

2017 State Safety Oversight (SSO) Training Workshop
April 24-28, 2017
Renaissance Harborplace Hotel
Baltimore, Maryland

Executive Summary

FTA is required to certify whether each State Safety Oversight (SSO) Program meets Federal requirements for safety oversight of Regional Transit Agencies (RTAs). SSOAs (State Safety Oversight Agencies) must be certified by April 15, 2019.

FTA sponsored the 2017 State Safety Oversight (SSO) Training Workshop to help SSOAs navigate the certification approval process.

SSOA managers, FTA staff and others in the SSO community led discussions on topics such as the certification process, transit rail security, agency designation and staffing plan, RTA three-year reviews, corrective action plans, enhanced federal oversight and hazard management.

The following sections of the Executive Summary sum up participants' concerns regarding the certification process and FTA's action items. The rest of the report will provide highlights of each workshop session.

Participants Concerns

Certification Process

- Participants expressed concern over FTA's timeframe for providing feedback after documents are submitted for review
- SSOAs voiced concerns over missing the certification deadline because of delays in enacting statutes and regulations to carry out the new safety mandates.

Security Plans

- Participants were unclear about SSOAs' role in overseeing RTAs' security plan.
- SSOAs asked whether TSA could provide funding to small transit agencies to increase infrastructure protection.
- SSOAs asked whether SSOA grant funds could be used to oversee security plans included in an RTA's SSPP.
- Participants suggested FTA promote SSOAs' involvement in the Transit Asset Management (TAM) plan process.

Reporting Tool

- One participant worried that FTA would misinterpret "raw data" entered into the reporting tool.
- SSOAs expressed concern over public access to Annual Reports and uploaded data.
- Participants questioned how often FTA will examine data entered into the reporting tool and how FTA planned to use that data.

Enhanced Federal Oversight

- SSOAs worried that Opportunities for Enhancements (OFE) findings will be interpreted by stakeholders as deficiency findings.
- States expressed concern over FTA publicizing their certification status on the FTA website because of the public's reaction to their standing.

MONDAY, April 24, 2017

Dr. Susan Camarena, FTA's Senior Advisor, Engagement and Innovation, Office of Administration, summarized SSOA certification requirements under Part 674. She pointed out that every state with a rail fixed guideway public transportation system must have an SSO program that has been approved by the Administrator.

Thomas Littleton, Associate Administrator, Office of Transit Safety and Oversight, FTA, elaborated on Camarena's comment. He reported that all states must be certified by April 15, 2019, with no exception. If states fail to meet the deadline, FTA will withhold SSO grants funds from the SSOA and from all FTA-funded recipients throughout the entire state.

He encouraged SSOAs to submit their certification application by mid-April 2018—no later than September 30, 2018—to give FTA time to review the application and make necessary adjustments. Otherwise, FTA cannot guarantee it will finish its review in time for SSOAs to meet the April 2019 deadline.

Certification is a priority within the agency and resources have been set aside to help SSOAs work through the application process, added Matthew Welbes, Executive Director, FTA. He said FTA will send letters to state officials and legislators seeking their support in helping SSOAs get certified on time and highlight the consequences of missing the deadlines.

Some stakeholders are not taking FTA's threat to withhold funds seriously. Can FTA "convince" them otherwise?

Welbes said FTA will continue to communicate with stakeholders to stress the importance of supporting SSOAs.

How long will FTA take to provide feedback on document submissions?

Patrick Nemons, Acting Director of FTA's Office of Safety Review, said program managers are helping SSOAs prepare required submissions for the certification application and providing feedback on their Program Standards. Depending on how much technical assistance is needed, FTA could take up to six months to review the documents. Once the application is submitted, the process should take less time because "we are just verifying what we already worked on," he said.

Is FTA still planning to get back to SSOAs with a list of documents they submitted?

Nemons explained that the toolkit FTA published to help states through the SSO certification process has changed. Instead, FTA created the State Safety Oversight Program Part 674 Certification Submissions Checklist to track which documents were submitted, when they were submitted and where the documents can be found.

TRANSIT RAIL SECURITY

Christopher McKay, Industry Engagement Manager, Mass Transit and Passenger Rail Transportation Security Administration (TSA), explained that TSA's role is to secure surface transportation systems from terrorist activities and attacks. Through its Transit Security Grant Program (TSGP), TSA has provided over \$2.1 billion in security funding to owners and operators of public transit systems that serve historically eligible Urban Area Security Initiative (UASI) jurisdictions.

McKay pointed to several rulemakings underway:

- * **The Security Training for Surface Transportation Employees Notice of Proposed Rulemaking (NPRM)** requires owners of high-risk public transit agencies, railroads and over-the-road bus companies to provide security training for employees performing "security sensitive functions."
- * **The Surface Transportation Vulnerability Assessments and Security Plans Advance Notice of Proposed Rulemaking (ANPRM)** solicits information on the current baseline of vulnerability assessments, security planning and existing security measures to mitigate vulnerability and possible impact on operators.

Nemons added that Part 659 required SSOAs to oversee the safety and security of rail fixed-guideway systems but Part 674 makes no mention of security.

Question: Do SSOAs have any responsibilities to oversee security plans of transit systems?

Nemons encouraged SSOAs to meet with state officials to discuss oversight of RTA's security plans and brainstorm ways that state agencies can work together to enhance transit security.

Participants asked whether SSOAs can continue using FTA grant funds to oversee security plans of RTAs.

Nemons said that SSOAs will not be required to oversee RTA's security plans once they are certified. SSO grant funds can't be used for oversight of security plans.

Will TSA take over security audits that SSOAs used to perform?

McKay said TSA is conducting comprehensive reviews of transit agencies' security programs through its Baseline Assessment for Security Enhancement (BASE) program. The program is designed to establish security standards for individual systems and track their progress. With the passage of Part 674, however, the program may need to be reviewed.

Could SSOAs continue providing security oversight?

Nemons said security plan oversight is not required under Part 674. SSOAs can include the security component in their Program Standard—and FTA will hold them accountable for the oversight—but they can not use Section 5329 funds to pay for the review. SSOAs should tell FTA if their Program Standards include non-federally funded programs so FTA does not audit those programs.

STOP SIGNAL OVERRUNS

Rick Gerhart, Office of Transit Safety and Oversight, FTA, said that FTA issued a Safety Advisory 16-1 on April 7, 2016, requesting SSOAs work with RTAs to gather information on Stop Signal Overruns which took place during calendar year 2015. The study found there were no industry standard practices to protect against stop signal overruns and no consistency in definition, operating policies and requirements.

On January 17, 2017, FTA issued Proposed GD 17-1 which required rail transit agencies to complete a safety risk evaluation of potential consequences of hazards related to stop signal overruns, evaluate monitoring activities in place to assess the effectiveness of stop signal overrun mitigations and develop a corrective action plan.

The directive required SSOAs to participate in the safety risk evaluation process and approve the corrective action plan. Comments, due March 20, 2017, and are now being analyzed.

Could FTA share best practices on how to conduct these assessments?

Gerhart said that FTA is still analyzing responses to the Advisory 16-1 request, and that best practices will emerge from those reviews. FTA will do its best to share that information.

TUESDAY, April 25, 2017

RULEMAKING UPDATE

Cadence Key, Office of Chief Counsel, FTA, provided an overview of the regulatory environment in Washington D.C. She explained that the Trump administration signed an Executive Order mandating that for every new regulation issued, at least two existing regulations must be identified for elimination.

FTA is placing two rules on hold:

- * Final Rule of the Public Transportation Agency Safety Plan, which requires rail and other transit systems to implement a Safety Management System (SMS) approach to safety
- * Final Rule for National Public Transportation Safety Certification Training.

FTA is awaiting guidance from the DOT Secretary on when these two final rules can be published, and when FTA should issue the Operator Assault Notice of Proposed Rulemaking.

In the meantime, SSOAs should comply with the Interim Safety Certification Training Program Provisions and start taking classes to satisfy the training requirements.

Will operator assaults fall under security or safety? Will SSOAs have oversight over the program?

Key said that Congress provided FTA with explicit authority to issue a NPRM regarding operator assaults. FTA may require transit agencies to conduct a risk assessment to determine the likelihood and severity of assaults against their operators. An operator assault may be viewed as a security event.

FTA instructed SSOAs to review their RTA's SSPP until the Public Transportation Agency Safety Plan rule is approved. Can SSOAs use grant funds to review the Emergency Management Plan?

Nemons said that SSO grant funds can be used to conduct SSPP reviews but not to develop the Part 674 program. As of right now, SSOAs can not use SSO grants to oversee an RTA's security plan, but the agency will reach out to TSO to determine whether SSOAs can review a component of the Emergency Management Plan.

Is there a relationship between the Public Transportation Agency Safety Plan rulemaking and the SSO Final Rule?

FTA officials said that the SSO rule gives SSOAs authority to review, approve, oversee and enforce an RTA's safety plan. The Public Transportation Agency Safety Rule NPRM requires public transit agencies that receive federal assistance under 49 USC, Chapter 52, to develop and implement an agency safety plan based on SMS principles.

Can SSOAs include a security plan in their Program Standards?

FTA said SSOAs can include security components in the Program Standards but FTA funds are not available to implement that component of the program.

Can FTA help promote communications between MPO, Transit Agency and SSOAs as it pertains to the Transit Asset Management (TAM) process?

Key said the final rule does not require SSOAs to review or approve a TAM, but she understood why SSOAs would want to be engaged in the process. FTA recently issued a guidance to MPOs on TAM requirements, encouraging them to reach out to transit agencies in developing performance targets.

SSO Program Training Requirements

Ruth Lyons explained that Congress required FTA to develop Interim Provisions to the Safety Certification Training Program to ensure SSOAs have technical competency to perform their duties. The required curriculum includes six classes that must be completed over a 3-year period.

Maria Wright, Office of Transit Safety and Oversight, FTA, outlined the Technical Training Plan (TTP) requirements. She said SSOAs must ensure access to personnel with the “skills and knowledge” necessary to perform inspections, audits and other functions. The “skills and knowledge” characteristics are grouped into 17 Technical Competency Areas.

The interim provisions require SSOAs to take a security course. Once certified under Part 674, will SSOAs be required to take the security course?

FTA said that Transit System Security is technically a required course because FTA is still operating under the Part 659 rule. FTA can’t remove the requirement until the Final Rule comes out, but SSOAs can take the class on a voluntary basis.

Does FTA require that all the courses listed in the Interim Provisions be taken?

FTA said that some courses listed in the Interim Provisions may or may not be required, depending on what the final rule dictates. When evaluating certification applications, however, FTA will only hold SSOAs accountable for courses that currently exist—not those under development. FTA will discuss TTPs during the monthly on-on-one calls with SSOAs since training is part of the certification requirements.

FTA added that it will not offer a course in “TTP Best Practices” because the agency does not endorse specific plans. Participants should engage in peer-to-peer discussions to compare elements in their Programs Standards.

RTA INTERNAL AND THREE-YEAR REVIEW

The SSO Program Standard must explain the process SSOAs will follow and the criteria they will apply in conducting audits of RTAs' compliance with their public transportation agency safety plan at least once every three years.

SSOA managers were asked to share their experiences with writing audit reports.

An SSOA manager from Virginia said his agency's report starts out with a summary describing the review process, followed by observations of the RTA's organizational structure and other elements of the safety plan. The end of the report includes an explanation of how the SSOA came to its conclusion and recommendations.

SSOAs have different rating methods for their findings. One SSOA, for instance, rated RTA's compliance with each element of FTA's program in three categories: Deficient, Area of Concern and Recommendations.

Various SSOAs discussed their process for keeping track of actions RTAs have taken to address SSOAs concerns.

In New York, for instance, the RTA is required to provide quarterly updates to its SSOA regarding actions taken to correct problems identified during audits. A corrective action in New York City transit could take two-years to implement.

THURSDAY, April 27, 2017

SSO REPORTING TOOL

Andrew Lofton, Boyd Caton Group, introduced participants to FTA's new SSO reporting tool. He pointed out that Part 674 expands the information SSOAs are required to include in their Annual Report. SSOAs will now have to provide a list of changes SSOAs made in their Program Standard over the past year and submit evidence of how they reviewed RTA's safety plan during the past year.

FTA uses data collected in the Annual Reports for various statistical analyses, the SSO audit program and report to Congress.

The new reporting tool meets Part 674 reporting requirements. States can break CAPs and hazards into several actions with implementation dates. They can also write-up their Annual Reports by reviewing and gathering information inputted throughout the year.

Will FTA continuously look at data entered or just view the final version of the Annual Report?

Nemons said that FTA will continuously monitor SSOA programs. The reporting tool allows the federal agency to access the latest information and gives SSOAs a centralized location to input their data. The agency is most likely to look in the database if an accident happens or other concerns are raised. But FTA will reach out to SSOAs for clarification on data submitted before drawing any conclusion. SSOAs can discuss their concerns during the monthly one-one calls with FTA.

Another participant questioned the practicality of the tool since her SSOAs database contains information on many programs—not just FTA's.

Nemons said he would look into the possibility of adding a filter feature so FTA can view and access only documents pertaining to FTA's programs.

Will submissions uploaded into the reporting tool be available to the public under the Freedom of Information Act (FOIA)?

Richard Wang, from the office of Chief Counsel, explained that draft documents are protected under FOIA but final document can be accessed by FOIA requests.

ENHANCED FEDERAL OVERSIGHT

Nemons said FTA may assume SSO responsibilities under specific situations. FTA can step in if, for instance, SSOAs don't independently have the ability to enforce federal safety regulations or hold RTAs accountable to set safety standards.

FTA does not assume oversight of the transit system, just of SSOAs responsibilities.

Enhanced Federal Oversight (EFO) allows FTA to routinely monitor SSOAs to ensure they are making progress towards certification status. EFO also gives FTA tools to provide technical assistance to non-compliant or ineffective SSOAs.

One participant asked whether FTA has a mechanism for compelling action regarding WMATA.

Nemons explained that WMATA has been operating under restricted drawdowns over the last few years, and that their grant funding has been directed away from certain projects toward safety-related ones. FTA has the authority to withhold up to 25% of WMATA's Section 5307 Urbanized Area Formula funds until they comply with federal transportation safety requirements. FTA does not, however, have civil penalty authority

SSO AUDIT PROCESS

Juan Morison, Office of Transit Safety and Oversight, FTA, explained that each state will be subject to an Audit Cycle. Information collected through the SSO audit program will support the SSOA's Part 674 certification.

The SSO Audit activities are broken down into four major audit phases: Pre-Audit, On-Site Audit, Post-Audit and Closeout.

FTA will issue Opportunities for Enhancement (OFEs), a form of technical assistance, when enhancements can be made to the SSO program to comply with Part 674 certification requirements or to strengthen the SSO program.

A participant expressed concern that stakeholders will interpret OFEs to be deficiency findings.

FTA said it will explain in the audit report that OFEs should not be interpreted as findings of noncompliance or deficiencies. OFEs should be viewed as a tool FTA uses to strengthen SSO programs. In the audit report, FTA will also give credit to those SSOAs working towards compliance.

FTA's Audit Manual, currently being updated, will no longer be available to SSOAs. Instead, FTA will issue an Audit Guide to outline what FTA is looking for in the audits.

PART 674 Certification Process

FTA said that the updated SSO Program Part 674 Certification Submission Checklist has been streamlined to 6 categories, down from 9. SSOAs should submit their certification application to FTA only after all the elements listed are checked off.

The categories include: SSOA Agency Independence, General Program Requirements, Enforcement Authority, Investigations and Audits, Staffing and Qualifications of SSO Personnel and Contractors and Program Standard.

SSOAs can go over the checklist with their FTA program manager during their monthly one-on-one calls.

What's the timeline for the review process?

FTA will send an email to SSOAs acknowledging receipt of documents submitted within three days after receiving them. FTA will provide feedback to SSOAs on their certification application within 60 days of receipt. Feedback may be: "We're still reviewing the application," or "Here are our comments or edits."

Should SSOAs include oversight of the Emergency Management Plans in their Program Standard?

SSOAs should include oversight of the Emergency Management Plan in their Program Standard for now. FTA will consult with TSA about which agencies should oversee a transit agency's security plan.

Will FTA penalize SSOAs if their states have not yet passed statutes or regulations to comply with Section 674?

Nemons said FTA will give SSOAs credit for taking steps towards certification if they can show draft legislation along with a timeline of future submissions. But regulations and statutes must be final before FTA can certify SSOAs.

SSOAs should submit documents for review as soon as they are ready so FTA can accurately report their application status on its website. Again, he warned SSOAs against submitting incomplete certification applications because FTA will send them right back to SSOAs.

Nemons explained the Status Table will reveal SSOAs' progress in completing the application, along with the amount of funding FTA will withhold from the state if the deadline is missed. But FTA will inform SSOAs of their status to ensure accuracy before posting it on the website.

FTA will calculate percentage of completion for each of the six categories in the checklist. The percentages will be represented by Harvey Balls, round ideograms commonly used in project management for project tracking. Nemons explained how percentage rankings will be indicated.

- * An empty Harvey Ball indicates FTA has not had communications with the SSOA.
- * A fourth-filled Harvey Ball indicates that FTA explained submission requirements to the SSOA, and the SSOA said the agency was working on the application but didn't give a timeline for document submissions.
- * A half-filled Harvey Ball indicates the SSOA informed FTA of its progress towards certification and submitted a timeline for document submission.
- * A three-quarters-filled Harvey Ball represents an SSOAs provided FTA with all required submissions for that category.

FTA said program managers will go over the categories with SSOAs during their monthly one-on-one calls and inform them of their current standing.

The status report will be posted in an SSO certification page with a narrative that provides an overview of SSOA's role, certification process and document submission requirements.

FRIDAY, April 28, 2017

SSO Certification Status

At the beginning of the workshop FTA encouraged participants to write their questions on the certification process in a yellow sticky note and post them on a wall—and FTA would answer them during the last session of the workshop. FTA addressed many questions during the workshop but reiterated points made earlier.

Below is a highlight of FTA's responses.

- FTA is asking SSOAs to reference where documents already submitted can be found—not to resubmit documents. Many SSOAs submitted documentation required under Part 674 when completing their CWP or SSO grant program application.
- SSOAs are no longer required to oversee transit security plans but grant funds will not be decreased as a result.
- States should submit certification applications only if all the elements in the checklist are checked off. FTA will work with SSOAs to ensure all the required documents under each category have been submitted.
- FTA is requiring submission of similar documents under each category—such as legislation or administrative code demonstrating SSO's authority to perform certain actions.
- FTA will beef up its review staff as the certification deadline approaches.
- The certification approval process works as follows: Program managers review the application and then pass it on to Nemons for his review. If he okays the application, he makes a recommendation to his superiors who then, in turn, forward it to the FTA Administrator for final approval.
- SSOAs should submit documents for review to their program managers as soon as possible, without waiting for their monthly one-on-one call, to ensure the accuracy of the status posted on the website.
- FTA predicted that at least 50% of SSOAs should be certified by this time next year.

SSOAs participating in the peer-to-peer session earlier in the week asked FTA to do the following:

- Add a section to the Status Table that lists milestones SSOAs must reach to achieve certification.
- Clarify how FTA calculates percentages of application completion.
- Give SSOAs 30-day notice of when FTA plans to visit.
- Give SSOAs advanced notice of the date and location of the next SSO Workshop.

The meeting was adjourned.

