

# FTA

FEDERAL TRANSIT ADMINISTRATION

## **Contractors and Other External Service Providers**

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U.S. Department of Transportation  
Federal Transit Administration

# Webinar Objectives and Topics

## Objectives

- To provide information about how the Public Transportation Agency Safety Plan (PTASP) requirements at 49 C.F.R. Part 673 (Part 673) affect transit agencies that use contractors or other external service providers.
- To support the development of an Agency Safety Plan (ASP).

## Topics

- 49 C.F.R. Part 673 – the PTASP rule: What does it say about external service providers (ESPs)?
- Developing an Agency Safety Plan

# Key Terms for this Webinar

## **Recipient**

Accountable for fulfilling requirements to receive FTA funding

## **Employees of the Recipient**

Personnel employed directly by the recipient to work in the transit agency

## **External Service Providers (ESPs)**

External entities and their employees that provide services to the transit agency

### **Contractors**

Provide services under contract

### **Other External Service Providers**

Provide services by agreement or other arrangement

# Defining “Recipient”

- **Recipient** means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under Chapter 53. (*49 U.S. Code § 5329*)
  - Under Part 673, this includes recipients or subrecipients of Section 5307 funds.
- To receive federal funds via FTA grants and cooperative agreements, a recipient must complete the annual Certifications and Assurances.
- A recipient is accountable to FTA and must comply with all applicable requirements as defined in the Certifications and Assurances—including Part 673.

# Defining “Contractor”

- **For webinar purposes, a contractor provides services to a transit agency under a contract.**
- Accountable based on the terms of the contract.
- Not a recipient.

# Defining “Other External Service Providers”

- **For webinar purposes, an other external service provider** performs operations, maintenance, safety, or risk management services related to transit service delivery from outside a recipient’s immediate organizational structure.
  - Example: Transit vehicle maintenance performed by a division of municipal government. The recipient is a separate division of the same or another nearby municipal government.
- Work is typically performed under an inter- or intra-governmental agreement, statute or regulation, not a contract.

# External Service Provider activities relevant to Part 673 include:

- **PTASP Development**
  - May assist in developing an ASP or provide other types of administrative or consultative services to help a recipient meet requirements under Part 673.
  - Not responsible to FTA for implementing the ASP, or implementing and operating the SMS.
- **Operations**
  - Rail, fixed-route service, paratransit service, etc.
- **Maintenance**
  - Preventative and corrective vehicle maintenance, infrastructure maintenance, etc.

# Question 1 – choose one

Are you participating in this webinar on behalf of:

- Recipient
- Operations or maintenance contractor
- PTASP development contractor
- State DOT or SSOA
- Other



Contractors and Other External Service Provides

**49 C.F.R. PART 673 – THE PTASP RULE:  
WHAT DOES IT SAY ABOUT  
EXTERNAL SERVICE PROVIDERS?**

# Review: ASP requirements

- Part 673 states ASPs must document a transit agency's SMS processes and activities.
- Rail agencies and large 5307 bus agencies are responsible for the development and implementation of their own ASP.
- State DOTs must develop ASPs for small public transportation providers (small 5307 recipients or subrecipients).
  - Agency may opt out and choose to develop its own plan.
  - In either case, small 5307 bus agencies must implement their ASP and are responsible for maintaining documentation.

# Review: Part 673 and ASP approval and certification

- Accountable Executive must sign ASP.
- Board of Directors or equivalent authority must review and approve ASP.
- SSOA must review and approve a rail transit ASP.
- State DOT must certify ASP on behalf of small 5307 bus agencies for which it drafted the plan.
  - Small 5307 must certify compliance with Part 673.
- Small 5307 bus agencies that choose to develop their own ASP will certify their own plans.

# Part 673 compliance for transit agencies that use ESPs

- Recipients using another entity (i.e., *contractors*) to provide transit service are responsible for ensuring Part 673 requirements are satisfied.
- Recipients are responsible for all Part 673 requirements, regardless of how many ESPs are used.
- If an ESP operates service for multiple transit agencies, each recipient must independently ensure that its transit system complies with Part 673.

# Part 673 compliance for transit agencies that use ESPs

- Recipients do not need to submit their ASPs to FTA, but must certify that they have complied with Part 673 through FTA's Certifications and Assurances process.
- Recipients and ESPs may choose to conduct planning and coordination activities to ensure sufficient time to meet FTA's deadlines for ASP approval and certification.
- A recipient may choose to establish or update a formal agreement to include an ESP's relevant activities in the ASP and SMS, if one is not already in place.

# State DOTs and ESPs

If State DOT develops ASP for a small 5307 bus agency:

- Collaboration among State DOT, transit agency, and ESPs would be beneficial.
- State DOT may seek information about ESP activities to develop a realistic ASP that fits needs of the small 5307 agency.
  - Example: State DOT documents the transit agency contractor's Chief Safety Officer (CSO) and how the CSO reports directly to the transit agency's Accountable Executive.

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# **DEVELOPING AN AGENCY SAFETY PLAN**

# Discussion Topics - Developing an ASP

- Drafting the ASP
- SMS roles
  - Accountable Executive
  - Chief Safety Officer / SMS Executive
- Safety performance targets
- Employee safety reporting
- SMS component considerations
- Recordkeeping requirements



# Drafting the ASP

- Recipients that operate multiple transit modes may develop one ASP for all modes or have a separate ASP for each mode.
  - Examples: Multimodal agency operating rail and bus, rail agency operating heavy and light rail, bus agency operating fixed route and paratransit.
- Recipients may choose to require an ESP develop the ASP for the mode(s) of service the ESP operates.
  - Recipient remains responsible for ASP development, certification, and compliance.

## Question 2 – choose one

Which of the following resources does your transit agency plan to use to manage the development of the ASP?

- Primarily external service providers (ESPs)
- Primarily recipient staff
- Both ESP and recipient staff
- I don't know
- N/A to webinar participant

# Part 673 defines Accountable Executive

- A single, identifiable person who has ultimate responsibility for carrying out the transit agency's ASP and Transit Asset Management (TAM) Plan.
- Has control or direction over human and capital resources needed to develop and maintain ASP and TAM Plan.
- Accountable for ensuring the agency's SMS is effectively implemented.
- Accountable for ensuring action is taken to address substandard performance of agency's SMS.
- May delegate specific responsibilities but is ultimately accountable for the transit agency's safety performance.

# Who can be designated Accountable Executive?

- Accountable Executive can be the transit agency's Chief Executive.
  - Example: President, Chief Executive Officer, General Manager
- In municipal government agencies, the Accountable Executive can be a county executive, department head, or city manager.
- Accountable Executive could be employee of an ESP.
  - Recipient must ensure the individual designated as the Accountable Executive meets the requirements established for the role in Part 673.

# Part 673 defines Chief Safety Officer or SMS Executive

- Chief Safety Officer (CSO) or SMS Executive means an adequately trained individual who has responsibility for safety.
- Must hold direct line of reporting to the Accountable Executive.
- Has authority and responsibility for day-to-day implementation and operation of the agency's SMS.
- In a rail agency, the CSO or SMS Executive may not serve in other operations or maintenance capacities.
  - They may serve in roles where there is a nexus to safety (e.g., training, asset management)

# Who can be designated Chief Safety Officer or SMS Executive?

Examples include, but are not limited to:

- May be an employee of the recipient.
- May be an employee of the operations contractor or other primary service provider.
- May be an individual working directly for the transit agency under a personal services contract.

# Question 3 – choose one or more

Which of the following roles will an ESP serve at your transit agency?

- Accountable Executive
- Chief Safety Officer or SMS Executive
- Neither
- I don't know
- N/A to webinar participant

# Part 673 and safety performance targets (SPTs)

- For each mode of service, a transit agency must establish SPTs that address, at a minimum:
  - Fatalities
  - Injuries
  - Safety events
  - System reliability
- Transit agencies, State DOTs, and State Safety Oversight Agencies (SSOAs) can establish additional targets.



# Safety performance targets and ESPs

- Recipients may choose to work with ESPs to establish SPTs.
- Recipients may choose to define and oversee how ESPs:
  - Capture data related to SPTs,
  - Provide information for the transit agency to measure target achievement, and
  - Document information for long-term tracking and availability to FTA and oversight agencies.

# Part 673 and employee safety reporting

- Transit agencies must have a process that allows employees to report safety conditions to senior management.
- The process must provide protections for employees who report safety conditions to senior management.
- The process must include a description of employee behaviors that may result in disciplinary action.

# Employee safety reporting and ESPs

- A primary purpose of an employee safety reporting program is to proactively identify safety hazards that may require safety risk mitigation.
- Recipients are responsible for making sure an employee safety reporting program that meets Part 673 requirements is available to ESP employees supporting the transit agency, and that the program works as described in the ASP.
- Recipients are responsible for ensuring ESP employees' safety concerns are addressed to the extent required under Part 673.

# Employee safety reporting and ESPs

- In addition to Part 673 requirements, employee safety reporting may have different purposes to meet specific needs, so there can be variation in employee safety reporting programs.

For example,

- If a transit agency has a single ESP, the service provider may have its own employee safety reporting program.
  - If a transit agency uses multiple ESPs, each ESP may have its own employee safety reporting program or participate in a combined program.
- The recipient may choose to have its own employee safety reporting program to acquire safety-related information about the transit agency's operations and maintenance functions performed by ESPs.

# Safety Management Policy activities

When using ESPs, a recipient may find it necessary to:

- Require communication or distribution of the Safety Management Policy Statement to ESP employees.
- Approve ESP CSO or SMS Executive appointment.
- Identify the SMS accountabilities and responsibilities of ESP leadership and key staff with roles in the transit agency.
- Make sure ESP employees supporting the transit agency have access to an employee safety reporting program.
- Ensure a direct line of reporting between the Accountable Executive and CSO or SMS Executive, if one or both are ESP employees.

# Safety Risk Management (SRM) activities

When using ESPs, a recipient may find it necessary to:

- Collaborate with ESP to make sure SRM policies and procedures meet Part 673 requirements.
- Monitor ESP SRM procedures.
- Review safety hazards prioritized by ESP.
- Review ESP safety risk mitigations.

# Safety Assurance activities

When using ESPs, a recipient may find it necessary to:

- Review results of ESP safety performance monitoring activities, including monitoring of:
  - Operations and maintenance procedures
  - Safety risk mitigations
  - Employee safety reporting
- Review results of ESP safety event investigations and causal factor analysis.
- Use ESP SPT data to measure safety performance.
- Review ESP documentation of management of change activities (*rail and large bus agencies only*).

# Safety Promotion activities

When using ESPs, a recipient may find it necessary to:

- Review ESP safety training curriculum and training records.
- Review documentation of ESP safety communication efforts.
- Review documentation of ESP communication with their employees on actions taken in response to reports submitted through the employee safety reporting program.



# Part 673 and ASP documentation

- Required documentation includes materials developed and used by transit agencies, **including ESPs**, such as:
  - Documents related to implementation of SMS and results of SMS processes and activities.
  - Documents that, in whole or by reference, describe programs, policies, and procedures for carrying out ASP.
- This requirement may exceed what recipients currently expect from ESPs.
- Much of the documentation may be done by ESPs if they will carry out SMS activities.

# ESP recordkeeping

- Records must be kept for at least **three years** and made available upon request from FTA, other Federal entity, or an SSOA.
- When a recipient changes ESPs, it may need to maintain or access historical SMS documentation.
- Recipients may choose to make agreements with their ESPs about maintaining and providing SMS documentation.

# Documentation examples

Examples of required documentation that must be maintained:

- Employee safety reporting program results
- Safety risk management activities and outputs
- Safety performance monitoring and measurement activities and outputs
- Safety communication activities
- Safety training program materials (e.g., class rosters)

# Resources to Help You Prepare Now

## Read, watch, and participate

- Review the [PTASP FAQs](#)
- Visit the [PTASP Resources](#) page to view previous webinars and documents
- Participate in [webinars](#) explaining PTASP-regulations and guidance and review [past webinars](#)
- Read our newsletter, [TSO Spotlight](#) for PTASP-related articles



## Attend a workshop

- FTA will hold PTASP workshops in July, August, and September 2019 for bus and rail transit agencies. The workshops will allow participants to learn more about the rule's requirements and how to begin creating Agency Safety Plans.
- Information on the workshops will be posted on the FTA website under [Calendar of Events](#) and on FTA's [PTASP page](#) for registration updates

## Sign up to receive updates

Sign up for GovDelivery:

- FTA announcements and new PTASP documents
- <https://public.govdelivery.com/accounts/USDOTFTA/subscriber/new>

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# PARTICIPANT QUESTIONS