

Bipartisan Infrastructure Law Requirements for Risk-Based Inspections (RBI)

July 28, 2022

Office of Transit Safety and Oversight

Federal Transit Administration



Agenda

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- RBI Definition
- Impacted Agencies
- Major Provisions
- Special Directive and Toolkit
- Special Directive Timeline
- Questions



Background

- In 2021, Congress passed the Bipartisan Infrastructure Law, which amended FTA's Public Safety Transportation Program to require SSOAs to develop and implement risk-based inspections as part of SSOA oversight.
- The Bipartisan Infrastructure Law directs FTA to assess the capability of an SSOA to conduct risk-based inspections of the transit agencies they oversee.
- Congress has directed FTA to issue *Special Directives* to each SSOA requiring them to *develop and implement* a risk-based inspection program of the Rail Fixed Guideway Public Transportation Systems (RFGPTS) they oversee.



Risk-Based Inspection Definition

- A risk-based inspection program uses qualitative and quantitative data analysis to inform ongoing inspection activities. Risk-based inspection programs are designed to prioritize inspections to address safety concerns and hazards associated with the highest levels of safety risk.

Bipartisan Infrastructure Law Requirements

FTA

- Must Issue a Special Directive to each SSOA requiring the Development and Implementation of Risk Based Inspection programs by November 15, 2022
- Must assess the capability of each SSOA's to conduct risk-based inspections compliant with 49 U.S.C.§5329.

SSOAs

- Must develop and implement a risk-based inspection program in accordance with 49 U.S.C.§5329 (k) and the Special Directive.
- The risk-based inspection program must be effective not later than 2 years after receiving Special Directive.

RTAs

- Must coordinate with the SSOA on policies and procedures for inspection access and data collection and incorporation the policies into their ASP.
- Must share with SSOAs the data the RTA collects when identifying and evaluating safety risks.



Major Provisions 49 U.S.C. § 5329(k)

Requirements Applicable to FTA:

- Must issue a Special Directive to each SSOA on the *development and implementation* of risk-based inspection programs.
 - **FTA will issue identical Special Directives to each agency*
- Must ensure that inspection practices of each SSOA are commensurate with the number, size and complexity of the RFGPTS the SSOA oversees.
- Must ensure the inspection program of each SSOA is risk-based.
- Must ensure the SSOAs have sufficient resources to conduct inspections.
- Must ensure the risk-based inspection programs of SSOAs comply with 49 U.S.C. § 5329(k).

Major Provisions 49 U.S.C. § 5329(k)

Requirements Applicable to SSOAs:

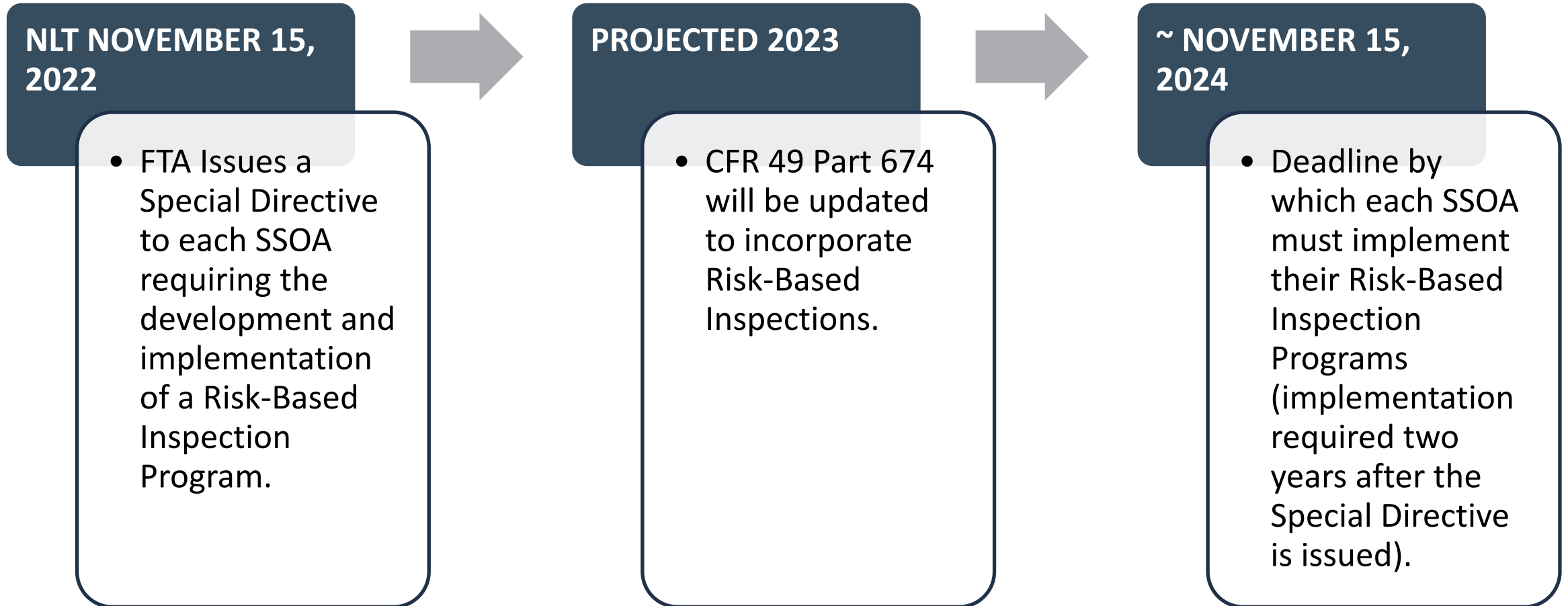
- Has authority to enter the facilities of each RTA that the SSOA oversees to inspect infrastructure, equipment, records, personnel, and data.
- Has policies and procedures created in consultation with each RTA to conduct risk-based inspections, including access for inspections that occur without advance notice.
- Has policies and procedures created in consultation with each RTA for data collection
- Incorporates policies and procedures for inspection access and data collection into Program Standard.
- Has inspection practices that are risk-based and commensurate with the number, size and complexity of the RFGPTS.

Major Provisions 49 U.S.C. § 5329(k)

Requirements Applicable to RTAS:

- Has policies and procedures created in consultation with the SSOA regarding -access to the RFGPTS to conduct risk-based inspections, including access with and without advance notice.
- Has policies and procedures created in consultation with the SSOA for collecting and sharing data the RTA collects when identifying and evaluating safety risks.
- Incorporates policies and procedures for inspection access and data collection and sharing into the ASPs.

Risk-Based Inspections Implementation Timeline



Risk-Based Inspection Special Directive and Toolkit



Special Directives

FTA has authority to issue directives with respect to the safety of the public transportation system of a recipient. Special Directives are:

- Issued for a few prescribed reasons, including if the public interest requires the avoidance or mitigation a hazard or risk.
- Include a statement of purpose of the directive, including a description of the subjects or issues involved.
- Include a statement of the actions being sought.
- Include effective and compliance dates.

49 U.S.C. § 5329(f)(2)

49 CFR 670.27

Special Directives (cont.)

Special Directive for Risk-Based Inspections:

- FTA was directed by Congress to issue Special Directives to SSOAs on the development and implementation of risk-based inspections
- The Special Directive must:
 - Be issued not later than November 15, 2022.
 - Will Require that SSOAs submit documentation to demonstrate their inspection programs address the requirements.
 - Will be “closed” by FTA. The SSOA will be notified of closure once all requirements are satisfied.

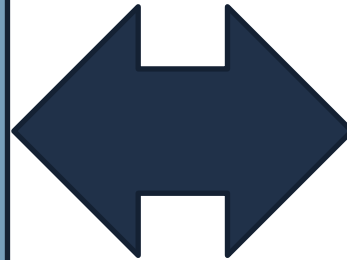
49 U.S.C. § 5329(k)(5)

Section 30012(b) of the Bipartisan Infrastructure Law

RBI Special Directive and Toolkit

Risk-Based Inspection Program Special Directive

- Legally Binding Document that requires SSOAs to develop and implement an RBI.



Risk-Based Inspection Program Toolkit

- Non-Binding Document that further explains the requirements of 49 U.S.C. § 5329(k) and Special Directive.
- Intended to assist SSOAs in complying with the Special Directive.

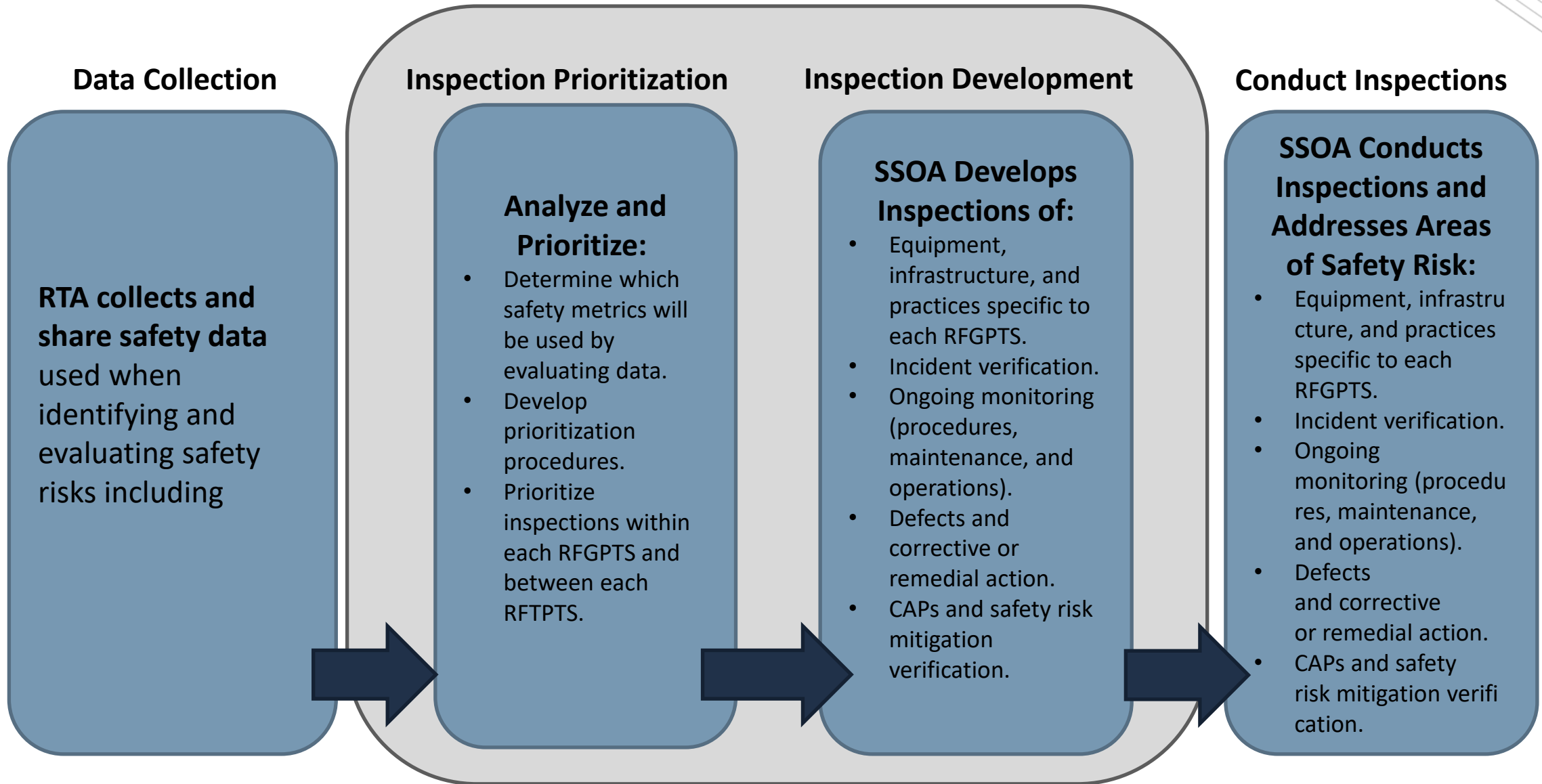


Components of Risk-Based Inspection Program

Category 1	SSOA Authority to Perform Risk-Based Inspections
Category 2	Risk-Based Inspections Policies and Procedures
Category 3	Data Sources and Data Collection
Category 4	Inspection Prioritization
Category 5	Risk-Based Inspection Practices are Commensurate with Number, Size and Complexity of RFGPTS the SSOA Oversees
Category 6	SSOA Staffing, Training and Qualifications

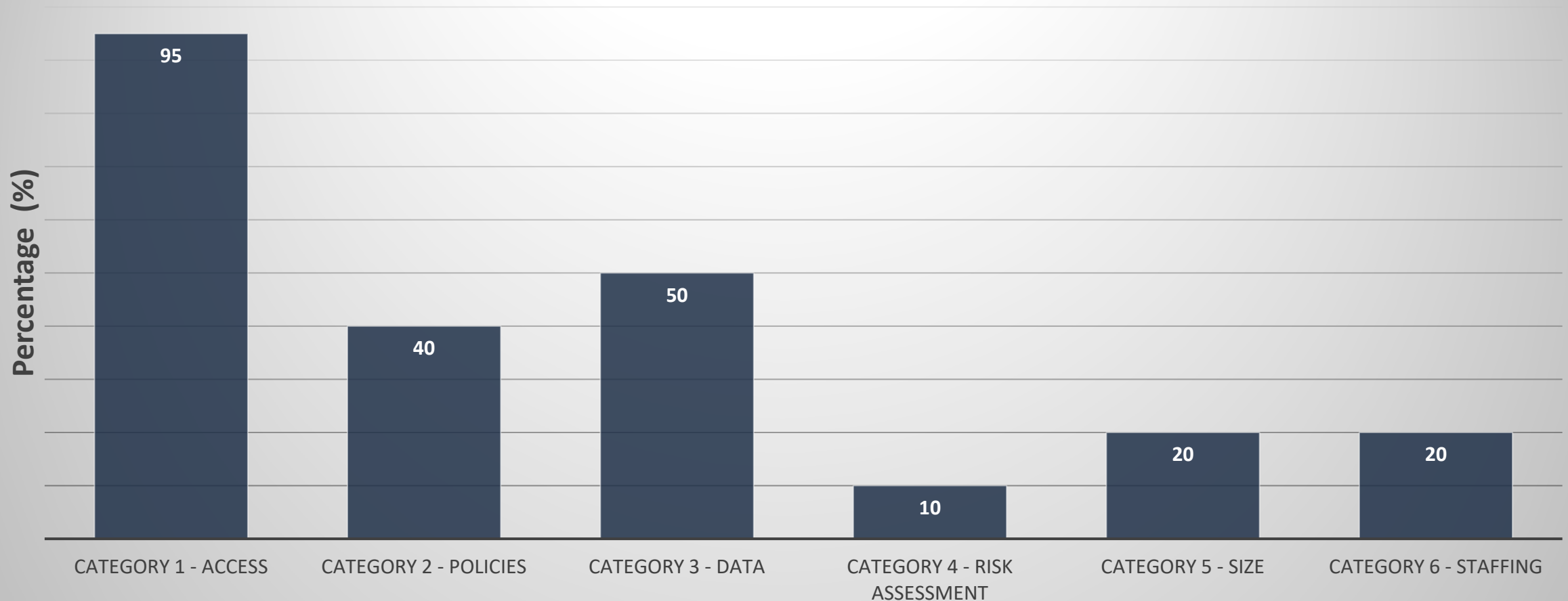


Risk-based Inspections Data to Implementation



FTA Assessment of Existing Risk-Based Inspection Programs

Percentage of SSOAs with Existing Elements of RBI Program as of April 2022



Risk-Based Inspections Industry Status

- FTA is aware that on-site inspections of transit agencies may have paused during COVID-19 and are only now resuming.
- FTA is aware that some SSOAs may need to hire additional staff to develop and/or implement its risk-based inspection program.
- FTA recommends that SSOAs examine their enabling legislation and program standard to ensure authority to conduct inspections, including access for inspections that occur without advance notice to the rail transit agency.

Questions?

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