

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Special Directive No. 23-1, Notice No. 1]

Special Directive Under 49 U.S.C. § 5329 and 49 CFR Parts 670 and 674 Required Actions to Address Insufficient State Safety Oversight Program Staffing at the Illinois Department of Transportation

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

SUMMARY: FTA issues Special Directive 23-1 to require the Illinois Department of Transportation (IDOT) to address a pattern of insufficient staffing of the state's State Safety Oversight (SSO) Program in violation of 49 CFR Part 674. IDOT must take action to increase staffing to align with the current needs of their SSO Program.

FOR FURTHER INFORMATION CONTACT: For program matters, Joe DeLorenzo, Associate Administrator for Transit Safety and Oversight and Chief Safety Officer, (202) 366-1783 or joseph.delorenzo@dot.gov; for legal matters, Emily Jessup, Attorney Advisor, FTA, 202-366- 8907 or emily.jessup@dot.gov.

SUPPLEMENTARY INFORMATION:

IDOT is the State Safety Oversight Agency (SSOA) designated by the State of Illinois pursuant to 49 CFR § 674.13. FTA has certified IDOT as the agency responsible for overseeing safe rail transit operations at the Chicago Transit Authority (CTA) and for sharing oversight responsibilities of St. Louis MetroLink with the Missouri Department of Transportation. As part of this certification, IDOT must maintain appropriate program staffing levels commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the state.

As the SSOA overseeing CTA, IDOT is responsible for ensuring the safe operation and maintenance of a large, complex, legacy transit system that includes the second-largest heavy rail public transportation system in the nation. According to 2021 data, CTA operates 1,160 rail vehicles, manages 265.14 miles of track, and relies on a robust network of infrastructure – some of which are over a century old. IDOT's effective oversight is critical to promoting the safety of a system of CTA's size and complexity.

Pattern of Insufficient Staffing

In August 2018, IDOT's SSO Program was certified and included 14 full-time equivalent (FTE) positions in IDOT's approved workload assessment. However, staffing has remained well below the 14 FTE certified level since that time. In early 2020, IDOT's SSO Program Manager departed the position, creating a significant vacancy within the program's leadership. IDOT only recently filled this position, which was effective October 16, 2023. In 2022, two additional SSOA staff

departed the program, further compounding the understaffing challenge. IDOT currently employs 3.07 internal FTEs and seven FTEs from contractor services (for a total of 10.07 FTEs). IDOT is deficient in four positions to meet the minimum certified level of 14 FTEs.

After the departures in 2021 and 2022, FTA reiterated to IDOT during quarterly calls the importance of hiring and maintaining an appropriate staffing level, especially considering the size, complexity, and age of CTA's system. In Fiscal Year (FY) 2023, FTA increased communications to monthly touchpoints with IDOT to gain a better understanding of how IDOT is overseeing and addressing safety concerns at CTA and St. Louis MetroLink with current resources as well as actions taken in hiring additional staff.

In May 2023, FTA published the final report of IDOT's Triennial Audit. FTA again concluded that IDOT did not have a staffing level commensurate with the oversight needs of CTA and MetroLink. As a result, FTA required IDOT to develop, submit, and implement a revised workload assessment that reflects an appropriate staffing level for overseeing CTA and MetroLink, a revised Technical Training Plan (TTP), and a plan for hiring and training personnel and/or contractors to fill the identified staffing needs. In July, IDOT submitted a staffing plan which estimated a current staffing need of 14.07 FTEs (8.07 within IDOT and six from outside supporting services).

FTA reviewed IDOT's plan for hiring and finds it to be insufficient. Positions for the Chief Capital Projects and Risk-Based Inspections Manager, Program Analyst, and Safety Regulations Coordinator are stated to have a timeline of being filled in 12 months, 18 months, and 24 months, respectively. This prolonged hiring timeline will not support current program compliance. Based on IDOT's workload assessment, FTA finds that the hiring plan does not adequately address the in-house staffing needs required for on-site SSO activities such as inspections and observations.

FTA also reviewed IDOT's SSO TTP and Individual Training Plans (ITP) and conducted numerous interviews with SSOA staff and contractors. FTA found that not all designated personnel have received the required training and not all designated personnel are included on IDOT's TTP. At present, IDOT has not sufficiently addressed the training requirements for existing staff. IDOT must prepare a new TTP that addresses the training needs and deficiencies of existing staff and provide a plan for training new personnel and/or contractors hired to fill the identified staffing needs.

Based on a review of IDOT's practice of insufficient staffing of the SSO Program and the recent submission of an inadequate hiring plan submitted in response to the Triennial Audit, FTA finds that IDOT demonstrates a pattern of conduct in violation of the SSO regulation at 49 CFR 674.

DIRECTIVE AND REQUIRED ACTIONS:

In accordance with 49 U.S.C. § 5329 and 49 CFR Part 670, FTA makes the following findings and directs IDOT to take the following specific actions:

IDOT SSO Program Findings			
Findings		Tracking #	Required Actions
Finding 1	IDOT fails to develop a staffing plan appropriate to meet the needs of the SSO Program.	FTA-23-IDOT-1	IDOT must submit an updated staffing plan and schedule detailing immediate actions for addressing SSO Program vacancies and training deficiencies within 30 days of issuance of the Special Directive.
Finding 2	IDOT fails to demonstrate and maintain a staffing level appropriate to the needs of the SSO Program.	FTA-23-IDOT-2	IDOT must match its resources to those identified in its updated workload assessment.
Finding 3	IDOT's SSO Program designated personnel are not adequately trained and included on the TTP.	FTA-23-IDOT-3	IDOT must update its TTP and must include a plan for training existing and new personnel and/or contractor resources upon hiring within 30 days of issuance of the Special Directive.
Finding 4	IDOT fails to ensure that its SSO Program designated personnel have the required skills and competencies to effectively support SSO activities.	FTA-23-IDOT-4	<p>IDOT must conduct an assessment to identify the skills and competencies required for the SSO Program and develop a process for evaluating prospective personnel.</p> <p>IDOT must ensure that new and existing staff have the required skills and competencies to effectively support SSO activities.</p>

Thirty days after the date of this Special Directive, IDOT must submit Corrective Action Plans (CAPs) to FTA that demonstrate the specific actions IDOT will take to address the required actions specified in this Special Directive and propose a schedule for completing each activity; identify the responsible parties for each action and their contact information; and detail the verification strategy for ensuring the completion of required work.

FTA will review and approve (with revisions as necessary) IDOT's CAPs and will monitor IDOT's progress in resolving each finding and required action. FTA will conduct regular meetings with IDOT to review its progress until FTA determines that these meetings are no longer needed or may be conducted with less frequency.

PETITION FOR RECONSIDERATION

As set forth in 49 CFR § 670.27(d), IDOT has 30 calendar days from the date of this Special Directive to petition for reconsideration with the FTA Administrator. The petition must be in writing and signed by the Secretary of IDOT and must include a brief explanation of why IDOT believes the Special Directive should not apply to it or why compliance with the Special Directive is not possible, is not practicable, is unreasonable, or is not in the public interest. In addition, the petition may include relevant information regarding the factual basis upon which the Special Directive was issued, information in response to any alleged violation or in mitigation thereof, recommend alternative means of compliance for consideration, and any other information deemed appropriate. Unless explicitly stated or modified by the Administrator, this Special Directive will remain in effect and must be observed pending review of a petition for reconsideration.

Within 90 days of receipt of the petition, the Administrator will provide a written response. In reviewing the petition, the Administrator shall grant relief only where IDOT has clearly articulated an alternative action that will provide, in the Administrator's judgment, a level of safety equivalent to that provided by compliance with this Special Directive. In reviewing any petition for reconsideration, the Administrator shall grant petitions only where IDOT has clearly articulated legal or material facts not in evidence at the time of this Special Directive.

ENFORCEMENT

Violation of this Special Directive or the terms of any written plan adopted pursuant to this Special Directive in accordance with FTA's authorities under 49 U.S.C. § 5329 may result in a determination by FTA that IDOT's SSO Program does not meet the requirements of 49 U.S.C. § 5329(e), and attendant financial penalties, including: (1) withholding SSO formula grant funds from IDOT; (2) withholding up to five percent of Illinois' Urbanized Area Formula Funding authorized under 49 U.S.C. § 5307; or (3) requiring the fixed guideway systems under IDOT's oversight to spend up to 100 percent of Federal funding under 49 U.S.C. Chapter 53 only for safety-related improvements until IDOT's SSO Program can be certified.

Issued on: October 23, 2023



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Deputy Administrator

Federal Transit Administration

U.S. Department of Transportation