



U.S. Department
of Transportation

**Federal Transit
Administration**

Headquarters

1200 New Jersey Avenue, SE
Washington, DC 20590

SENT VIA EMAIL

February 7, 2024

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

Subject: Closure of FTA-DPU-22-CAT5-2 (Organizational and Legal Independence)

Dear Mr. Van Nostrand:

On August 31, 2022, the Federal Transit Administration (FTA) issued Special Directive (SD) 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.

DPU developed a Corrective Action Plan (CAP) to address the following SD 22-13 finding and required action:

- **Finding:** DPU must examine and ensure its organizational and legal independence from the MBTA.
- **Required Action (FTA-DPU-22-CAT5-2):** DPU must complete a legal assessment regarding its organizational independence from MBTA. This assessment must include review of organizational mechanisms, including recusals, limited reporting relationships, and other features that provide legal separation between the two agencies and ensure DPU's independence to take enforcement action against MBTA.

DPU's CAP contained 11 action items and was approved by FTA on February 3, 2023.

To implement this CAP, between March 3, 2023, and January 5, 2024, DPU undertook the following action (and submitted documentation regarding their completion):

- Conducted a legal analysis (March 2023) of DPU's independence compared to similar State Safety Oversight Agencies; DPU commission structure and appointment and removal

process; reporting and decision-making structures among Commonwealth departments and entities; application of relevant Federal and State regulations and requirements related to decision-making and independence; and internal reporting and decision-making structure.

- Reassessed its legal analysis (January 2024) to reaffirm its initial assertion that its State Safety Oversight Agency as housed in DPU is sufficiently organizationally and legally independent of MBTA.

Closeout Approval for FTA-DPU-22-CAT5-2 (Organizational and Legal Independence)

FTA carefully evaluated the submitted documentation. FTA's review focused on:

- The description of organizational mechanisms and reporting and funding relationships.
- The explanation given for and examples demonstrating independence sufficient to meet the requirements of Federal law and take enforcement action against MBTA when necessary.

This CAP closure represents a tremendous amount of work and FTA greatly appreciates your efforts. Please contact our Special Directive 22-13 Program Lead, Francis Alomia by phone at (470) 859-1677 or by email at Francis.Alomia@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