



U.S. Department
of Transportation

**Federal Transit
Administration**

Headquarters

1200 New Jersey Avenue, SE
Washington, DC 20590

SENT VIA EMAIL

August 24, 2023

James M. (Jamie) Van Nostrand
Chair
Department of Public Utilities
Commonwealth of Massachusetts
One South Station
Boston, MA 02110

**Subject: Closure of Corrective Action Plans Related to Workforce Assessment and Hiring
under Finding 1 in Special Directive 22-13**

Dear Mr. Van Nostrand:

On August 31, 2022, the Federal Transit Administration (FTA) issued [Special Directive 22-13: Required actions to Address Findings from the Safety Management Inspection Conducted at the Massachusetts Bay Transportation Authority \(MBTA\)](#) to the Massachusetts Department of Public Utilities (DPU). SD 22-13 contains four findings and nine required actions DPU must address to strengthen its safety oversight program for MBTA.

Closeout of DPU CAPs for FTA-22-DPU-CAT5-1.A and FTA-22-DPU-CAT5-1.B

Finding 1 in SD 22-13 specifies that DPU does not use its available resources as effectively as it could to support field observations, audits, and inspections of MBTA's rail transit system to identify safety deficiencies and require their immediate resolution. To address this concern, FTA issued four required actions, including two required actions related to workforce assessment and hiring:

- [FTA-22-DPU-CAT5-1.A](#): DPU must update its workload assessment to reflect the results of the SMI and address FTA's Special Directives 22-8 and 22-13.
- [FTA-22-DPU-CAT5-1.B](#): DPU must match its resources to those identified in its updated workload assessment.

After two previous submissions, on January 6, 2023, DPU submitted CAPs for both of these required actions that were approved by FTA on February 3, 2023. As discussed below, as of August 10, 2023, DPU has completed both the workload assessment requirement in FTA-22-DPU-CAT5-1 and the staff hiring needed to address FTA-22-DPU-CAT5-1.B.

FTA-22-DPU-CAT5-1.A

To address FTA-22-DPU-CAT5-1.A, which directs DPU to conduct a workload assessment, DPU completed the following activities:

- coordinated with consultant and internal leadership team to establish a scope for the workload assessment;
- conducted internal team meetings on the workload assessment, continuing until completion;
- completed the scope and parameters for updating the workload assessment;
- briefed the Executive Office of Energy and Environmental Affairs (EOEEA) management monthly on the status of the workload assessment, (along with a briefing on staffing levels at Rail Transit, and the status of the Special Directives and Findings) monthly;
- conducted the workload assessment, verify assumptions and parameters, and determine how to assess skills of Rail Transit and what is expected of prospective staff;
- established a process for updating the Workload Assessment as part of the Standard Operating Guide; and
- submitted a copy of the completed workload assessment to FTA.

DPU determined that a minimum of 17 full-time equivalents (FTEs) with a mix of management, engineering, data analysis, compliance/auditing, and legal capabilities and skills is required to manage the oversight program and address SD 22-8 and SD 22-13.

FTA has reviewed the workload assessment and determined that this assessment satisfactorily assesses the minimum needs of DPU's oversight program and addresses the results from the SMI and SD 22-8 and SD 22-13. FTA finds this CAP may be closed.

DPU also assessed that, moving forward, a minimum level of 19 FTEs will be necessary for DPU to manage its oversight program, address SD 22-8 and SD 22-13, and implement the new risk-based inspection (RBI) requirements in 49 U.S.C. § 5329(k) over the next two years. Finding 1 in SD 22-13 does not address U.S.C. § 5329(k), but FTA appreciates that DPU addressed these future requirements in the workload assessment.

FTA-22-DPU-CAT5-1.B

To address FTA-22-DPU-CAT5-1.B, which directs DPU to match its resources to those identified in its updated workload assessment, DPU conducted the following activities:

- Coordinated with EOEEA Human Resources to identify and match resources utilizing the workload assessment;
- Briefed EOEEA management monthly on the status of the workload assessment, staffing levels at DPU Rail Transit, and the status of the Special Directives and Findings;
- Briefed EOEEA management monthly on DPU's hiring progress and needs for support to attract and retain applicants;
- Developed a recruitment and hiring plan to address long-term needs for attracting and hiring staff.
- Submitted recruitment plan to FTA

- Conducted bi-weekly meetings with EOEEA Human Resources to discuss all hiring and recruitment activities beginning
- Created additional job descriptions, as needed, based on workload assessment;
- Posted jobs to fill identified gaps in resources; and
- Provided biweekly updates to FTA on hiring.

As of August 10, 2023, DPU has completed hiring as specified in the recruitment plan. DPU's staff includes 15 filled full-time state positions, and two full time equivalents from contract staff. This staff is consistent with both the required number and breakout of personnel positions required in the workforce assessment, including:

- One Director of Rail Safety;
- One Assistant Director of Compliance and Engineering;
- One Assistant Director of Safety Assurance;
- Four Public Utilities Engineers, each from a different discipline (track, signals, vehicles, and electrical);
- One Lead Investigator;
- Six Compliance Officers of different levels, to inspections, investigations, and data reporting;
- One Data Analyst; and
- Two Technical Full-time Equivalents (FTEs) from DPU's contractor.

FTA has verified DPU's hiring and budgeting for this staff and confirmed that DPU has matched its resources with the workload assessment. FTA finds that this CAP may be closed.

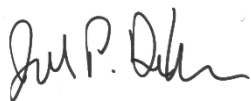
In addition, to address additional support for RBI requirements, DPU has posted for a second Data Analyst, has a pending offer for an Assistant General Counsel, and has hired a Legal Counsel position to start on August 28, 2023.

Conclusion

This closure of these two CAPs represents a tremendous amount of work and progress for DPU. Over the last year, FTA has observed significant gains in the capacity and capability of DPU as oversight agency for MBTA. FTA greatly appreciates your efforts.

FTA will continue to monitor DPU's staffing levels. Please contact our SMI Coordinator, Erin Powell, by phone at (771) 200-8016 or by email at Erin.Powell@dot.gov with any questions.

Sincerely,



Joe DeLorenzo
Associate Administrator and
Chief Safety Officer
Office of Transit Safety and Oversight

cc: Peter Butler, Regional Administrator, FTA Region 1
Staci Rubin, Commissioner, DPU
Robert Hanson, Rail Safety Director, DPU