATA that outlines roles and responsibilities for the oversight program dating back to 2010.

TOC's most recent PSP, dated August 2014, also addresses and documents its oversight relationship with the Metropolitan Washington Airports Authority regarding the Silver Line.

A Chair leads TOC:

- The TOC Chair has been granted the executive authority to elevate critical unresolved WMATA safety concerns to the TOC Executive Committee and to communicate TOC Executive Committee members' decisions and requests on their behalf to WMATA; to draft and approve correspondence on behalf of TOC; to request that WMATA initiate investigations of accidents and hazardous conditions on behalf of TOC; to address immediate and time-sensitive safety situations or incidents; to meet with appropriate WMATA personnel to address findings, corrective action plans, and other key issues; and to take actions on TOC's behalf, such as closing out corrective action plans and adopting accident investigations.
- The Chair serves as the primary point of contact between the TOC and all external entities – such as FTA, WMATA, the National Transportation Safety Board (NTSB), and members of the media.



- The position rotates biennially among the three jurisdictions, or as needed due to circumstances. DDOT currently has the TOC Chair, which will transition to Virginia in September 2015. Virginia currently has the Vice Chair position, which will be assumed by Maryland in September 2015.

TOC's PSP also identifies:

- A TOC Executive Committee, which includes the DDOT Assistant Director and the Secretaries of Transportation of Maryland and Virginia, and which meets quarterly and makes policy-level decisions affecting the TOC oversight program.
- A TOC Policy Committee, consisting of two policy-level members from each of the three jurisdictions. In addition to attending the regular TOC Executive Committee meetings, the TOC Policy Staff provide input on high-level policy issues affecting the TOC oversight program, interface with TOC members regarding their ongoing oversight work, and monitor serious and/or high-profile safety and security issues to ensure that the TOC Executives remain fully aware of TOC oversight program activities.

TOC's organization structure is depicted below:

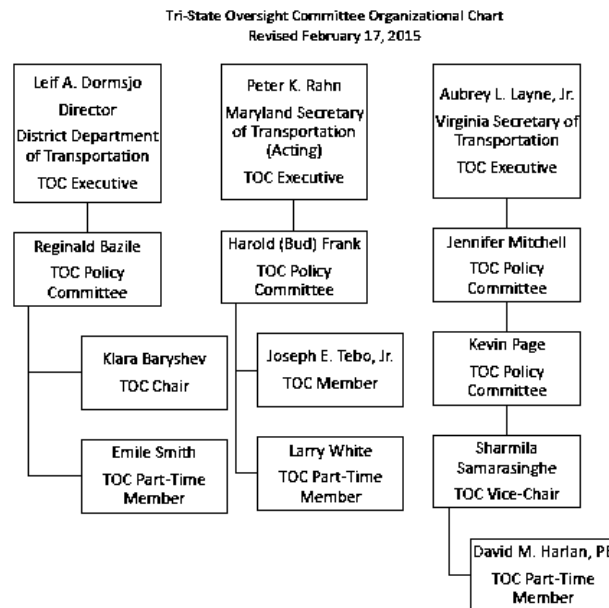


Figure 1 - TOC's Organization Chart

Finding 1 of FTA's 2010 SSO audit of TOC required TOC to "Assess the level of resources necessary from each jurisdiction (District of Columbia, Maryland, and Virginia) to meet TOC's responsibilities." In response to FTA, the jurisdictions developed the *White Paper on Optimizing State Safety Oversight of the WMATA Metrorail System*, which included steps to strengthen TOC's position while the jurisdictions prepare for the creation of the MSC, including a workload and budget assessment.



As a result of this assessment, the jurisdictions amended the TOC MOU to require each jurisdiction to contribute a minimum of one full-time member and one part-time member, for a total minimum of 4.5 staff members. TOC utilizes contractor support, sharing the financial burden equally amongst the jurisdictions. In 2009, TOC utilized 5.1 FTE, and has increased every year since; in 2013 and 2014, the TOC jurisdictions utilized 8.1 FTE. This represents a total resource increase of three full-time equivalent oversight positions since 2009.

During the on-site interviews, FTA was informed that the three full-time TOC members addressed the direct, on-location WMATA oversight program responsibilities with limited support from the part-time members, who mainly dealt with TOC policy issues in their home jurisdictions. Contractor support was used for a range of technical and administrative activities. While TOC resources have increased significantly, the three full-time TOC members still conduct the majority of the direct oversight activity at WMATA.

Although TOC has increased staffing, FTA identified required activities that are not always addressed in a timely manner, including review and approval of corrective action plans (CAPs) and accident investigation reports, and review of WMATA's internal safety and security audit reports. For example, as of the date of the SSO Audit, TOC had 87 open accident investigations at WMATA, some of which date back to 2013, and was tracking 110 open CAPs with WMATA, and an additional 50 CAPs were under development, awaiting WMATA's final proposals. This represents a significant volume of oversight work, and while TOC is commended for its diligence in working with WMATA on these issues, TOC is constrained in its ability to manage this many open items and get them resolved at WMATA.

49 CFR § 659.13 states, "the state oversight agency is responsible for establishing standards for rail safety and security practices and procedures to be used by rail transit agencies within its purview. In addition, the state oversight agency must oversee the execution of these practices and procedures to ensure compliance with the provisions of this part."

TOC meets with WMATA's General Manager/Chief Executive Officer (GM/CEO) on at least a quarterly basis to discuss TOC's SSO Program and any relevant issues. TOC also makes quarterly presentations to WMATA's Board of Directors regarding the agency's assessment of WMATA's safety priorities and major areas of concern.

As the three jurisdictions share safety oversight responsibilities, TOC members spend considerable time coordinating information, activities, and managing findings and evaluations of WMATA submittals. The organizational challenge of obtaining approval across three jurisdictions can delay TOC's responsiveness to WMATA, delay communication of safety concerns to WMATA, and create confusion at WMATA regarding multiple and potentially contradictory follow-on requests for documentation or on-site activities.

As per TOC PSP Section 3.2.2, TOC's Executive Committee "meets on at least a quarterly basis to review TOC safety and security oversight issues." However, as discussed during on-site interviews, the three members of the Executive Committee are high-level executives within their own jurisdictions and conflicts were evident with supporting the meeting schedule.

As of the date of the SSO audit, the last TOC Executive Committee meeting was held in November 2014, and the TOC jurisdictions tentatively planned to hold the next TOC Executive Committee meeting in the summer 2015 timeframe. In addition, recent political elections reconfigured the TOC Executive Committee membership, which has created challenges in continuity and focus on TOC policy-level



issues. To develop the MSC, however, the TOC jurisdictions will need to rely on the Executive Committee and the attention and commitment of its membership.

Findings

- **Finding 3:** *As specified in 49 CFR § 659.13* – TOC must conduct a resource assessment to ensure its structure, membership, and staffing is sufficient to implement the Program Standard and Procedures (PSP) requirements and to manage the transition activities associated with creation of the MSC.
- **Finding 4:** *As specified in TOC PSP Section 3.2.2* – The TOC Executive Committee must meet regularly to address policy concerns as required by the PSP.



3.0 Development of Program Standard and Agency Safety and Security Plans

Summary of Activities

For this portion of the audit, FTA evaluated TOC's implementation of its PSP and the level of oversight provided regarding WMATA safety and security plans, as required in 49 CFR § 659.17 and 659.19.

Evaluation Criteria

1. 49 CFR § 659.15 – System safety program standard

49 CFR § 659.15 requires the SSOA to develop and distribute a program standard. The program standard is a compilation of processes and procedures that governs the conduct of the oversight program at the State oversight agency level, and provides guidance to the regulated rail transit properties concerning processes and procedures they must have in place to comply with the State safety oversight program.

2. 49 CFR § 659.17 – System safety program plan: General requirements

49 CFR § 659.17 specifies that the SSOA must require rail transit agencies under its jurisdiction to develop and implement a SSPP that complies with the requirements of 49 CFR Part 659 and the oversight agency's PSP.

Status and Assessment

TOC Program Standard and Procedures

TOC's PSP, originally drafted in 1997, has undergone 12 revisions, the latest of which is the August 2014 Revision. Section 5.2 of the PSP states that the "TOC Program Standard will be reviewed on at least an annual basis by TOC, and will be updated as needed. Any updates required by FTA rules, as well as any improvements suggested by changes in industry best practices, will be added during this revision process." Section 5.2 also indicates that the PSP may be revised upon consultation with WMATA.

TOC reserves the right to issue interim changes to the PSP in response to an immediate need, as per Section 5.3. These interim changes are to be communicated to the designated WMATA contact in written form, followed by an immediate update to the PSP.

The annual updates make the TOC PSP a living and referenced document for both TOC and WMATA that defines the requirements of the SSO program.

TOC maintains a public website, <http://www.tristateoversight.org>. The website contains TOC background information, relevant program documentation, and contact information. TOC posts its current PSP and MOUs, as well as copies of three-year review audits and special studies, for public access and review.



WMATA Safety and Security Plans

Section 12 of TOC's PSP identifies the minimum requirements WMATA's SSPP must meet as per 49 CFR § 659.19. WMATA has designated the Department of Safety and Environmental Engineering (SAFE) as the responsible party for developing and implementing the SSPP as established in the SSPP's WMATA Board of Directors System Safety Policy Statement.

TOC requires WMATA to provide an annual update to the SSPP and Security and Emergency Preparedness Plan (SEPP) to include "identification and explanation of any and all changes for review and approval" as specified in PSP Section 14. After WMATA submits its plans, TOC reviews the updates and changes in accordance with internal checklists to ensure conformance with SSPP minimum requirements as set forth in 49 CFR § 659.19.

TOC reviews and approves WMATA's SSPP and SEPP each year, using an established set of checklists and a formal transmittal letter.

In addition to an annual review, WMATA is responsible for identification of "changes that require modification of the SSPP ... on an ongoing basis." Section 14 of TOC's PSP further states that these updates must be incorporated into the SSPP within 45 calendar days of the change. TOC also reserves the right to request changes to the SSPP due to the results of audits, reviews, investigations, or other data-driven analyses. WMATA highlights changes made from the previous year's SSPP through a revisions section listed in the front of the most recent SSPP.

TOC's PSP and the TOC/WMATA MOU require formal meetings with WMATA staff on a monthly basis "to address specific topics, including, but not limited to, open accident, incident, and hazard investigations; and open CAPs."

Over the last year TOC has generally maintained its required schedule for these monthly TOC-WMATA meetings to coordinate oversight activities with WMATA.

As specified in the PSP, for each meeting, TOC prepares and distributes a meeting agenda, and generates "draft" meeting minutes, which once reviewed and approved, become the formal record of the issues discussed and actions taken at the meeting. Action items are specified and color-coded for TOC and WMATA.

"Final" meeting minutes from the monthly sessions with WMATA personnel may contain official approvals for accident investigation reports, corrective action plans, internal safety and security reports, or other items related to the implementation of the SSPP or SEPP.

Findings

No Findings.



4.0 Oversight of the Implementation of Agency Safety and Security Plans

Summary of Activities

For this portion of the audit, FTA evaluated TOC's activities to oversee implementation of the rail transit agency SSPP and Security Plan as specified in 49 CFR §§ 659.17, 659.19, 659.21, and 659.23.

Evaluation Criteria

1. 49 CFR § 659.17 – System safety program plan: General requirements

49 CFR § 659.17 specifies that the SSOA must require RFGPTS under its jurisdiction to develop and implement an SSPP in compliance with the requirements of 49 CFR Part 659 and the SSOA's Program Standard.

2. 49 CFR § 659.19 – System safety program plan: Contents

49 CFR § 659.19 establishes the minimum content requirements of the RFGPTS SSPP.

3. 49 CFR § 659.21 – System security plan: General requirements

49 CFR § 659.21 specifies that the SSOA must require RFGPTS under its jurisdiction to develop and implement a Security Plan that complies with the requirements of 49 CFR Part 659 and the SSOA's Program Standard. 49 CFR § 659.21 also requires that the RFGPTS Security Plan be developed and maintained as a separate document independent of the RFGPTS SSPP.

4. 49 CFR § 659.23 – System security plan: Contents

49 CFR § 659.23 establishes the minimum content requirements of the RFGPTS Security Plan.

5. 49 CFR § 659.25 – Annual review of system safety program plan and system security plan

Status and Assessment

49 CFR § 659.17(l) states that "The system safety plan shall include, at a minimum: ... "(l) A description of the process used by the rail transit agency to ensure that planned and schedule Internal Safety Reviews are performed to evaluate compliance with the system safety program plan."

Although WMATA's SSPP and SEPP meet and exceed 49 CFR Part 659 requirements in many areas, TOC does not ensure that WMATA complies with all requirements set forth in both WMATA's program plan documents and TOC's PSP.

For example, the SSPP and the TOC PSP Section 6.2 require that WMATA complete and submit Internal Safety and Security Review reports, including the associated CAPs, to TOC within 60 days. During interviews and records reviews, FTA learned that WMATA had not performed the required reviews of the Metro Transit Police Department (MTPD) and SAFE during the first cycle of Internal Safety and Security



Reviews. These reviews were finally completed in August 2014 for MTPD and January 2015 for SAFE. Further, interviews confirmed that, while not lengthy, delays may occasionally occur in receiving final Internal Safety and Security Review reports, including associated corrective action plans.

In addition and as described in Section 6 of this report, some accident notifications were missing or submitted late. As discussed in Section 5 of this report, WMATA has failed to report necessary hazards to TOC in a timely manner, and has not developed corrective action plans related to three-year review findings and emergency drills, as required in the TOC PSP. Most significantly, as discussed in Section 7 of this report, WMATA does not always make timely submissions for corrective action plans, sometimes waiting several months to develop and submit them to TOC.

For example, over the last few years, TOC has expressed concern regarding the resources WMATA has available to support and oversee safety certification. WMATA SAFE devotes approximately 2.5 FTEs to the oversight of safety certification, including over 200 ongoing capital projects, the Silver Line Phase 2, and the 7000 series vehicle procurement.

During a 2013 Three-Year Review, WMATA SAFE was unable to provide documents or evidence showing its review of or comments on engineering design for new projects. In response, TOC issued the following open non-compliance finding: “There was no evidence that SAFE is completing review of engineering designs for new projects.” WMATA still has not responded with a corrective action plan for this finding.

FTA is concerned that the TOC, while actively engaged with WMATA leadership, has not effectively addressed the timeliness or absence of WMATA submissions.

Findings

- **Finding 5:** *As specified in 49 CFR §§ 659.17 and 659.19* – TOC must ensure that WMATA complies with approved schedules for resolving Corrective Action Plans (CAPs), reports, analyses, and responses.



5.0 Hazard Management Program

Summary of Activities

For this portion of the audit, FTA evaluated TOC's policies requiring WMATA to implement a hazard management program and TOC's processes for tracking the resolution of identified hazards as specified in 49 CFR § 659.31.

Evaluation Criteria

1. 49 CFR § 659.15(b)(8) – System safety program standard: Contents – section regarding system safety program plan

49 CFR § 659.15(b)(8) requires the SSOA to identify in its Program Standard its requirements for “ongoing communication and coordination relating to the identification, categorization, resolution, and reporting of hazards (including specified types or categories of hazards at the RTA) to the oversight agency.”

2. 49 CFR § 659.19(f) – System safety program plan: Contents – section regarding hazard management program

49 CFR § 659.19 (f) outlines the minimum requirements for the hazard management program portion of the rail transit agency's SSPP (including a description of how the rail transit agency will provide ongoing reporting to the SSOA regarding those activities).

3. 49 CFR § 659.31 – Hazard management process

49 CFR § 659.31 specifies that the SSOA must require each rail transit agency in its jurisdiction to develop, implement, and document, in its SSPP, a program to identify and resolve hazards, (including “any hazards resulting from subsequent system extensions or modifications, operational changes, or other changes within the rail transit environment.”). 49 CFR § 659.31(b), further clarifies that the program must:

- Define the rail transit agency's approach to hazard management and the implementation of an integrated system-wide hazard resolution process;
- Specify the sources of, and the mechanisms to support, the ongoing identification of hazards;
- Define the process by which identified hazards will be evaluated and prioritized for elimination or control;
- Identify the mechanism used to track through resolution of the identified hazard(s);
- Define minimum thresholds for the notification and reporting of hazard(s) to oversight agencies; and



- Specify the process by which the rail transit agency will provide ongoing reporting of hazard resolution activities to the oversight agency.

49 CFR § 659.31 also includes details about the types of information that the SSOA may require the rail transit agency to include in its SSPP regarding hazard management.

Status and Assessment

TOC's PSP identifies the hazard management program requirements in the following sections:

- Section 8.4: Notification Procedures for Hazards;
- Section 10: Hazard Management Program;
- Section 11.3c: CAP Sources, Hazard Investigation; and
- Section 12: WMATA System Safety Program Plan.

In addition to TOC's PSP, Section 6 of WMATA's SSPP summarizes the hazard management process and identifies SAFE as the responsible party for the implementation of a hazard management program (Figure 2). SAFE is responsible for developing, updating, and auditing the hazard management program, providing awareness training on the hazard management process to employees and contractors, and tracking all identified hazards to resolution.

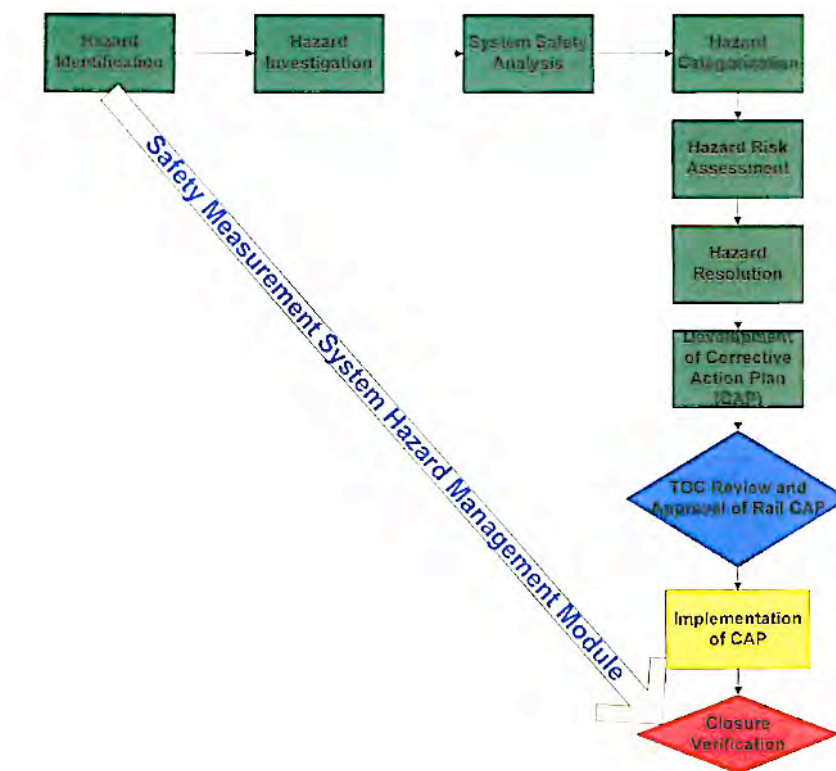


Figure 2 - WMATA Hazard Management Process



Section 6 of the SSPP defines hazards as “a condition or set of conditions, internal or external to the system or system operation, which, when activated could cause injury or death or damage to or loss of equipment or property.” SAFE is required to review and categorize hazards “according to the severity and likelihood of occurrence of the hazard.”

The WMATA Chief Safety Officer must “immediately notify the responsible department head, the ESC [Executive Safety Committee], GM/CEO, and TOC Chair or designated TOC representative ... within two (2) hours of the determination that the hazard meets the above criteria [category I-A to I-C hazards].” As shown in Table 1 below, TOC and WMATA have identified minimum hazard reporting thresholds summarized in Exhibit 6-4 of the SSPP.

Table 1 TOC Hazard Notification Requirements	
Incident/Hazard Type	Notification Type
Fatality within 30 days	2 hours by phone
Two or more injuries requiring immediate medical attention away from the scene	2 hours by phone
Property damage equal to or more than \$25,000	2 hours by phone
Evacuation of a train or facility for life safety reasons, or of a train for any reason if not at a station platform including self-evacuation	2 hours by phone
Derailment of any powered vehicle on the mainline, or any train in a yard	2 hours by phone
A collision with an individual, any other vehicle, or a fixed object	2 hours by phone
Employee or patron electrical shock over 200 volts	2 hours by phone
Red signal violation/overrun	2 hours
Train encroachment or overrun into a work zone	2 hours
Opening of vehicle side doors during train movement	2 hours
Fallen or dragging equipment from a rail vehicle	2 hours
Passenger falls from vehicle onto right-of-way	2 hours
Stranding of passengers on a train for more than 15 minutes	2 hours
Other actions or malfunctions that could have resulted in significant injuries or damage	2 hours
Speed restriction or track closure due to infrastructure damage or weather conditions	2 hours
Fire in or on Metrorail property, including stations, the right-of-way, yards, and shops (including no evacuation)	2 hours
Vehicle side door opening on the wrong side or off station platforms	1 business day
Mainline rail breaks/cracks	1 business day
Other incidents or hazards involving workers in a right-of-way	1 business day
All hazards that WMATA gives a severity/frequency rating of 1A-C, 2A-B, or 3A	1 business day



Once WMATA notifies TOC of the hazard, SAFE is then required to provide regular updates to TOC via e-mail for resolution of the hazardous condition. SAFE then “submits a draft hazardous condition investigation report to the responsible executive manager hazard investigations lasting longer than 30 calendar days.” Hazards that do not meet the criteria above are reported in the Hazard Management Module of WMATA’s Safety Measurement System (SMS) and must have an appropriate CAP assigned within 45 calendar days. Hazards that can be mitigated immediately do not require a CAP. Monthly SMS Hazard Management Module downloads are available for TOC’s review.

49 CFR § 659.31(a) explains that, “The oversight agency must require the rail transit agency to develop and document in its system safety program plan a process to identify and resolve hazards during its operation, including any hazards resulting from subsequent system extensions or modifications, operational changes or other changes within the rail transit environment.”

As shown in Table 2 below, TOC annual reports to FTA summarize that just 56 hazards were reported through the SSO program. However, many of these SSO reported hazards were actually consequences of rail incidents and not separate hazards that meet TOC hazard notification thresholds. FTA also reviewed WMATA’s CY 2014 hazard log and noted that 101 hazards were reported; however, no hazards were reported to TOC for the period January through April 2015.

Table 2 Report Hazard	
Calendar Year (CY)	Number of Hazards
CY 2011	11
CY 2012	19
CY 2013	26

In addition, FTA found that potential hazard identification sources including WMATA’s Local Safety Committee (LSC) program and the safety hotline are not adequately leveraged to ensure identification and resolution of hazards. WMATA’s Safety Measurement System hazard management module is intended to be the central mechanism for tracking, analysis, and resolution of hazards. However, TOC found that issues raised to the LSC level do not appear to be evaluated for trends and similarities across various locations. Therefore, an issue raised at one LSC may be unknown to those at another LSC, covered by a different Safety Officer.

As part of TOC’s Three-Year Safety Review (which it conducts in an on-going manner), TOC issued several Findings of Non-Compliance regarding the management and administration of WMATA’s hazard management program. While the WMATA SSPP includes processes for a strong hazard management program, WMATA has not identified and reported hazards as required.

TOC found that accident investigations revealed hazards that preceded the occurrences but were not appropriately identified or reported. TOC identified the following example: the investigation of the May 2013 train fire at Silver Spring revealed that a chafed cable had been taped rather than evaluated for proper securement. As another example, it was discovered in 2013 that Train Operators pre-empted malfunctioning emergency intercoms by rigging the response mechanism on the operating console.



Although TOC has identified lack of compliance with the hazard management requirements, sufficient action has not been implemented to resolve the issue. More than one year after TOC's findings were issued, WMATA still has not proposed corrective actions that can be approved by TOC.

FTA also identified two areas where TOC members are working with WMATA to get access to safety information, but because they have no clear authority under 49 CFR Part 659 or in the TOC-WMATA MOU, agreements have yet to be established:

- The Confidential Close Call Reporting System MOU that WMATA established with Local 689 and the Bureau of Transportation Statistics does not include TOC, and TOC has not been involved with this program at all – not as a member of the Peer Review Team or Close Call Steering Committee. TOC does not review the criteria for reports, the analysis of information, or corrective actions. This could potentially conflict with the TOC PSP, which requires that WMATA report and investigate specific categories of near-misses, such as train encroachment or overrun into a work zone.
- TOC has limited access to WMATA's SMS system. Only one member has virtual private network access, and administrative controls are such that TOC members have difficulty accessing data. TOC also would like to work with WMATA to request specific reports and access to Maximo to support safety performance monitoring.

Findings

- **Finding 6:** *As specified in 49 CFR § 659.31* – TOC must ensure that WMATA adheres to the hazard management process outlined in the WMATA System Safety Program Plan (SSPP).



6.0 Accident Notification, Reporting, and Investigation

Summary of Activities

For this portion of the audit, FTA evaluated TOC's policies and procedures for performing and overseeing accident notifications, investigations, and investigation reports, as specified in 49 CFR §§ 659.33 and 659.35.

Evaluation Criteria

1. 49 CFR § 659.33 – Accident Notification

49 CFR § 659.33 establishes the minimum thresholds for accident notification and investigation. FTA requires the RFGPTS to notify the SSOA within two hours of any incident involving a rail transit vehicle or taking place on rail transit-controlled property where one or more of the following occurs:

- A fatality at the scene; or where an individual is confirmed dead within 30 days of a rail transit-related incident;
- Injuries requiring immediate medical attention away from the scene for two or more individuals;
- Property damage to rail transit vehicles, non-rail transit vehicles, other rail transit property, or facilities and non-transit property that equals or exceeds \$25,000;
- An evacuation due to life safety reasons;
- A collision at a grade crossing;
- A main line derailment;
- A collision with an individual on a rail right-of-way; or
- A collision between a rail transit vehicle and a second rail transit vehicle, or a rail transit non-revenue vehicle.

2. 49 CFR § 659.35 – Investigations

49 CFR § 659.35(d) requires each investigation to be documented in a final report that includes a description of investigation activities and identifies causal and contributing factors and CAPs. 49 CFR § 659.35(f) gives the SSOA the authority to require periodic status reports that document investigation activities and findings in a timeframe determined by the SSOA.



Status and Assessment

The PSP dictates investigation thresholds that meet, and in some cases, exceed the requirements of 49 CFR Part 659. TOC delegates the investigation to WMATA, providing oversight at the draft and final report level. Final reports are adopted by TOC after TOC has reviewed and resolved any questions regarding the accident investigation, causal factors, and/or necessary follow-up items.

As per the PSP, WMATA is required to provide the following to TOC following a reportable accident/incident:

1. An initial notification of a reportable accident/incident;
2. A preliminary report within three business days of the accident/incident;
3. An investigation status report for investigations open longer than 30 calendar days;
4. A draft final accident/incident investigation report submitted at the end of the investigation to be reviewed and approved by TOC; and
5. A final accident/incident investigation report.

FTA verified that during 2014, TOC has conducted monthly meetings to discuss accident investigation/safety issues and concerns and to coordinate oversight activities with WMATA. Following the meetings, TOC provides WMATA with a weekly accident/incident log to track all reported accidents/incidents and to ensure WMATA concurrence.

The February 2015 accident/incident log summarized that WMATA had 87 open accident investigations, the oldest of which is from 2013, and some of which are reported as part of requirements exceeding those specified in 49 CFR Part 659. Table 3, below, depicts those preliminary and final accident investigation reports that should be closed but are still open. WMATA has not consistently met the three business day preliminary incident report requirement or the 30 day requirement for final reports.

Table 3 WMATA Incident Investigation Report Summary (as of March 2015)				
Incident Summary	Incident Date	Preliminary Report Date	Final Report Date	TOC Adoption Date
Fire and Evacuation	10/23/2014	Open	Open	Open
Train contacted debris on mainline track	11/3/2014	Open	Open	Open
Fire and Evacuation	2/11/2015	Open	Open	Open
Train Struck Shop Door	3/24/2014	3/27/2014	1/7/2015	1/28/2015
Brake Disc fell off 1K Car	6/11/2014	6/17/2014	11/13/2014	2/27/15



49 CFR § 659.35(e) requires that, “A final investigation report must be formally adopted by the oversight agency for each accident investigation.”

During on-site interviews, TOC and WMATA both expressed concerns regarding the length of time required to discuss, evaluate, and approve WMATA’s accident investigation reports. Based on discussions with all involved parties, FTA believes that the accident investigation report review process would be improved by the creation of a checklist of required elements for WMATA’s accident reports. Such a checklist would lay out TOC’s expectations and the required supporting submittals for each accident investigation.

TOC informed FTA that WMATA has improved collaboration between the various operating departments for developing accident investigation reports. TOC also informed FTA that WMATA SAFE actively engages the operating and maintenance departments in the development of CAPs to prevent accident recurrence.

Findings

- **Finding 7:** *As specified in 49 CFR § 659.35* – TOC must ensure that WMATA provides the necessary information for accident notifications and reports, such that the need for follow-up submission is minimized. TOC must implement accident investigation checklists or procedures to ensure required elements are consistently submitted.
- **Finding 8:** *As specified in the TOC/WMATA Memorandum of Understanding (MOU) Section 2.5 and PSP Section 9.2* – TOC must ensure that WMATA develops a recovery plan for all investigation reports that have not been completed within (6) six months. TOC must consistently require WMATA to submit an investigation status report for investigations that do not meet the 30 day reporting requirements.



7.0 Corrective Action Plans

Summary of Activities

For this portion of the audit, FTA evaluated TOC policies and procedures requiring the development, approval, tracking, and implementation verification of CAPs as required by 49 CFR § 659.37.

Evaluation Criteria

1. 49 CFR § 659.37 – Corrective Action Plans

49 CFR § 659.37 establishes that each SSOA must require the development of CAPs for, at a minimum, the following:

- Results from investigations in which it is determined CAPs are necessary; and
- Findings from the SSOA's three-year safety and security reviews.

2. 49 CFR § 659.37 requires that each CAP identify:

- The action to be taken by the rail transit agency;
- An implementation schedule; and
- The individual or department responsible for implementation.

49 CFR § 659.37 also requires the SSOA to review and approve each CAP and monitor and track the implementation of each plan.

Status and Assessment

49 CFR § 659.15(b)(7) requires rail transit agencies to specify, “the development of corrective action plan(s) and the process for the review and approval of a corrective action plan developed by the rail transit agency.”

Section 11 of TOC's PSP specifies the process for the review and approval of WMATA's CAPs. TOC requires that CAPs be developed for:

- Findings from the triennial safety and security review process
- Hazard investigations
- Internal Safety and Security Audits and Reviews
- NTSB recommendations, and
- Other sources, such as external reviews



Section 11.1 of the PSP requires that CAPs are “achievable, measurable, assigned to an individual within the proper department(s) or office(s), and include a realistic target date for completion.” WMATA is required to include, at a minimum, the finding, its source, the plan to address and resolve the finding, the anticipated implementation date, the department or individual responsible for implementation, and a hazard rating for each CAP.

CAPs submitted to TOC can be approved, conditionally approved, or declined within 30 calendar days. WMATA is permitted to undertake immediate hazard mitigation strategies for severe safety concerns. Approved CAPs are logged and tracked by TOC and are reviewed at a monthly, in-person TOC-WMATA meeting, the Corrective Action Plan Technical Review Entity (CAPTURE) meetings. These meetings are designed to discuss CAP implementation and facilitate TOC verification of WMATA’s completion of CAPs. WMATA is required to update TOC on the status of each CAP at least quarterly, either by written documentation or at the monthly CAPTURE meeting.

49 CFR § 659.37(f)(1) requires “verification that the corrective action(s) has been implemented.” Section 11.4 of the PSP provides WMATA with guidance on the documentation required to close out CAPs by general CAP category (ex.: rules and procedures compliance, maintenance, etc.). Once submitted for closure, TOC is required to review the provided documentation and respond within 10 days.

FTA confirmed that CAPTURE meetings generally take place monthly, as required in the PSP, and include WMATA representatives from SAFE and SMEs from operating departments (such as Rail Transportation, Car Maintenance, Vehicle Engineering, Track & Structures, etc.). TOC generally manages quarterly updates for each CAP through the CAPTURE meetings or submitted documentation.

FTA confirmed that TOC is tracking 110 open CAPs at WMATA, as of March 12, 2015, with at least a dozen more under development in response to TOC Three-Year Reviews from December 2014 (Subway Fire-Life Safety Equipment (stand pipes, exists, call boxes, exhaust fans, etc.)) and February 2015 (ATC/Signals/Switch Machines, Communications Systems Maintenance and Associated Training) and up to 22 more CAPs still largely in draft in response to TOC’s earlier 2014 System Safety Program Three-Year Review:

- 15 of these CAPs date back before 2012, and most of them relate to NTSB recommendations issued in response to the Fort Totten collision or previous investigations into roadway worker fatalities that require long lead-times (i.e., removing the 1000 series vehicles from passenger service, equipping all railcars with event data records, and implementing technology that will automatically alert wayside workers of approaching trains and will automatically alert train operators when approaching areas with workers on or near the tracks).
- Another 10 CAPs date back to 2012, resulting from WMATA Internal Safety Reviews, and have been re-scoped or re-issued as part of new Internal Safety Review program findings from 2014 (largely relating to the request for engineering support process and engineering modification instructions).
- The 85 remaining CAPs on TOC’s matrix related to accidents, Internal Safety and Security Reviews, and TOC Three-Year Safety Review activity occurring in 2013 and 2014.



TOC and WMATA appear generally to be following WMATA procedures that require WMATA to provide CEO/GM-approved “CAP due date extensions”, when an extension is needed to a CAP assessed as a Level One (catastrophic) or Level Two (critical) hazard.

Although FTA recognizes that CAPs identified in 2012 and earlier often relate to the engineering support process and engineering modification instructions, the number of open CAPs and average time to close CAPs is significant.

In addition, WMATA did not effectively develop and implement CAPs to address TOC’s findings from its Three-Year Safety and Security Review of the WMATA SSPP elements 1-10, 12, and 17, issued February 14, 2014. WMATA has not submitted the CAPs related to this report, as verified through a review of the April 2015 monthly CAP report issued by WMATA.

During the SSO audit, TOC expressed concern regarding challenges in getting WMATA to submit CAPs in response to anything other than accidents. FTA confirmed that:

- WMATA has largely removed open CAPs from TOC Three-Year Reviews from its WMATA Monthly CAP Tracking Matrix submission, preferring to track and manage them separately.
- WMATA was not submitting CAPs to TOC to address after-action reports from drills and exercises, as required in TOC’s PSP and TOC’s MOU with WMATA.
- Hazards identified and analyzed by WMATA as part of its Safety Measurement System generally are not resulting in CAPs.
- WMATA is also not generating CAPs resulting from the agency’s Fire Marshal inspections or a recent FM Global review of their Fire Systems.

Findings

- **Finding 9:** *As specified in 49 CFR § 659.37* – TOC must ensure that WMATA develops and submits comprehensive CAPs for all necessary safety and security activities in a timely manner.



8.0 Oversight of Internal Reviews and Annual Reporting

Summary of Activities

For this portion of the audit, FTA evaluated TOC's policies requiring WMATA to conduct Internal Safety and Security Reviews and annual assessments of its SSPP and security plan as specified in 49 CFR §§ 659.25 and 659.27.

Evaluation Criteria

1. 49 CFR § 659.25 – Annual review of system safety program plan and system security plan

49 CFR § 659.25 states that the SSOA must require the rail transit agencies under its jurisdiction to conduct annual reviews of their SSPP and SEPP. This section further states that the SSOA must require that the rail transit agencies make modified SSPPs or SEPPs available to the SSOA.

2. 49 CFR § 659.27 – Internal safety and security reviews

49 CFR § 659.27 requires rail transit agencies to develop and document a process for the performance of ongoing Internal Safety Reviews in their SSPP. The Internal Safety Review process must, at a minimum:

- Determine if all identified elements of its SSPP are performing as intended; and
- Ensure that all elements of the SSPP are reviewed in an ongoing manner and completed over a three-year cycle.

49 CFR § 659.27(c) requires rail transit agencies to notify the SSOA at least 30 days before the conduct of scheduled Internal Safety Reviews. In addition, 49 CFR § 659.27(d) and (e) require rail transit agencies to submit to the SSOA any checklists or procedures that will be used during the internal reviews. 49 CFR § 659.27(f) states that the SSOA must require rail transit agencies to submit an annual report that documents Internal Safety Review activities and the status of subsequent findings and CAPs.

Status and Assessment

Section 6 of the PSP and Section 12.3.2 of the SSPP requires that “Over a three-year period, all 21 elements of the SSPP must be audited at least once. The three-year schedule showing the schedule for each department or contractor safety and security audit shall be reviewed and updated as necessary by October 1 of each year.”

WMATA is required to inform TOC annually of their upcoming audit schedule at least 30 calendar days in advance of a scheduled audit as well as submit to TOC all checklists and procedures to be used during the audit. TOC reserves the right to participate in WMATA Internal Safety and Security Reviews and permits WMATA to conduct their internal audits alongside TOC's three-year review process, though both parties maintain their separate review processes and produce independent reports.



49 CFR § 659.27(f) explains that “The oversight agency shall require the rail transit agency to annually submit a report documenting internal safety and security review activities and the status of subsequent findings and corrective actions.”

Section 6.2 of the PSP requires that upon completion of each safety or security audit, WMATA must submit a report to TOC within 60 days to include a summary of the audit, completed audit checklists, findings, and suggested CAPs. WMATA is also required to provide an annual audit report to TOC, as outlined in TOC’s PSP Section 6.3, to include a summary of internal audits performed in the previous year and the corresponding audit checklist, findings, and CAPs. Within 45 calendar days of receipt, TOC provides a written response to approve, conditionally approve, or reject the report. WMATA is then given 15 additional calendar days to address TOC’s requests and to submit a revised report.

During on-site interviews, FTA’s SSO audit team learned that WMATA does not consistently meet its required timelines to submit both the individual audit reports and the annual audit report. Furthermore, 49 CFR § 659.27(i) requires that, “The oversight agency must formally review and approve the annual report.” FTA finds that TOC has not effectively addressed the timeliness of WMATA’s submissions.

Findings

- **Finding 10:** *As specified in 49 CFR § 659.27(b)(2)* – TOC must ensure that the WMATA Department of Safety and Environmental Management (SAFE) and Metro Transit Police Department (MTPD) Internal Safety and Security Reviews and annual audit reports are submitted and approved within the timeframe required by the PSP.



9.0 State Oversight Agency Three-Year Safety and Security Reviews

Summary of Activities

For this portion of the SSO audit, FTA evaluated TOC's performance of Three-Year Reviews to assess WMATA's implementation of its SSPP and SEPP as specified in 49 CFR § 659.29.

Evaluation Criteria

1. 49 CFR § 659.29 – Oversight agency safety and security reviews

49 CFR § 659.29 requires that, at least once every three years, beginning with the initiation of rail transit agency passenger operations, the SSOA must conduct an on-site review of the rail transit agency's implementation of its SSPP and security plan. Alternatively, the on-site review may be conducted in an ongoing manner over the three-year timeframe. At the conclusion of the review cycle, the SSOA must prepare and issue a report containing findings and recommendations resulting from that review, which, at a minimum, must include an analysis of the effectiveness of the SSPP and security plan and a determination if either need to be updated.

Status and Assessment

Section 7 of TOC's PSP outlines TOC's responsibilities to conduct reviews of WMATA's implementation of its SSPP and SEPP. TOC began its latest Three-Year Review cycle in 2013 and is performing this review on an on-going basis. TOC states in its PSP that the on-going approach will "provide TOC with a more unified, continuous view of WMATA operations, as well as ... spread out associated administrative burdens."

This change required extensive negotiation with WMATA and, as a result, WMATA did not complete its full Three-Year Review process for the 2010-2012 period. During this review cycle lag, TOC worked with WMATA to conduct special studies and focused field reviews on roadway worker protection, hours of service, and rules compliance. TOC coordinated with WMATA to identify appropriate review dates and obtained access to WMATA's most recent plans and procedures for the relevant audit portion.

49 CFR § 659.29 requires that "At least once every three years, beginning with the initiation of rail transit agency passenger operations, the SSOA must conduct an on-site review of the rail transit agency's implementation of its system safety program plan and system security plan."

Findings

- **Finding 11:** *As specified in the 49 CFR § 659.29 – TOC must conduct an assessment of its Three-Year Safety and Security Review process to ensure that all necessary WMATA elements are reviewed and the findings are released in a timely manner.*



10.0 Reporting to FTA

Summary of Activities

For this portion of the SSO audit, FTA evaluated TOC policies and procedures for self-certification and reporting to FTA, as specified in 49 CFR §§ 659.39 and 659.43.

Evaluation Criteria

1. 49 CFR § 659.39 – Oversight agency reporting to the Federal Transit Administration

49 CFR § 659.39 establishes the minimum SSOA reporting requirements. SSOAs must make an annual submission to FTA by March 15 of each year. The annual report must include a publicly available annual report summarizing the oversight activities for the previous calendar year, including a description of the causal factors of investigated accidents, status of CAPs, updates and modifications to rail transit agency program documentation, as well as resources used by the oversight agency to carry out its oversight activities. 49 CFR § 659.43 requires oversight agencies to annually certify that they have complied with the requirements of 49 CFR Part 659.

2. 49 CFR § 659.43 – Certification of compliance

Status and Assessment

TOC's Program Standard specifies, "Before March 15 of each year, TOC must submit the following to FTA:

- A publicly available annual report summarizing its oversight activities for the preceding twelve months, including a description of the causal factors of investigated accidents, status of corrective actions, updates and modifications to rail transit agency program documentation, and the level of effort used by the oversight agency to carry out its oversight activities [659.39(c)(1)].
- A report documenting and tracking findings from three-year safety review activities, and whether a three-year safety review has been completed since the last annual report was submitted [659.39(c)(2)].
- Program standard and supporting procedures that have changed during the preceding year [659.39(c)(3)].
- Certification that any changes or modifications to a SSPP or SEPP have been reviewed and approved by TOC [659.39(c)(4)].
- Certification that TOC has complied with the requirements of 49 CFR Part 659."



In a letter dated May 9, 2014, TOC submitted its 2013 Compliance Certification and required oversight documentation to FTA (note: the 2014 deadline for submission was extended to May 15, 2014, in response to the new electronic reporting system).

Findings

No findings.



Appendix A – List of Requested Materials

FTA's SSO audit team requested electronic copies of the following materials.

- Program Standard and Procedures (659.15)
- SSOA Organization Chart, clearly depicting safety reporting relationships (if not included in the Program Standard and Procedures)
- RFGPTS Organization Chart, clearly depicting safety reporting relationships (if not included in the SSPP)
- RFGPTS System Safety Program Plan(s) (659.19)
- System Safety Program Plan Approval Letter(s) (659.17(c))
- System Safety Program Plan Review Checklist(s) (659.17(c))
- Three-Year Review Procedures (659.29)
- Mechanism used to track hazards through resolution (659.31(b)(4))
- Accident Notifications (three most recent) (659.33(a))
- Accident Tracking Log (659.33(c))
- SSOA and RFGPTS Accident Investigation Procedures (659.35(b))
- SSOA Letter approving RFGPTS accident investigation procedures (659.35(c))
- 2014 Accident Investigation Reports (659.35(d))
- Sample of Formal Documentation of SSOA Adoption of RFGPTS Investigation Report (659.35(e)(2))
- 2014 Corrective Action Plans (659.37(b))
- 2014 Corrective Action Plan approval letters (659.37(c))
- Corrective Action Plan Tracking Log (659.37(f)(1))

*FTA followed protocols established by the SSO agency and the rail transit agency to access any materials classified as Sensitive Security Information.



Appendix B – Audit Findings Tracking Matrix

Audit Finding	Next Status Update	Prior SSO Activity/ FTA Response	Status	SSO Agency Action/ Projected Completion Date
Finding 1: <i>As specified in 49 U.S.C. 5329 and 5330 – The TOC jurisdictions and the Metropolitan Washington Council of Governments (MWCOC) must complete the required SSO program grant funding requirements, and are at risk of losing Fiscal Year 2013 grant monies.</i>				
Finding 2: <i>As specified in the TOC CWP and the TOC-MSCTransition Action Item List – The TOC jurisdictions must prioritize the transition from TOC to the Metro Safety Commission (MSC), and ensure compliance with the schedule specified in TOC’s Certification Work Plan. FTA will initiate quarterly progress review sessions with the jurisdictions and will communicate directly with the Governors of Virginia and Maryland and the Mayor of the District of Columbia regarding recovery plans for failure to meet deadlines.</i>				
Finding 3: <i>As specified in 49 CFR § 659.13 - TOC must conduct a resource assessment to ensure its structure, membership, and staffing is sufficient to implement the Program Standard and Procedures (PSP) requirements and to manage the transition activities associated with creation of the MSC.</i>				
Finding 4: <i>As specified in TOC PSP Section 3.2.2 - The TOC Executive Committee must meet regularly to address policy concerns as required by the PSP.</i>				
Finding 5: <i>As specified in 49 CFR §§ 659.17 and 659.19 - TOC must ensure that WMATA complies with approved schedules for resolving Corrective Action Plans (CAPs), reports, analyses, and responses.</i>				



Audit Finding	Next Status Update	Prior SSO Activity/ FTA Response	Status	SSO Agency Action/ Projected Completion Date
Finding 6: <i>As specified in 49 CFR § 659.31 – TOC must ensure that WMATA adheres to the hazard management process outlined in the WMATA System Safety Program Plan (SSPP).</i>				
Finding 7: <i>As specified in 49 CFR § 659.35 – TOC must ensure that WMATA provides the necessary information for accident notifications and reports, such that the need for follow-up submission is minimized. TOC must implement accident investigation checklists or procedures to ensure required elements are consistently submitted.</i>				
Finding 8: <i>As specified in the TOC/WMATA Memorandum of Understanding (MOU) Section 2.5 and PSP Section 9.2 - TOC must ensure that WMATA develops a recovery plan for all investigation reports that have not been completed within six (6) months. TOC must consistently require WMATA to submit an investigation status report for investigations that do not meet the 30 day reporting requirements.</i>				
Finding 9: <i>As specified in 49 CFR § 659.37 – As specified in 49 CFR § 659.37 - TOC must ensure that WMATA develops and submits comprehensive CAPs for all necessary safety and security activities in a timely manner.</i>				
Finding 10: <i>As specified in 49 CFR § 659.27(b)(2) – TOC must ensure that the WMATA Department of Safety and Environmental Management (SAFE) and Metro Transit Police Department (MTPD) Internal Safety and Security Reviews and annual audit reports are submitted and approved within the timeframe required by the PSP.</i>				



Audit Finding	Next Status Update	Prior SSO Activity/ FTA Response	Status	SSO Agency Action/ Projected Completion Date
Finding 11: <i>As specified in the 49 CFR § 659.29 – TOC must conduct an assessment of its Three-Year Safety and Security Review process to ensure that all necessary WMATA elements are reviewed and the findings are released in a timely manner.</i>				

Appendix C – TOC-MSO Transition Action Item List

TOC – MSO Transition Action Item List								
Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
Annual Report to Executives								
3/15/2015	Make contact with the office of each jurisdiction's Chief Executive to inform the administration of a new annual reporting mechanism and determine the best format	Annual Report to Executives	3	3	Executives		NS	10/16/14: Due date adjusted
6/30/2015	Coordinate with Metrorail staff regarding additional briefing elements or information to be provided to the Governors and Mayor in advance of the annual report	Annual Report to Executives	3	3	TOC Members, WMATA		NS	Held meeting with WMATA GM in July 2014
6/30/2015	Beginning in 2015, for CY 2014, provide an annual report to each Chief Executive's Office	Annual Report to Executives	3	3	TOC Members, WMATA		NS	10/16/14: Due date adjusted
Conflict of Interest Policy								
7/16/2014	TOC policy staff will develop a procedure specifying prohibitions on the intermingling of funds or other financial conflicts of interest between TOC and the Metrorail system	Conflict of Interest Policy	1	3	Policy		Complete	0/16/14: This will now be encompassed within the existing COI policy, pending TOC Executive review
10/31/2014	TOC policy staff will jointly develop a memorandum setting forth a conflict of interest policy compliant with the FTA's technical guidance	Conflict of Interest Policy	1	2	Policy, TRA		Complete	2/11/15: Complete; policy awaiting review and feedback by TOC Executives.
10/31/2014	TOC policy staff will jointly develop a memorandum setting forth a financial conflict of interest policy compliant with the FTA's technical guidance	Conflict of Interest Policy	1	3	Policy		Complete	10/16/14: This will now be encompassed within the existing COI policy, pending TOC Executive review
11/30/2014	TOC policy staff will develop a conflict of interest procedure specifying reorganization of its personnel and recusals for any of its Executives who may have a real or perceived conflict of interest with WMATA, such as the Board of Directors.	Conflict of Interest Policy	1	2	Policy, TRA		Complete	10/6/14: Due date changed to reflect an 11/30/14 submittal to FTA. The draft Conflict of Interest policy, pending TOC Executive review
7/30/2015	The financial independence policy will be revised and submitted to FTA for review and approval.	Conflict of Interest Policy	1	3	FTA		IP	2/11/15: Policy is pending TOC Executive review.
7/31/2015	TOC Executives will review the draft COI policy and provide feedback, then review a final version and approve it.	Conflict of Interest Policy	1	2	Executives		IP	2/11/15: TOC Executives were unable to review the policy in November; The next meeting is planned for April 2015. The draft policy is currently under review by counsel.
Within 6 months after Final Run	Ensure draft legislative provisions referenced in Section 1(1) submitted for FTA review incorporates all relevant FTA guidance on financial independence, including with respect to distinct funding streams between the MSO and Metrorail	Conflict of Interest Policy	1	3	Policy		NC	2/11/15: Due date changed based upon promulgation of the FTA Final rule.



Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
Enabling Legislation								
11/6/2014	TOC Executives meet to select from provided alternatives for MSC structure	Enabling legislation	1	1	Executives		Complete	2/11/15: TOC Executives elected to Implement a fully Independent MSC pursuant to the TOC Executive Meeting 11-6-14
11/6/2014	Also review SSO program responsibilities and statutory requirements within the existing 49 CFR Part 659 program that will meet MAP-21 requirements	Enabling legislation; Program Standard and Procedures	4	1	Policy, MSC Staff		IP	2/23/15: Analysis of Interim Enhancements complete and approved by TOC.
7/31/2015	Submit legal independence provisions to FTA along with formal request to approve TOC's approach to managing MAP-21 legal Independence provisions	Enabling legislation	1	2	FTA		IP	2/11/15: Legal Independence for the TOC will be covered by a Conflicts of Interest Policy, under TOC Executive review.
On-Going	TOC staff and policy personnel meet to define Initial MSC objectives and considerations of each jurisdiction, and develop alternatives for TOC Executives	Enabling legislation	1	1	Policy, Counsel		IP	2/11/15: TOC is currently updating the MSC/MAP- 21 White Paper to outline goals and objectives for the MSC.
Within 12 months after Final Rule	Based on the objectives above, the three Jurisdictions will develop legislation and will work to secure state/District legislative and congressional approval. Ensure draft legislative provisions referenced in Section 1(1) submitted for FTA review incorporate all relevant FTA guidance on legal Independence, Including with respect to reporting relationships, shared board members, etc.	Enabling legislation	1	1	Policy, Executives		NS	Release of Final Rule +1 year
Within 12 months after Final Rule	When the Final Rule is promulgated, ensure provisions described above become part of draft legislation through process specified in Section 1(1) above	Enabling legislation	2	1	Policy		NS	Final Rule +1 year
Within 12 months after Final Rule	Provide draft legislation to FTA for review and approval as described in Section 1(1) above	Enabling legislation	2	1	FTA		NS	Final Rule+ 1 Year and 60 days
Within 3 months after Final Rule	TOC counsel and policy staff work to produce relevant provisions for future enabling legislation	Enabling legislation	1	1	Policy, Counsel		NS	2/11/15: The Final Rule is expected to be released in 2016. Work on enabling legislation will commence upon release of the Final Rule
Within 6 months after Final Rule	Provisions for the enabling legislation are vetted and approved by FTA Office of Safety and Security	Enabling legislation	1	1	FTA		NS	Work on enabling legislation will commence upon release of the Final Rule
Within 6 months after Final Rule	Review sample legislation Included in the Technical Assistance Tabs developed by FTA and in relevant FTA circulars and guidance documents and ensure relevant material is Included in Section 1(1) draft legislative provisions	Enabling legislation	2	1	Policy		NS	10/16/14: Due date to be adjusted in light of FTA Final Rule.
Within 6 months after Final Rule	New requirement for annual reporting to be included in the draft legislation referenced in Section 1(1) above as well as the new Program Standard	Enabling legislation	3	3	TOC Members		NS	10/16/14: Due date to be adjusted in light of draft FTA rule.



Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
Within 6 months after Final Rule	Continue meeting with legal counsel and other policy personnel to determine logistics, specific enforcement tools desired, and to review the provisions or FTA's Final Rule.	Enabling legislation, Program Standard	2	1	Policy, Counsel		NS	10/16/14: Draft FTA rule still outstanding. Waiting on FTA.
Within 6 months after Final Rule	Ensure draft provisions referenced In Section 1(1) above submitted for FTA review clearly specifies that MSC retains the authority to oversee all aspects of RFGPTS safety, including engineering, construction and revenue operations	Enabling legislation, Program Standard	2	1	Policy		NS	10/16/14: Due date to be adjusted in light of FTA Final Rule.
Funding for TOC and Future MSC								
6/16/2014	Review Federal Register notice for final 550 grant program apportionment amount for FY 13 and FY 14	Funding for MSC	4	1	Policy, MSC Staff		Complete	6/5/14: Process is underway
6/16/2014	Determination by FTA whether grant can go to all three Jurisdictions	Funding for MSC	5	1	FTA		Complete	7/15/14: Jurisdictions to contact MWCOG to confirm their concurrence with FTA's plan. 6/5/14: Klara to contact Annabelle Boyd to follow up on earlier letter
4/30/2015	Finalize MOU and subgrantee agreement with MWCOG.	Funding for MSC	5	1	Policy, TOC Members, TRA		IP	2/11/15: Under review by Jurisdictions and MWCOG. Due date revised
4/30/2015	Obtain letter from the three Chief Executives to the appropriate FTA Regional Administrator that identifies the designated recipient for the SSO Formula Grant Program funds.	Funding for MSC	5	1	Executives		IP	2/11/15: Due date revised due to change in jurisdiction leadership. VA has submitted letter to FTA; MD and DC letters pending.
4/30/2015	Three jurisdictions jointly prepare a letter for FRA Regional Administrator and FTA Associate Administrator of Office of Safety and Security committing to an independent funding match at a specified amount	Funding for MSC	5	2	Policy, Executives		IP	2/11/15: MWCOG is the grantee. Jurisdictions have committed to providing the matching funds and are preparing designation letters.
4/30/2015	Review FTA's Technical Assistance Tabs and State's Pre-Certification Submittal Results, and the State's response to Section 3 above, to establish list of activities that will be performed in the program using FTA FY 13 and FY 14 funding	Funding for MSC, Staffed MSC	4	1	Policy, MSC Staff		NS	10/16/14: This will be addressed through the resource/needs assessment FTA is requiring each SSO to perform. The results will be used as part of the grant application process. A staffing plan will also be developed in light of the results to ensure all activities can be carried out.
9/30/2015	Establish final budget for each jurisdiction's SSO grant program (including State match for MAP-21 funds)	Funding for MSC	4	1	Policy, MSC Staff		IP	2/11/15: TOC is working with MWCOG on an MOU. Due date revised.
9/30/2015	Coordinate with MWCOG to complete the grant application process.	Funding for MSC	5	1	Policy, TOC Members, TRA		IP	2/11/15: Due date revised. Must be done by September 2015.
9/30/2015	Establish requirements for personal identification numbers and authorization codes for using FTA's electronic grants system	Funding for MSC	5	1	FTA		NS	Work with MWCOG to manage grant in the Interim
9/30/2015	Deadline for submitting grant application to FTA	Funding for MSC	5	1	Policy		NS	10/16/14: Due date adjusted to 9/30/2015 per FTA guidance



Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
9/30/2015	State certifies independence of funding source	Funding for MSC	5	2	Policy, Executives		NS	10/16/14: Due date adjusted.
Within 6 months after Final Rule	Work closely with FTA to ensure new MSC will be able to meet FTA grantee requirements, including with respect to issues such as contracting and procurement rules.	Funding for MSC	5	1	Policy, Executives, FTA		NS	10/16/14: Waiting for promulgation of FTA Final Rule and MSC set-up. Due date will be adjusted based on these items.
Within 6 months after incorporation of MSC	Work with its FTA Regional Office to determine what additional activities or information are required for MSC to become established as an FTA recipient for this program.	Funding for MSC	5	1	Policy, FTA		NS	Pending the creation of the MSC.
MAP-21 Transition Completion / Verification for FTA								
6/30/2015	Submit a copy of the report along with a cover letter to the FTA for verification	MAP-21 Transition Completion	3	3	FTA		NS	10/16/14: Due date adjusted.
Within 8 months after incorporation of MSC	MSC submits final adopted HM procedure and a sample report to FTA	MAP-21 Transition Completion	3	1	FTA		NS	Inc. of MSC + 8 months
Within 8 months after incorporation of MSC	MSC submits the final adopted HM procedure and a sample report to FTA	MAP-21 Transition Completion	3	2	MSC Staff		NS	Inc. of MSC + 8 months
Within 18 months after incorporation of MSC	Submit letter requesting close-out to FTA	MAP-21 Transition Completion	2	1	MSC Staff		NS	Inc. of MSC + 18 months
Program Standard and Procedures								
11/6/2014	Analyze existing TOC SSO program – specifically with regard to corrective action plans, hazard management oversight, and audit procedures – to identify areas of current or achievable compliance with MAP-21 standards and provide results to policy staff and Executives for review and approval. Implementation will await the receipt of FTA grant funds.	Program Standard and Procedures	3	1, 2	TOC Members, TRA, Policy, Executives		IP	2/23/15: Analysis complete and accepted by TOC
4/30/2015	TOC staff will develop the Interim enhanced A/I procedure, and submit to Policy and Executive personnel for review and approval	Program Standard	3	1	Policy, Executives		NS	10/16/14: Due date adjusted. Implementation will await the receipt of FTA grant funds.
4/30/2015	TOC will take Interim steps to enhance its existing SSO program activities to ensure compliance with MAP-21: These will include reviewing current TOC CAP tracking and verification practices to determine areas of possible improvement or expanded effort and reviewing Technical Assistance Tabs 5-7 and coordinating with Metrolink to enhance CAP management processes	Program Standard and Procedures	3	1	TOC Members, TRA		IP	2/11/15: TOC created an analysis of interim enhancements to TOC procedures. TOC is currently in progress with updating its Program Standard and Procedures and Internal TOC Operations Manual to reflect the enhancements.



Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
4/30/2015	TOC members review current practices with respect to oversight of WMATA hazard management activities and establishes new policies and procedures for the monitoring of safety performance and the identification, reporting and management of hazards	Program Standard and Procedures	3	1	TOC Members, TRA		IP	2/11/15: TOC created an analysis of interim enhancements to TOC procedures. TOC is currently in progress with updating its Program Standard and Procedures and Internal TOC Operations Manual to reflect the enhancements.
4/30/2015	TOC staff will analyze current practices and FTA technical guidance to develop new audit procedures encompassing both the triennial audits and other audits of Metrorail safety and security plan, as circumstances may require.	Program Standard and Procedures	3	2	TOC Members		IP	2/11/15: TOC created an analysis of interim enhancements to TOC procedures. TOC is currently in progress with updating its Program Standard and Procedures with Internal TOC Operations Manual to reflect the enhancements.
4/30/2015	TOC will modify its Program Standards and Procedures to perform additional enhanced activities in compliance with MAP-21: These will include investigative and enforcement authorities in a revised, stand-alone TOC Accident/Incident Investigation procedure	Program Standard and Procedures	3	1	TOC Members		IP	2/11/15: TOC completed an analysis of Interim enhancements and is updating its Program Standard and Procedures as well as its Internal TOC Operations Manual
4/30/2015	Develop an interim enhanced CAP reviewing, tracking, and monitoring procedure, and submit to Policy and Executive personnel for review and approval	Program Standard and Procedures	3	1	TOC Members, TRA		NS	10/16/14: Due date adjusted. Implementation will await the receipt of FTA grant funds.
4/30/2015	TOC members draft Interim enhanced HM procedure and submit it to Policy Staff/Executives for review and approval	Program Standard and Procedures	3	1	TOC Members, TRA		NS	10/16/14: Due date adjusted. Implementation will await the receipt of FTA grant funds.
4/30/2015	New interim enhanced audit procedures will be submitted to TOC policy staff for review and approval. New TOC audit procedures will explicitly include the ability to conduct additional audits in response to accidents, etc., as well as to compel the completion of corrective actions. The procedures will explicitly reference TOC review and approval of the WMATA Safety Plan and supporting and referenced procedures, and include appropriate checklists and sampling plans for the conduct of supporting tests and inspections.	Program Standard and Procedures	3	2	Policy		NS	10/16/14: Due date adjusted. Implementation will await the receipt of FTA grant funds.
4/30/2015	TOC will implement these enhanced audit procedures during its ongoing triennial audit process, as well as other audits that the TOC may perform.	Program Standard and Procedures	3	2	TOC Members		NS	10/16/14: Due date adjusted. Implementation will await the receipt of FTA grant funds.
4/30/2015	TOC will update annual reporting procedure to include the timeframes and content of reports to be delivered to the Chief Executives of the three jurisdictions, FTA, and the WMATA Board of Directors	Program Standard and Procedures and Internal MSC Operations Manual	3	3	TOC Members, Executives, WMATA		NS	10/16/14: Due date adjusted.
4/30/2015	Based upon the results of the internal analysis of the current TOC SSO program, TOC will adjust its Program Standard and Procedures, as well as other relevant program documents to reflect any changes	Program Standard and Procedures, Internal MSC Operations Manual	3	1, 2	TOC Members, TRA, Policy, Executives		NS	10/16/14: New item added to the checklist. TRA personnel have begun the underlying analysis.



Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
5/31/2015	Interim enhanced A/I procedure will be submitted to FTA for review and approval	Program Standard and Procedures and Internal MSC Operations Manual	3	3	FTA		NS	10/16/14: Due date adjusted.
5/31/2015	Interim enhanced A/I procedure will be submitted to FTA for review and approval	Program Standard and Procedures	3	1	FTA		NS	10/16/14: Due date to be adjusted. Implementation will await the receipt of FTA grant funds.
5/31/2015	Submit Interim enhanced CAP tracking procedure to FTA for review and approval	Program Standard and Procedures	3	1	TOC Members, TRA		NS	10/16/14: Due date to be adjusted. Implementation will await the receipt of FTA grant funds.
5/31/2015	Interim enhanced TOC HM procedure is submitted to WMATA for review and FTA for review and approval	Program Standard and Procedures	3	1	WMATA, FTA		NS	2/23/15: Due date adjusted
5/31/2015	Provide approved, interim enhanced audit procedure to FTA for further review and approval	Program Standard and Procedures	3	2	FTA		NS	10/16/14: Due date adjusted. Implementation will await the receipt of FTA grant funds.
6/30/2015	TOC conducts workshop with WMATA safety, operations and maintenance leadership regarding hazard management program and proposed new approach	Program Standard and Procedures	3	1	TOC Members, TRA		NS	10/16/14: Due date to be adjusted. Implementation will await the receipt of FTA grant funds.
6/30/2015	TOC works with WMATA to implement the new HM procedure to enhance the collection and analysis of safety, operations and maintenance data and information to identify hazards and monitor safety performance in keeping with new procedure	Program Standard and Procedures	3	1	TOC Members, WMATA		NS	
Within 6 months after incorporation of MSC	MSC will develop new Accident/Incident Investigation procedures, forms and processes to gradually facilitate its independent investigation of accidents, incidents and hazards on the Metrorail system	Program Standard and Procedures	3	1	MSC Staff		NS	Inc. of MSC + 6 months
Within 8 months after incorporation of MSC	The MSC coordinates this new/revised A/I process with WMATA, and briefs the WMATA Board of Directors and GM on the new process	Program Standard and Procedures	3	1	MSC Staff		NS	Inc. of MSC + 8 months
Within 8 months after incorporation of MSC	MSC submits final adopted CAP procedure and sample close-out report to FTA	Program Standard and Procedures	3	1	MSC Staff		NS	Inc. of MSC + 8 months
Within 10 months after incorporation of MSC	The MSC submits its new/revised A/I procedures to FTA	Program Standard and Procedures	3	1	MSC Staff		NS	Inc. of MSC + 10 months



Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
Within 12 months after incorporation of MSC	MSC personnel will develop policies and procedures governing both its pre-revenue and revenue service activities, and specifying notification and documentation requirements for Metrorail system extensions or improvements	Program Standard and Procedures	2	1	MSC Staff		NS	Inc. of MSC + 1 year
Within 12 months after incorporation of MSC	Establish State requirements for overseeing and enforcing WMATA safety through a new MSC Program Standard	Program Standard and Procedures	2	1	MSC Staff		NS	Inc. of MSC + 1 Year
Within 12 months after incorporation of MSC	Develop new MSC procedures, policies, organization charts, proposed recusal forms or annual affidavits for legal independence and submit FTA for review and approval	Program Standard and Internal MSC Operations Manual	1	2	MSC Staff, FTA		NS	Inc. MSC + 1 Year
Within 14 months after incorporation of MSC	Establish State requirements for safety certification for RFGPTS in engineering and construction: See FTA's Guidance Circular 5800.1, Safety and Security Management Guidance for Major Capital Projects	Program Standard and Procedures	2	1	MSC Staff		NS	Inc. of MSC + 14 months
Within 16 months after incorporation of MSC	Submit to FTA for review and approval	Program Standard and Procedures	2	1	FTA		NS	Inc. of MSC + 1 Year and 120 days
Within 22 months after incorporation of MSC	Conduct a workshop with WMATA to outline proposed approach	Program Standard and Procedures	2	1	MSC Staff, WMATA		NS	Inc. of MSC + 1 Year and 300 days
Within 24 months after incorporation of MSC	Modify proposals as warranted based on feedback from WMATA; resubmit the package of policies and procedures to FTA	Program Standard and Procedures	2	1	MSC Staff		NS	Inc. of MSC + 2 Years
Staffing and Training								
5/30/2015	Establish a work breakdown structure (a detailed task-by-task evaluation and analysis) of actual full-time equivalent (FTE) position requirements for the MSC to operate the SSO program, and for the TOC to continue to operate in the interim period.	Staffed MSC	4	1	Policy, MSC Staff		NS	2/11/15: Due date updated.
5/30/2015	Complete the work breakdown structure and recommend appropriate staffing levels	Staffed MSC	4	1	Policy, MSC Staff		NS	2/11/15: Due date updated.
6/30/2015	Submit work breakdown structure to FTA for review and approval	Staffed MSC	4	1	Policy, MSC Staff		NS	2/11/15: Due date updated.
Within 6 months after incorporation of MSC	Processes required to stand up MSC are implemented and personnel are hired and/or retained in accordance with statutory provisions and the Staffing Plan	Staffed MSC	1	1	Policy, Counsel, Executives		NS	Passage of Legislation +180 days



Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
Within 6 months after incorporation of MSC	Using results of the work breakdown structure, develop a staffing plan for the MSC to document identified positions, required qualifications, and roles and responsibilities of State employees and contractors	Staffed MSC	4	1	Policy, MSC Staff		NS	Assumes availability of grant funds to use toward staffing levels established by recommended FTEs from work breakdown structure/resource needs assessment
Within 6 months after incorporation of MSC	Develop formal job descriptions for MSC staff	Staffed MSC	4	1	Policy, MSC Staff		NS	Assumes availability of grant funds to use toward staffing levels established by recommended FTEs from work breakdown structure/resource needs assessment
Within 6 months after incorporation of MSC	Develop MSC staffing budget	Staffed MSC; Funding for MSC	4	1	Policy, MSC Staff		NS	Assumes availability of grant funds to use toward staffing levels established by recommended FTEs from work breakdown structure/resource needs assessment
Within 6 months after incorporation of MSC	Submit MSC staffing plan and budget to FTA	Staffed MSC; Funding for MSC	4	1	Policy, MSC Staff		NS	Assumes availability of grant funds to use toward staffing levels established by recommended FTEs from work breakdown structure/resource needs assessment
Within 9 months after incorporation of MSC	Start process of acquiring personnel resources, either in-house or contract support, commensurate with newly established staffing levels	Staffed MSC	4	1	Policy, MSC Staff		NS	Passage of enabling legislation + 9 months
Within 9 months after incorporation of MSC	Establish technical qualifications as part of future advertised MSC job positions (see item 1 in Section 4 above)	Staffed MSC	4	2	MSC Staff		NS	Passage of enabling legislation + 9 months
Within 9 months after incorporation of MSC	Established technical qualifications for contractors as part of future solicitations for service	Staffed MSC	4	2	MSC Staff		NS	Passage of enabling legislation + 9 months
Within 9 months after incorporation of MSC	Establish technical training and/or certification or mentoring opportunities for MSC operations personnel in specific rail transit disciplines with the RFGPTS, another SSO agency, or through the State's FTA Participation Program	Staffed MSC; Internal MSC Operations Manual	4	2	MSC Staff		NS	Passage of enabling legislation + 9 months
Within 9 months after incorporation of MSC	Identify long-term strategy for ensuring access to technical expertise in areas of rail transit vehicles, track, signals and train control, traction power, rail grade crossings, and operations/maintenance practices	Staffed MSC; Internal MSC Operations Manual	4	2	MSC Staff		NS	Passage of enabling legislation + 9 months
Within 9 months after incorporation of MSC	Specify participation in and successful completion of FTA's training program as a term and condition of employment	Staffed MSC; Internal MSC Operations Manual	4	3	MSC Staff		NS	Passage of enabling legislation + 9 months
Within 9 months after incorporation of	Specify participation in and successful completion of FTA's training program as a requirement in any solicitation for contract services	Staffed MSC; Internal MSC Operations	4	3	MSC Staff		NS	Passage of enabling legislation + 9 months



Due Date	Action Item	Relation to Deliverable	CWP Section	Sub-Section	Resp. Party	Approval	Status	Comments/Notes
MSC		Manual						
Within 9 months after incorporation of MSC	Establish individual training plans for each SSO program employee	Staffed MSC; Internal MSC Operations Manual	4	3	MSC Staff		NS	Passage of enabling legislation + 9 months
Within 9 months after incorporation of MSC	Submit sample employee training plans to FTA	Staffed MSC; Internal MSC Operations Manual	4	3	FTA		NS	Passage of enabling legislation + 9 months
Within 12 months after incorporation of MSC	Train up existing TOC staff to meet these qualifications	Staffed MSC	4	2	MSC Staff		NS	Passage of enabling legislation + 12 months
Miscellaneous Tasks								
6/30/2014	Meeting with WMATA GM to discuss actions required by FTA to transition to the MSC and the new SSO program		N/A	N/A	Policy, Executives, FTA, WMATA		Complete	6/5/14: Meeting scheduled for June 20 @ 2:30p.m.
On-Going	TOC to continue Quarterly Briefings with the WMATA Board of Directors during Board Meetings	Quarterly Report to WMATA Board	3	3	TOC Members, WMATA Board		IP	Ongoing