



U.S. Department
of Transportation

**Federal Transit
Administration**

PROPOSED CIRCULAR

FTA C 4702.1B

**Subject: TITLE VI REQUIREMENTS AND GUIDELINES FOR FEDERAL
TRANSIT ADMINISTRATION RECIPIENTS**

1. PURPOSE. The purpose of this circular is to provide recipients of Federal Transit Administration (FTA) financial assistance with guidance and instructions necessary to carry out U.S. Department of Transportation (“DOT” or “the Department”) Title VI regulations (49 CFR part 21) and to integrate into their programs and activities considerations expressed in the Department’s Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (“LEP”) Persons (70 FR 74087, December 14, 2005).
2. CANCELLATION. The final circular will supersede FTA Circular 4702.1A “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” dated May 13, 2007.
3. AUTHORITY.
 - a. Federal Transit Laws, Title 49, United States Code, Chapter 53.
 - b. 49 CFR § 1.51
 - c. 49 CFR part 21.
 - d. 28 CFR § 42.401 et seq.
4. WAIVER. FTA reserves the right to waive any requirements of this circular to the extent permitted by law.
5. FEDERAL REGISTER NOTICE. When the final circular is published, FTA will add a citation to the *Federal Register* notice that announces the availability of the final circular.
6. AMENDMENTS TO THE CIRCULAR. FTA reserves the right to update this Circular to reflect changes in other revised or new guidance and regulations that undergo notice and comment, without further notice and comment on this circular. FTA will post updates on our website at www.fta.dot.gov. The website allows the public to register for notification when

FTA issues *Federal Register* notices or new guidance. Please visit the website and click on “Sign Up For Email Updates” for more information.

7. ACCESSIBLE FORMATS. This document is available in accessible formats upon request. To obtain paper copies of this circular as well as information regarding these accessible formats, call FTA’s Administrative Services Help Desk, at 202-366-4865. Individuals with hearing impairments may contact the Federal Relay Service at 1-800-877-8339 for assistance with the call.

/s/
Peter Rogoff
Administrator

TITLE VI GUIDELINES FOR FTA RECIPIENTS

TABLE OF CONTENTS

<u>CHAPTER</u>	<u>PAGE</u>
I	<u>INTRODUCTION AND BACKGROUND</u>Chap. I-1
	1. The Federal Transit Administration (FTA)Chap. I-1
	2. Authorizing LegislationChap. I-1
	3. How to Contact FTA.....Chap. I-1
	4. Grants.govChap. I-2
	5. Definitions.....Chap. I-2
	6. Environmental JusticeChap. I-6
II	<u>PROGRAM OVERVIEW</u>Chap. II-1
	1. Program ObjectivesChap. II-1
	2. Statutory AuthorityChap. II-1
	3. Regulatory AuthorityChap. II-1
	4. Additional DocumentsChap. II-1
	5. Reporting RequirementsChap. II-2
III	<u>GENERAL REQUIREMENTS AND GUIDELINES</u>Chap. III-1
	1. IntroductionChap. III-1
	2. Requirement to Provide Title VI AssurancesChap. III-1
	3. Requirements for First-Time ApplicantsChap. III-1
	4. Requirement to Prepare and Submit a Title VI Program.....Chap. III-1
	5. Requirement to Notify Beneficiaries of Protection Under Title VI.....Chap. III-4
	6. Requirement to Develop Title VI Complaint Procedures and Complaint Form.....Chap. III-4
	7. Requirement to Record and Report Transit-Related Title VI Investigations, Complaints, and LawsuitsChap. III-5
	8. Promoting Inclusive Public Involvement.....Chap. III-5
	9. Requirement to Provide Meaningful Access to LEP Persons.....Chap. III-6
	10. Minority Representation on Decision-Making BodiesChap. III-8
	11. Providing Assistance to Subrecipients.....Chap. III-8
	12. Monitoring Subrecipients.....Chap. III-8
	13. Determination of Site or Location of FacilitiesChap. III-9
	14. Requirement to Provide Additional Information Upon RequestChap. III-9
IV	<u>REQUIREMENTS AND GUIDELINES FOR TRANSIT PROVIDERS</u>Chap. IV-1
	1. Introduction.....Chap. IV-1
	2. Requirement to Prepare and Submit a Title VI Program.....Chap. IV-2
	3. Requirement to Set System-Wide Service Standards and PoliciesChap. IV-4
	4. Requirement to Collect and Report Demographic DataChap. IV-7
	5. Requirement to Monitor Transit ServiceChap. IV-8
	6. Requirement to Evaluate Service and Fare ChangesChap. IV-10

V	<u>REQUIREMENTS FOR STATES</u>	Chap. V-1
	1. Introduction.....	Chap. V-1
	2. Requirement to Prepare and Submit a Title VI Program	Chap. V-1
	3. Planning	Chap. V-2
	4. Requirements for Program Administration.....	Chap. V-2
VI	<u>REQUIREMENTS FOR METROPOLITAN TRANSPORTATION PLANNING ORGANIZATIONS</u>	Chap. VI-1
	1. Introduction.....	Chap. VI-1
	2. Requirement to Prepare and Submit a Title VI Program.....	Chap. VI-1
	3. Planning	Chap. VI-2
	4. Designated Recipient	Chap. VI-3
	5. Direct Recipient	Chap. VI-3
	6. Requirements for Program Administration.....	Chap. VI-3
VII	<u>EFFECTING COMPLIANCE WITH DOT TITLE VI REGULATIONS</u>	Chap. VII-1
	1. Introduction.....	Chap. VII-1
	2. Procedures for Securing Voluntary Compliance.	Chap. VII-1
	3. Proceedings	Chap. VII-2
	4. Judicial Review	Chap. VII-4
VIII	<u>COMPLIANCE REVIEWS</u>	Chap. VIII-1
	1. Introduction	Chap. VIII-1
	2. Compliance Procedures	Chap. VIII-1
	3. Criteria	Chap. VIII-1
	4. Scope	Chap. VIII-1
	5. Determinations	Chap. VIII-1
	6. Results of Compliance Review Activities	Chap. VIII-2
	7. Effecting Compliance	Chap. VIII-2
IX	<u>COMPLAINTS</u>	Chap. IX-1
	1. Introduction	Chap. IX-1
	2. Right to File a Complaint	Chap. IX-1
	3. Complaint Acceptance.....	Chap. IX-1
	4. Investigations	Chap. IX-1
	5. Letters of Finding.....	Chap. IX-1
	6. Administrative Closure	Chap. IX-2

APPENDICES

A	<u>TITLE VI PROGRAM CHECKLIST</u>	App. A-1
B	<u>TITLE VI NOTICE TO THE PUBLIC</u>	App. B-1
C	<u>TITLE VI COMPLAINT PROCEDURE</u>	App. C-1
D	<u>TITLE VI COMPLAINT FORM</u>	App. D-1

E	<u>LIST OF TRANSIT-RELATED INVESTIGATIONS, COMPLAINTS, AND LAWSUITS</u>	App. E-1
F	<u>TABLE DEPICTING MINORITY REPRESENTATION ON DECISION-MAKING BODIES</u>	App. F-1
G	<u>SERVICE REQUIREMENTS</u>	App. G-1
H	<u>SERVICE POLICIES</u>	App. H-1
I	<u>DEMOGRAPHIC PROFILE AND TRAVEL PATTERNS</u>	App. I-1
J	<u>REQUIREMENT TO MONITOR TRANSIT SERVICE</u>	App. J-1
K	<u>SERVICE AND FARE EQUITY ANALYSIS QUESTIONNAIRE CHECKLIST</u>	App. K-1
L	<u>REPORTING REQUIREMENTS</u>	App. L-1
M	<u>UNDERSTANDING THE DIFFERENCES AND SIMILARITIES BETWEEN TITLE VI AND ENVIRONMENTAL JUSTICE</u>	App. M-1
N	<u>TITLE VI AND LIMITED ENGLISH PROFICIENCY TECHNICAL ASSISTANCE RESOURCES</u>	App. N-1
	<u>REFERENCES</u>	REF-1
	<u>INDEX</u>	INDEX-1

CHAPTER I

INTRODUCTION AND BACKGROUND

1. **THE FEDERAL TRANSIT ADMINISTRATION (FTA)**. FTA is one of ten operating administrations within the U.S. Department of Transportation (DOT). Headed by an Administrator who is appointed by the President of the United States, FTA functions through a Washington, D.C., headquarters office, ten regional offices, and five metropolitan offices that assist transit agencies in all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa.

Public transportation includes buses, subways, light rail, commuter rail, monorail, passenger ferry boats, trolleys, inclined railways, people movers, and vans. Public transportation can be either fixed-route or demand response service.

The Federal Government, through FTA, provides financial assistance to develop new transit systems and improve, maintain, and operate existing systems. FTA oversees thousands of grants to hundreds of State and local transit providers, primarily through its ten regional offices. These grant recipients are responsible for managing their programs in accordance with Federal requirements, and FTA is responsible for ensuring that recipients follow Federal statutory and administrative requirements.

2. **AUTHORIZING LEGISLATION**. Most Federal transit laws are codified at title 49 U.S.C. Chapter 53. Authorizing legislation is substantive legislation enacted by Congress that establishes or continues the legal operation of a Federal program or agency. FTA's most recent authorizing legislation is the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59, signed into law on August 10, 2005, as amended by the SAFETEA-LU Technical Corrections Act, Public Law 110-244, enacted June 6, 2008. Subsequent amendments have extended SAFETEA-LU through September 30, 2011.
3. **HOW TO CONTACT FTA**. FTA's regional and metropolitan offices are responsible for providing financial assistance to FTA recipients and oversight of grant implementation for most FTA programs. Certain specific programs are the responsibility of FTA headquarters. Inquiries should be directed to either the regional or metropolitan office responsible for the geographic area in which the recipient is located. See FTA's website for more information.

Visit FTA's website, <http://www.fta.dot.gov>, or contact FTA Headquarters at the following address and phone number:

Federal Transit Administration Phone: 202-366-4043
Office of Communications and Congressional Affairs Fax: 202-366-3472
1200 New Jersey Avenue SE
East Building
Washington, DC 20590

4. **GRANTS.GOV**. FTA posts all competitive grant opportunities on Grants.gov. Grants.gov is the one website for information on all discretionary Federal grant opportunities. Led by the

U.S. Department of Health and Human Services (DHHS) and in partnership with Federal grant-making agencies, including 26 agencies, 11 commissions, and several States, Grants.gov is one of 24 government-wide E-government initiatives. It is designed to improve access to government services via the Internet. More information about Grants.gov is available at <http://www.grants.gov/>.

5. DEFINITIONS. All definitions in chapter 53 of title 49, United States Code, and in 49 CFR part 21 apply to this circular, as well as the following definitions:
- a. Adverse effect means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness, or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or non-profit organizations; increased traffic congestion, isolation, exclusion, or separation of individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.
 - b. Applicant means a person or entity that submits an application, request, or plan required to be approved by the FTA Administrator or by a primary recipient, as a condition of eligibility for financial assistance from FTA, and "application" means such an application, request, or plan.
 - c. Designated recipient means an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 that are attributable to transportation management areas identified under section 5303; or a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.
 - d. Direct recipient means an entity that receives funding directly from FTA. For purposes of this Circular, a direct recipient is distinguished from a primary recipient in that a direct recipient does not extend financial assistance to subrecipients, whereas a primary recipient does.
 - e. Discrimination refers to any action or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, subrecipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.
 - f. Disparate Impact refers to facially neutral policies or practices that have the effect of disproportionately excluding or adversely affecting members of a group protected under Title VI, where the recipient's policy or practice lacks a substantial legitimate

justification and where there exists one or more alternative(s) that have a less adverse impact on members of a group protected under Title VI.

- g. Disparate Treatment refers to actions that result in circumstances where similarly situated persons are treated differently (i.e., less favorably) than others because of their race, color, or national origin.
- h. Disproportionately High and Adverse Effect on Minority and Low-income Populations means an adverse effect that:
 - (1) is predominantly borne by a minority population and/or a low-income population, or
 - (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.
- i. Fixed Guideway means a public transportation facility using and occupying a separate right-of-way or rail for the exclusive use of public transportation and other high occupancy vehicles, or a public transportation facility using a fixed catenary system and a right-of-way usable by other forms of transportation.
- j. Federal financial assistance means
 - (1) grants and loans of Federal funds;
 - (2) the grant or donation of Federal property and interests in property;
 - (3) the detail of Federal personnel;
 - (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
 - (5) any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of assistance.
- k. Limited English Proficient (LEP) Persons means persons for whom English is not their primary language and who have a limited ability to speak, understand, read, or write English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.
- l. Low-income means a person whose median household income is at or below the Department of Health and Human Services' poverty guidelines.
- m. Low-income Population means any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically

dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.

- n. Metropolitan planning organization (MPO) means the policy board of an organization created and designated to carry out the metropolitan transportation planning process.
- o. Metropolitan transportation plan means the official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated by the MPO through the metropolitan transportation planning process.
- p. Minority Persons include the following:
 - (1) American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
 - (2) Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.
 - (3) Black or African American Populations, which refers to people having origins in any of the Black racial groups of Africa.
 - (4) Hispanic or Latino Populations, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
 - (5) Native Hawaiian and Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- q. Minority Population means any readily identifiable group of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient populations (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.
- r. Minority Transit Route means a route that has at least 1/3 of its total route mileage in a census tract(s) or traffic analysis zone(s) with a percentage of minority population greater than the percentage of minority population in the transit service area. Recipients have the option of defining a minority route based on the above definition or using local demographics and/or ridership characteristics.
- s. National Origin means the particular nation in which a person was born, or where the person's parents or ancestors were born.
- t. Noncompliance refers to an FTA determination that the recipient is not in compliance with the DOT Title VI regulations, and has engaged in activities that have had the purpose or effect of denying persons the benefits of, excluding from participation in, or subjecting persons to discrimination in the recipient's program or activity.

- u. Predominantly Minority Area means a geographic area, such as a neighborhood, Census tract, or traffic analysis zone, where the proportion of minority persons residing in that area exceeds the average proportion of minority persons in the recipient's service area.
- v. Primary Recipient means any FTA recipient that extends Federal financial assistance to a subrecipient.
- w. Provider of Public Transportation (or "transit provider") means any entity that operates public transportation service, and includes States, local and regional entities, public and private entities. This term is used in place of "recipient" in chapter IV and is inclusive of direct recipients, primary recipients, designated recipients and subrecipients that provide public transportation service.
- x. Public Transportation means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, intercity bus transportation, or Amtrak. Public transportation includes buses, subways, light rail, commuter rail, monorail, passenger ferry boats, trolleys, inclined railways, people movers, and vans. Public transportation can be either fixed-route or demand response service.
- y. Recipient, as used in this Circular, means any public or private entity that receives Federal financial assistance from FTA, whether directly from FTA or indirectly through a Primary Recipient. This term includes subrecipients, direct recipients, designated recipients, and primary recipients. The term does not include any ultimate beneficiary under any such assistance program.
- z. Secretary means the Secretary of the U.S. Department of Transportation.
- aa. Service Area refers either to the geographic area in which a transit agency is authorized by local laws to provide service to the public, or to the planning area of a State Department of Transportation or Metropolitan Planning Organization.
- bb. Service Standard/Policy means an established service performance measure or policy used by a transit provider or other recipient as a means to plan or distribute services and benefits within its service area.
- cc. Statewide transportation improvement program (STIP) means a statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and TIPs, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.
- dd. Subrecipient means an entity that receives Federal financial assistance from FTA through a primary recipient.
- ee. Title VI Program refers to a document developed by an FTA recipient to demonstrate how the recipient is complying with Title VI requirements. Direct and primary recipients must submit their Title VI Programs to FTA every three years. The Title VI Program

must be approved by the recipient's board of directors or appropriate governing entity prior to submission to FTA. For State DOTs, the appropriate governing entity is the State's Secretary of Transportation.

- ff. Transportation improvement program (TIP) means a prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the metropolitan transportation plan, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.
 - gg. Transportation management area (TMA) means an urbanized area with a population over 200,000, as defined by the Bureau of the Census and designated by the Secretary of Transportation, or any additional area where TMA designation is requested by the Governor and the MPO and designated by the Secretary of Transportation.
6. ENVIRONMENTAL JUSTICE. Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," was signed by President Clinton on February 11, 1994. Subsequent to issuance of the Executive Order, the U.S. Department of Transportation (DOT) issued a DOT Order for implementing the Executive Order on environmental justice (EJ). The DOT Order (Order 5610.2, "Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 62 FR 18377, Apr. 15, 1997) describes the process the Department and its modal administrations (including FTA) will use to incorporate EJ principles into programs, policies and activities.

The Presidential memorandum accompanying EO 12898 identified Title VI of the Civil Rights Act of 1964 as one of several Federal laws that should be applied "to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects." According to the U.S. Department of Justice, "...the core tenet of environmental justice—that development and urban renewal benefitting a community as a whole not be unjustifiably purchased through the disproportionate allocation of its adverse environmental and health burdens on the community's minority—flows directly from the underlying principle of Title VI itself."¹

Title VI prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, and national origin, including matters related to language access for limited English proficient (LEP) persons. Under DOT's Title VI regulations, recipients of Federal financial assistance are prohibited from, among other things, using "criteria or methods of administering its program which have the effect of subjecting individuals to discrimination based on their race, color, or national origin." For example, facially-neutral policies or practices that result in discriminatory effects or disparate impacts violate DOT's Title VI regulations, unless the recipient can show the policies or practices are justified and there is no less discriminatory alternative. In addition, Title VI and DOT regulations prohibit recipients from intentionally discriminating against people on the basis of race, color, and national origin.

¹ See Title VI Legal Manual, U.S. Department of Justice Civil Rights Division (2001), page 59.

The overlap between the statutory obligation placed on Federal agencies under Title VI to ensure nondiscrimination in federally-assisted programs administered by State and local entities, and the administrative directive to Federal agencies under the Executive Order to address disproportionate adverse impacts of Federal activities on minority and low-income populations explain why Title VI and environmental justice are often paired. The clear objective of the Executive Order and Presidential memorandum is to ensure that Federal agencies promote and enforce nondiscrimination as one way of achieving the overarching objective of environmental justice—fair distribution of the adverse impacts of, or burdens associated with, Federal programs, policies, and activities.

Over the years, U.S. DOT has encouraged a proactive approach to the implementation of environmental justice principles in its programs, policies, and activities. This is reflected in the DOT Order on Environmental Justice (DOT Order 5610.2) which, consistent with E.O. 12898, sets forth a process by which DOT and its Operating Administrations, including FTA, will integrate the goals of EJ into their existing operations to ensure that consideration of EJ principles is an integral part of all programs, policies, and activities, from the inception of the planning process through to project completion, operations, and evaluation.

FTA has developed policy guidance in the form of a Circular (Proposed Circular 4703.1), “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” in order to provide recipients with a distinct framework to assist them as they integrate principles of environmental justice into their public transportation decision-making processes, from planning through project development, operation, and maintenance. FTA expects the clarification provided by the EJ Circular and the updated Title VI Circular will provide recipients with the guidance they need to properly incorporate both Title VI and environmental justice into their public transportation decision-making. In addition to the EJ Circular, Appendix M of this Circular includes a table describing the differences and similarities between Title VI and environmental justice.

CHAPTER II

PROGRAM OVERVIEW

1. **PROGRAM OBJECTIVES.** The direction, guidance and procedures in this document will help FTA recipients to:
 - a. Ensure that the level and quality of public transportation service is provided without regard to race, color, or national origin;
 - b. Promote full and fair participation in public transportation decision-making without regard to race, color, or national origin;
 - c. Ensure meaningful access to transit-related programs and activities by persons with limited English proficiency.
2. **STATUTORY AUTHORITY.** Section 601 of Title VI of the Civil Rights Act of 1964 states the following:

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The Civil Rights Restoration Act of 1987 further expanded Title VI to include all programs and activities of Federal aid recipients, subrecipients, and contractors whether those programs and activities are Federally funded or not. The term “program or activity” means all of the operations of a department, agency, special purpose district, or government; or the entity of such State or local government that distributes such assistance and each such department or agency to which the assistance is extended, in the case of assistance to a State or local government.

3. **REGULATORY AUTHORITY.** The U.S. Department of Justice (“DOJ”) Title VI regulations can be found at 28 CFR § 42.401 *et seq.*, and 28 CFR § 50.3. The U.S. Department of Transportation (“DOT”) Title VI implementing regulations can be found at 49 CFR part 21.

All programs administered by FTA are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and DOT’s implementing regulations. In addition, DOJ’s regulations require FTA to issue guidelines to recipients to provide detailed information on the requirements of Title VI. In order to assist recipients in carrying out the provisions of DOT’s Title VI regulations, each of the requirements in this Circular includes a reference to the corresponding provision of 49 CFR part 21.

4. **ADDITIONAL DOCUMENTS.** In addition to the above-listed statute and regulations the following documents incorporate Title VI principles:
 - a. The Department’s Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons (“DOT LEP Guidance”), 70 FR 74087, (December 14, 2005).

This guidance is based on the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, as it affects limited English proficient persons.

- b. Section 12 of FTA's Master Agreement, which provides, in pertinent part, that recipients agree to comply, and assure the compliance of each subrecipient, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act," 49 CFR. Part 21. Except to the extent FTA determines otherwise in writing, recipients agree to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," and any other applicable Federal directives that may be issued. Unless FTA states otherwise in writing, the Master Agreement requires all recipients to comply with all applicable Federal directives.
5. REPORTING REQUIREMENTS. Title 49 CFR Section 21.9(b) requires that recipients record, retain, and submit certain information to FTA as necessary or required in order for FTA to determine whether the recipient is in compliance with Title VI requirements. FTA requires that all direct and primary recipients document their compliance by submitting a Title VI Program to their FTA regional civil rights officer once every three years. The Title VI Program must be approved by the direct or primary recipient's board of directors or appropriate governing entity prior to submission to FTA. For State DOTs, the appropriate governing entity is the State's Secretary of Transportation. Recipients shall submit a copy of the Board resolution, meeting minutes, or similar documentation with the Title VI Program as evidence that the board of directors or appropriate governing entity has approved the Title VI Program. FTA will review and grant approval or conditional approval for Title VI Programs.

Subrecipients shall submit Title VI Programs to the primary recipient from whom they receive funding, in order to assist the primary recipient in its compliance efforts. Chapters III, IV, V, and VI and appendices detail the specific information that shall be included in Title VI Programs, based on recipient characteristics.

CHAPTER III

GENERAL REQUIREMENTS AND GUIDELINES

1. **INTRODUCTION.** This chapter describes requirements that all FTA recipients must follow to ensure that their programs, policies, and activities comply with DOT's Title VI regulations.
2. **REQUIREMENT TO PROVIDE TITLE VI ASSURANCES.** In accordance with 49 CFR Section 21.7(a), every application for financial assistance from FTA must be accompanied by an assurance that the applicant will carry out the program in compliance with DOT's Title VI regulations. This requirement shall be fulfilled when the applicant/recipient submits its annual certifications and assurances to FTA. Primary recipients shall collect Title VI assurances from subrecipients prior to passing through FTA funds. The text of FTA's annual certifications and assurances is available on FTA's Web site.
3. **REQUIREMENTS FOR FIRST-TIME APPLICANTS.** First-time applicants must submit a Title VI Program that is compliant with this Circular, and submit an assurance (as noted in Section 2 above) that it will comply with Title VI. In addition, and consistent with 28 CFR § 50.3, entities applying for FTA funding for the first time shall provide information regarding their Title VI compliance history if they have previously received funding from another Federal agency. This shall include a copy of any Title VI compliance review activities conducted in the previous three years. The summary shall include:
 - a. The purpose or reason for the review.
 - b. The name of the agency or organization that performed the review.
 - c. A summary of the findings and recommendations of the review.
 - d. A report on the status and/or disposition of such findings and recommendations. This information shall be relevant to the organizational entity actually submitting the application, not necessarily the larger agency or department of which the entity is a part.

In addition, first-time applicants shall submit a brief description of any pending applications to other Federal agencies for assistance, and whether any Federal agency has found the applicant to be in noncompliance with any civil rights requirement.

4. **REQUIREMENT TO PREPARE AND SUBMIT A TITLE VI PROGRAM.** Title 49 CFR Section 21.9(b) requires recipients to "keep such records and submit to the Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this [rule]." FTA requires that all direct and primary recipients document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. For all recipients (including subrecipients), the Title

VI Program must be approved by the recipient's board of directors or appropriate governing entity prior to submission to FTA. For State DOTs, the appropriate governing entity is the State's Secretary of Transportation or equivalent. Recipients shall submit a copy of the board resolution, meeting minutes, or similar documentation with the Title VI Program as evidence that the board of directors or appropriate governing entity has approved the Title VI Program. FTA will review and grant approval or conditional approval for Title VI Programs. Subrecipients shall submit Title VI Programs to the primary recipient from whom they receive funding, in order to assist the primary recipient in its compliance efforts.

a. Contents. A Title VI Program shall include the following information:

- (1) A copy of the recipient's Title VI notice to the public that indicates the recipient complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. Include a list of locations where the notice is posted. A sample Title VI notice is in Appendix B;
- (2) A copy of the recipient's instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form. Sample complaint procedures are in Appendix C, and a sample Title VI complaint form is in Appendix D;
- (3) A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient since the time of the last submission. See Appendix E for an example of how to report this information. This list should include only those investigations, complaints, or lawsuits that pertain to allegations of discrimination on the basis of race, color, and/or national origin in transit-related activities and programs and that pertain to the recipient submitting the report, not necessarily the larger agency or department of which the recipient is a part;
- (4) A public participation plan that includes an outreach plan to engage minority and limited English proficient populations. A recipient's targeted public participation plan for minority populations may be part of efforts that extend more broadly to include other constituencies that are traditionally underserved, such as people with disabilities, low-income populations, and others;
- (5) A copy of the recipient's plan for providing language assistance to persons with limited English proficiency, based on the DOT LEP Guidance;
- (6) Recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar decision-making bodies must provide a table depicting the racial breakdown of the membership of those bodies, and a description of efforts made to encourage the participation of minorities on such decision-making bodies;
- (7) Primary recipients shall include copies of subrecipient Title VI Program(s), as well as a narrative or description of efforts the primary recipient uses to ensure subrecipients are complying with Title VI; and

- (8) Additional information as specified in chapters IV, V, and VI, depending on whether the recipient is a transit provider, a State, or an MPO.
- b. Upload Title VI Program to TEAM. Direct and primary recipients must upload their Title VI Program into FTA's Transportation Electronic Award Management (TEAM) system, or other tracking system as directed by FTA. The Title VI Program shall be attached via the paper clip function on the Civil Rights screen, and not attached to a particular grant. Recipients must also notify their FTA Regional Civil Rights Officer via email that they have uploaded their Title VI Program to TEAM. The Title VI Program must be uploaded to TEAM no fewer than thirty calendar days prior to the date of expiration of the Title VI Program.
- c. Determinations. The status of a direct or primary recipient's Title VI Program will be noted in TEAM. The four status determinations are:
- (1) Approval. This status indicates that the recipients' Title VI Program meets the requirements as set out in this Circular. The recipient may receive grant funds.
 - (2) Conditional Approval. This status indicates that one or more elements of the recipients' Title VI Program is missing or does not adequately address one or more required elements set out in this Circular. FTA will inform the recipient of the date by which the recipient must submit a revised Title VI Program that addresses the missing or inadequately addressed elements. The recipient may continue to receive grant funds during this interim period.
 - (3) Pending. This status indicates that the recipient's Title VI Program is being reviewed by FTA staff and a determination as to sufficiency has not yet been made. Pending status is only effective for thirty days and grants can be processed while a Title VI Program has a "pending" status.
 - (4) Expired/Expiration. This status indicates that the recipients' Title VI Program has expired and that an updated Title VI Program must be submitted. A recipient with an expired Title VI Program may have its draw-down privileges suspended and grants may not be processed.
- d. Reporting Requirement Exemptions. Recipients whose only FTA funding is through the FTA's University Transportation Center Program, National Research and Technology Program, Transportation Cooperative Research Program, Over the Road Bus Accessibility program, or the Public Transportation on Indian Reservations program are exempt from submitting a Title VI Program to FTA. In addition, FTA may exempt a recipient, upon receipt of a request for a waiver submitted to the Director of the Office of Civil Rights, from the requirement to submit a Title VI Program, or from some elements of the Title VI Program. The absence of the requirement to submit a Title VI Program does not obviate the underlying obligations to comply with DOT's Title VI regulations. Furthermore, with the exception of the Public Transportation on Indian Reservation program, FTA may, at any time, request information from an exempt recipient in order to determine compliance with Title VI regulations and statutes.

5. REQUIREMENT TO NOTIFY BENEFICIARIES OF PROTECTION UNDER TITLE VI.

Title 49 CFR Section 21.9(d) requires recipients to provide information to the public regarding the recipient's obligations under DOT's Title VI regulations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients shall disseminate this information to the public through measures that may include but are not limited to: posting a Title VI notice on the agency's Web site, at the agency's office, at stations or stops, and/or on transit vehicles. A sample Title VI notice to the public is provided in Appendix B.

a. Contents. The Title VI notice shall include:

- (1) A statement that the agency operates programs without regard to race, color, or national origin.
- (2) A description of the procedures that members of the public should follow in order to request additional information on the recipient's Title VI obligations.
- (3) A description of the procedures that members of the public should follow in order to file a Title VI discrimination complaint against the recipient.

b. Effective Practices for Fulfilling the Notification Requirement. In complying with the above requirements, recipients should keep the following in mind:

- (1) Dissemination. Agencies shall inform the public of their rights under Title VI through such measures as posting the Title VI notice in libraries, on posters, comment cards, or flyers placed at stations, bus shelters, and in transit vehicles. The type, timing, and frequency of these measures are at the recipient's discretion, as long as the type, timing, and frequency are sufficient to notify passengers and other interested persons of their rights under DOT's Title VI regulations with regard to the recipient's program.
- (2) Document translation. Notices detailing a recipient's Title VI obligations and complaint procedures shall be translated into languages other than English, as needed and consistent with the DOT LEP Guidance.
- (3) Subrecipients. In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI Notice developed by the primary recipient; however, subrecipients shall notify passengers and other interested persons that they may file discrimination complaints directly with the subrecipient.

6. REQUIREMENT TO DEVELOP TITLE VI COMPLAINT PROCEDURES AND COMPLAINT FORM.

In order to comply with the reporting requirements established in 49 CFR Section 21.9(b), all recipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public upon request. Recipients must also develop a Title VI complaint form. FTA requires direct and primary recipients to report information regarding their complaint procedures in their Title VI Programs in order for FTA to determine compliance with DOT's Title VI regulations. In order to reduce the administrative burden

associated with this requirement, subrecipients may adopt the Title VI complaint investigation and tracking procedures and complaint form developed by the primary recipient. Sample complaint procedure and complaint forms are located in Appendices C and D. See Chapter VIII of this Circular for more information on complaints.

7. REQUIREMENT TO RECORD AND REPORT TRANSIT-RELATED TITLE VI INVESTIGATIONS, COMPLAINTS, AND LAWSUITS. In order to comply with the reporting requirements of 49 CFR Section 21.9(b), FTA requires all recipients to prepare and maintain a list of any of the following that allege discrimination on the basis of race, color, or national origin: active investigations conducted by entities other than FTA; lawsuits; and complaints naming the recipient. This list shall include the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response, or final findings related to, the investigation, lawsuit, or complaint. This list shall be included in the Title VI Program submitted to FTA every three years. See Appendix E for an example of how to report this information.
8. PROMOTING INCLUSIVE PUBLIC INVOLVEMENT. The content and considerations of Title VI, the Executive Order on LEP, and the DOT LEP Guidance shall be integrated into each recipient's established public involvement plan or process (i.e., the document that explicitly describes the proactive strategies, procedures, and desired outcomes that underpin the recipient's public involvement activities). Each recipient of a grant is required to comply with the public participation requirements of 49 U.S.C. Sections 5307(c) and 5307(d)(1)(I). FTA/FHWA (Federal Highway Administration) joint planning regulations (23 CFR part 450) require States and MPOs engaged in planning activities to seek out and consider the needs and input of the general public, including interested parties and those traditionally underserved by existing transportation systems, such as minority and LEP persons, who may face challenges accessing employment and other services, as States and MPOs develop and conduct their public involvement activities. Recipients engaged in planning and other decision-making activities at the local level should consider the principles embodied in the planning regulations, and develop and use a documented public involvement plan or process that provides adequate notice of public involvement activities, as well as early and continuous opportunities for public review and comment at key decision points. It is important to seek out and consider the needs and input of the general public, including interested parties and those traditionally underserved by existing transportation systems, such as minority and LEP persons, who may face challenges accessing employment and other services, as the recipient develops and conducts its public involvement activities.

Recipients have wide latitude to determine how, when, and how often specific public involvement activities should take place, and which specific measures are most appropriate. Recipients should make these determinations based on a demographic analysis of the population(s) affected, the type of plan, program, and/or service under consideration, and the resources available. Efforts to involve minority and LEP populations in public involvement activities can include both comprehensive measures, such as placing public notices at all transit stations, stops, and vehicles, as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and LEP persons from effectively participating in a recipient's decision-making process. FTA

has developed a Circular, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” that includes many examples of effective strategies for engaging minority and low-income populations. FTA encourages recipients to review that Circular for ideas when developing their public engagement strategy. Some of those effective practices include:

- a. Scheduling meetings at times and locations that are convenient and accessible for minority and LEP communities.
- b. Employing different meeting sizes and formats.
- c. Coordinating with community- and faith-based organizations, educational institutions, and other organizations to implement public involvement strategies that reach out specifically to members of affected minority and/or LEP communities.
- d. Considering radio, television, or newspaper ads on stations and in publications that serve limited English proficient populations. Outreach to limited English proficient populations could also include audio programming available on podcasts.
- e. Providing opportunities for public involvement through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.

9. REQUIREMENT TO PROVIDE MEANINGFUL ACCESS TO LEP PERSONS. Taken together, Title VI of the Civil Rights Act of 1964, its implementing regulations, and Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” require recipients to take reasonable steps to ensure meaningful access to benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP). This Circular contains only a summary of the LEP requirements; recipients are encouraged to review DOT’s LEP guidance for additional information.

- a. Four Factor Analysis. In order to ensure meaningful access to programs and activities, recipients are required to conduct a Four Factor Analysis that assesses and balances the following four factors:
 - (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient;
 - (2) The frequency with which LEP individuals come into contact with the program;
 - (3) The nature and importance of the program, activity, or service provided by the program to people’s lives; and
 - (4) The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.

- b. Developing a Language Implementation Plan. After completing the Four Factor Analysis, the recipient shall use the results of the analysis to determine which language assistance services are appropriate. Additionally, the recipient shall develop an implementation plan to address the identified needs of the LEP population(s) it serves.

Recipients have considerable flexibility in developing a Language Implementation Plan, or LEP Plan. An LEP Plan shall be updated periodically and shall provide a framework for recipients to train employees to provide timely and reasonable language assistance to LEP populations, and for recipients to demonstrate that they are following DOT's and FTA's LEP guidance. FTA will solely determine, at the time the recipient submits its Title VI Program or subsequent to a complaint investigation or compliance review, whether a recipient's plan is sufficient to ensure meaningful access and thus ensure the recipient is not engaging in discrimination on the basis of national origin.

After applying the Four Factor Analysis, a recipient may determine that an effective LEP plan for its community includes the translation of vital documents into the language of each frequently-encountered LEP group eligible to be served and/or likely to be affected by the recipient's programs and services. Vital written documents include, but are not limited to, consent and complaint forms; intake and application forms with the potential for important consequences; written notices of rights; notices of denials, losses, or decreases in benefits or services; and notices advising LEP individuals of free language assistance services. Examples of vital documents include a paratransit eligibility form, a Title VI complaint form, notice of a person's rights under Title VI, and other documents that provide access to essential services. Failure to translate these vital documents could result in a recipient denying an eligible LEP person access to services and discrimination on the basis of national origin.

- c. Safe Harbor Provision. DOT has adopted DOJ's Safe Harbor Provision, which outlines circumstances that can provide a "safe harbor" for recipients regarding translation of written materials for LEP populations. The Safe Harbor Provision stipulates that, if a recipient provides written translation of vital documents for each eligible LEP language group that constitutes five percent (5%) or 1,000 persons, whichever is less, of the total population of persons eligible to be served or likely to be affected or encountered, then such action will be considered strong evidence of compliance with the recipient's written translation obligations. Translation of non-vital documents, if needed, can be provided orally. If there are fewer than 50 persons in a language group that reaches the five percent (5%) trigger, the recipient is not required to translate vital written materials but should provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost. These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable. A recipient may determine, based on the Four Factor Analysis, that even though a language group meets the threshold specified by the Safe Harbor Provision, written translation may not be an effective means to provide language assistance measures. For example, a recipient may determine that a large number of persons in that language group have low literacy skills in their native language and therefore require oral interpretation.

In such cases, background documentation regarding the determination shall be provided to FTA in the Title VI Program.

10. MINORITY REPRESENTATION ON DECISION-MAKING BODIES: Title 49 CFR Section 21.5(b)(1)(vii) states that a recipient may not, on the grounds of race, color, or national origin, “deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program.” Recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar decision-making bodies must provide a table depicting the racial breakdown of the membership of those bodies, and a description of efforts made to encourage the participation of minorities on such decision-making bodies. The membership of these boards, councils, and committees should be representative of the demographics of the communities they serve.
11. PROVIDING ASSISTANCE TO SUBRECIPIENTS. Title 49 CFR section 21.9(b) states that if “a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.” See Appendix L for clarification of reporting responsibilities by recipient category. Primary recipients should assist their subrecipients in complying with DOT’s Title VI regulations, including the general reporting requirements. Assistance shall be provided to the subrecipient as necessary and appropriate by the primary recipient. Primary recipients should consider providing the following information to subrecipients:
 - a. Sample notices to the public informing beneficiaries of their rights under DOT’s Title VI regulations and procedures on how to file a Title VI complaint.
 - b. Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient, and when the primary recipient expects the subrecipient to notify the primary recipient of complaints received by the subrecipient.
 - c. Demographic information on the race and English proficiency of residents served by the subrecipient. This information will assist the subrecipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.
12. MONITORING SUBRECIPIENTS. In accordance with 49 CFR 21.9(b), and to ensure that subrecipients are complying with the DOT Title VI regulations, primary recipients must monitor their subrecipients for compliance with the regulations. The primary recipient shall undertake the following activities:
 - a. Document its process for ensuring that all subrecipients are complying with the general reporting requirements of this circular, as well as other requirements that apply to the subrecipient based on the type of entity and the size of the operating budget if a transit provider.
 - b. Collect Title VI Programs from subrecipients.

- c. At the request of FTA, in response to a complaint of discrimination, or as otherwise deemed necessary by the primary recipient, the primary recipient shall request that subrecipients who provide transportation services verify that their level and quality of service is provided on an equitable basis. Subrecipients that are transit providers are responsible for reporting as outlined in Chapter IV of this Circular.

13. DETERMINATION OF SITE OR LOCATION OF FACILITIES. Title 49 CFR section 21.9(b)(3) states, “In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.” Title 49 CFR part 21, Appendix C, section (3)(iv) provides, “The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin.” In order to comply with the regulations:

- a. The recipient shall complete a Title VI analysis during project development with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin.
- b. If the recipient determines that the location of the project will result in a disparate impact, the recipient may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less adverse impact on members of a group protected under Title VI.

14. REQUIREMENT TO PROVIDE ADDITIONAL INFORMATION UPON REQUEST. FTA may request, at its discretion, information other than that required by this Circular from a recipient in order for FTA to investigate complaints of discrimination or to resolve concerns about possible noncompliance with DOT’s Title VI regulations.

CHAPTER IV

REQUIREMENTS AND GUIDELINES FOR TRANSIT PROVIDERS

1. **INTRODUCTION.** The requirements described in this chapter apply to all providers of public transportation (also referred to as transit providers) that receive Federal financial assistance, inclusive of States, local and regional entities, and public and private entities. Transit providers that are subrecipients will submit the information required in this chapter to their primary recipient (the entity from whom they directly receive transit funds). Direct and primary recipients will submit the information required in this chapter to FTA every three years. See Appendix L for clarification of reporting responsibilities by recipient category. All transit providers—whether direct recipients, primary recipients or subrecipients—that receive financial assistance from FTA are also responsible for following the general requirements in Chapter III of this circular. The requirements in this chapter are scaled based on the size of the transit provider.

- a. **If a transit provider:**

- (1) Has a total annual operating budget of \$10 million or more in three (3) of the last five (5) consecutive fiscal years beginning with fiscal years 2006–2010, as reported to the National Transit Database (NTD); or
- (2) Receives \$3 million or more in New Starts/Small Starts or other discretionary transit capital funds; or
- (3) Has been placed in this category at the discretion of the Director of Civil Rights in consultation with the FTA Administrator,

Then the transit provider's Title VI Program must contain all of the elements described in this chapter.

- b. If a transit provider has a total annual operating budget of less than \$10 million in three (3) of the last five (5) consecutive fiscal years beginning with fiscal years 2006–2010, as reported to the NTD, and does not meet any of the thresholds above, then the Title VI Program will include only certain elements described in this chapter, as further described below.
- c. **Annual Operating Budget.** The agency's total annual operating budget is inclusive of all sources of funds—Federal, State, local, and other, as reported to the NTD. The total operating budget is a proxy for agency size and the number of riders served. FTA requires all transit providers to submit a Title VI Program to comply with DOT Title VI regulations; the threshold provides a distinction regarding the degree of evidence a recipient must provide to demonstrate compliance with those regulations.
- d. **Determination.** As of the effective date of this circular (4702.1B), those transit providers with a total annual operating budget of \$10 million or more in three (3) of the last five (5) consecutive fiscal years, as reported to the NTD for fiscal years 2006–2010, are required to meet all requirements of this chapter (i.e., setting service standards and policies, collecting and reporting data, monitoring transit service, and evaluating fare and service changes).

Transit providers who have not been required to report this information under FTA Circular 4702.1A are required to conduct service and fare equity analyses for major changes in transportation service or fare changes between the effective date of the circular and their next Title VI Program submission. In addition, these transit providers are required to update their current Title VI Programs to include service standards and policies, demographic and other data, including data related to monitoring their service. FTA will provide technical assistance to these providers as necessary.

- e. Ongoing Determinations. Beginning in 2015, and every three (3) years thereafter, FTA will include information in its annual apportionment notice, published in the *Federal Register*, regarding new transit providers that meet the \$10 million threshold, as well as transit providers that no longer meet this threshold.
- f. Discretionary Capital Funds. Transit providers that meet the threshold in paragraph a.(2) or (3) above must submit a revised Title VI Program to comply with the requirements in this threshold within six months after receiving the award, and must report on all requirements listed in this chapter until such time as FTA determines otherwise.
- g. Requirements. All transit providers, regardless of total annual operating budget, must set system-wide service standards and service policies, and must submit those standards and policies to FTA every three years as part of their Title VI Program submission. In addition, transit providers with a total annual operating budget of \$10 million or more or that otherwise meet the threshold in this section of this chapter must collect and report demographic data, conduct a monitoring program, and conduct service and/or fare equity analyses, as appropriate, as described in this chapter.

Requirement	Transit Providers with Total Annual Operating Budgets of LESS THAN \$10 Million	Transit Providers with Total Annual Operating Budgets of \$10 Million OR MORE
Set system-wide standards and policies	Required	Required
Collect and report data	Not required	Required: • Demographic and service profile maps and charts • Survey data regarding customer demographic and travel patterns
Evaluate service and fare equity changes	Not required	Required
Monitor transit service	Not required	Required

2. REQUIREMENT TO PREPARE AND SUBMIT A TITLE VI PROGRAM. As stated in Chapter III of this Circular, in order to ensure compliance with the reporting requirements of 49 CFR Section 21.9(b), FTA requires that all direct and primary recipients document their

compliance by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. For all recipients (including subrecipients), the Title VI Program must be approved by the recipient's board of directors or appropriate governing entity prior to submission to FTA. For State DOTs, the appropriate governing entity is the State's Secretary of Transportation. Recipients shall submit a copy of the board resolution, meeting minutes, or similar documentation with the Title VI Program as evidence that the board of directors or appropriate governing entity has approved the Title VI Program. FTA will review and grant approval or conditional approval for Title VI Programs. Subrecipients shall submit Title VI Programs to the primary recipient from whom they receive funding, in order to assist the primary recipient in its compliance efforts.

- a. Contents of the Title VI Program. In addition to the information required under section 4 of chapter III (General Requirements) of this Circular, providers of public transportation shall include the following information in their Title VI Program:

(1) All transit providers, regardless of total annual operating budget shall submit:

- (a) All general requirements set out in Chapter III of this circular; and
- (b) System-wide service standards and system-wide service policies, whether existing or new (i.e., adopted by the transit provider since the last submission) as described in this chapter.

(2) Transit providers with total annual operating budgets of \$10 million or more or that otherwise meet the threshold in the Introduction section of this chapter shall include the information in subparagraph a, above, and:

- (a) A demographic analysis of the transit provider's passengers. This shall include demographic maps and charts completed since submission of the last Title VI Program that contains demographic information and service profiles;
- (b) Data regarding customer demographics and travel patterns, collected from passenger surveys or other sources;
- (c) Results of the monitoring program of service standards and policies and any action taken, including documentation (e.g., a resolution, copy of meeting minutes, or similar documentation) to verify the board's or governing entity's consideration and awareness of the monitoring results;
- (d) A description of the public engagement process for setting the "major service change policy" and disparate impact policy;
- (e) Results of equity analyses for any major service changes and/or fare changes implemented since the last Title VI Program submission; and
- (f) A copy of board meeting minutes or a resolution demonstrating the board's or governing entity's consideration and awareness of the equity analysis for any service or fare changes.

3. REQUIREMENT TO SET SYSTEM-WIDE SERVICE STANDARDS AND POLICIES.

These requirements apply to all providers of public transportation service, regardless of total annual operating budget. Title 49 CFR Section 21.5 states the general prohibition of discrimination on the grounds of race, color, or national origin. Section 21.5(b)(2) specifies that a recipient shall not “utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.” Section 21.5(b)(7) requires recipients to “take affirmative action to assure that no person is excluded from participation in or denied the benefits of the program or activity on the grounds of race, color, or national origin.” Finally, Appendix C to 49 CFR part 21 provides in section (3)(iii) that “[n]o person or group of persons shall be discriminated against with regard to the routing, scheduling, or quality of service of transportation service furnished as a part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes may not be determined on the basis of race, color, or national origin.”

All transit providers shall set service standards and policies for the specific modes of service they provide. These standards and policies must address how service is distributed across the transit system, and must ensure that the manner of the distribution affords users access to these assets.

In order to comply with DOT’s Title VI regulations, providers of public transportation shall adopt quantitative system-wide service standards to guard against service design or operations decisions from having disparate impacts. These system-wide service standards differ from any standards set by the APTA Standards Development Program and other standards development organizations (SDOs), in that they will be set by individual transit providers and will apply agency-wide rather than industry-wide.

Providers of public transportation shall also adopt system-wide service policies to ensure service design and operations practices do not result in discrimination on the basis of race, color, or national origin. Service policies differ from service standards in that they are not necessarily based on a quantitative threshold.

- a. Effective Practices to Fulfill the Service Standard Requirement. FTA requires all transit providers, regardless of operating budget, to develop quantitative standards for the indicators listed below. Providers of public transportation may set additional standards as appropriate or applicable to the type of service they provide. See Appendix G for an example of how to report this information.

- (1) Vehicle load. Vehicle load can be expressed as the ratio of passengers to the total number of seats on a vehicle at its maximum load point. Vehicle load is generally expressed in terms of peak and off-peak times and applies to all modes of transit. Transit providers that operate multiple modes of transit must describe the specific vehicle load standards for peak and for off-peak times for each mode of transit service (i.e., bus, express bus, bus rapid transit, light rail, heavy rail, commuter rail, passenger ferry, etc., as applicable).

- (2) Vehicle headway. Vehicle headway is the amount of time between two vehicles traveling in the same direction on a given line or combination of lines. A shorter headway corresponds to more frequent service. Vehicle headways are measured in minutes (e.g., every 15 minutes); service frequency is measured in vehicles per hour (e.g., 4 buses per hour). Headways and frequency of service are general indications of the level of service provided along a route. Vehicle headway is one component of the amount of travel time expended by a passenger to reach his/her destination. It is generally expressed for peak and off-peak service as an increment of time (e.g., peak: every 15 minutes; and off peak: every 30 minutes). Transit providers may set different vehicle headway standards for different modes of transit service. A vehicle headway policy might establish a minimum frequency of service by area based on population density. For example, service at 15-minute peak headways and 30-minute off-peak headways might be the standard for routes serving the most densely populated portions of the service area, whereas 30-minute peak headways and 45-minute off-peak headways might be the standard in less densely populated areas. Headway policy is also typically related to vehicle load. For example, a service standard might state that vehicle headways will be improved first on routes that exceed the load factor standard or on routes that have the highest load factors.
- (3) On-time performance. On-time performance is a measure of runs completed as scheduled. This criterion first must define what is considered to be “on time.” For example, a transit provider may consider it acceptable if a vehicle completes a scheduled run between zero and five minutes late in comparison to the established schedule. On-time performance can be measured against route origins and destinations only, or against origins and destinations as well as specified time points along the route. Some transit providers set an on-time performance standard that prohibits vehicles from running early (i.e., ahead of schedule) while others allow vehicles to run early within a specified window of time (e.g., up to five minutes ahead of schedule). An acceptable level of performance must be defined (expressed as a percentage). The percentage of runs completed system-wide or on a particular route or line within the standard must be calculated and measured against the level of performance. For example, a transit provider might define on-time performance as 95 percent of all runs system-wide or on a particular route or line completed within the allowed “on-time” window.
- (4) Service availability. Service availability is a general measure of the distribution of routes within a transit provider’s service area. For example, a transit provider might set a service standard to distribute routes such that a specified percentage of all residents in the service area are within a one-quarter mile walk of bus service or a one-half mile walk of rail service. A standard might also indicate the maximum distance between stops or stations. These measures related to coverage and stop/station distances might also vary by population density. For example, in more densely populated areas, the standard for bus stop distance might be a shorter distance than it would be in a less densely populated area, and the percentage of the total population within a one-quarter mile walk of routes or lines might be higher than it would be in a less densely populated area. Commuter rail service or passenger ferry service availability standards might include a threshold of residents within a certain

driving distance as well as within walking distance of the stations or access to the terminal. The service standards covering this area apply to existing services as well as proposed changes in levels of service (e.g., expansion, addition, or deletion of routes).

- b. Effective Practices to Fulfill the Service Policy Requirement. FTA requires transit providers, regardless of total annual operating budget, to develop a policy for each of the following service indicators. Transit providers may set policies for additional indicators as appropriate. See Appendix H for an example of how to report this information.

- (1) Distribution of transit amenities. Transit amenities refer to items of comfort, convenience, and safety that are available to the general riding public. Transit providers must set a policy to ensure equitable distribution of transit amenities across the system. Transit providers may set different service standards for the different modes of service that they provide. Policies or standards in this area address how these amenities are distributed within a transit system, and the manner of their distribution determines whether transit users have equal access to these amenities. This subparagraph is not intended to impact funding decisions for transit amenities. Rather, this subparagraph applies after a recipient has decided to fund an amenity.

This policy does not apply to transit providers that do not have decision-making authority over the siting of transit amenities. Transit providers are not responsible for setting a policy for transit amenities that are solely sited by a separate jurisdiction (e.g., a city, town, or county) unless the transit provider has the authority to set policies to determine the siting of these amenities. Transit providers are responsible for setting a policy for transit amenities that are installed under a contract between the transit provider and a private entity. In these cases, the transit provider shall communicate its service policy to the private entity.

Transit providers shall submit their siting policy where the definition of transit amenities includes but is not limited to:

- (a) Seating (i.e., benches, seats)
- (b) Bus and rail shelters and rail platform canopies
- (c) Provision of information:
 - i. Printed signs, system maps, route maps, and schedules.
 - ii. Digital equipment such as next vehicle arrival time signs along bus routes and at fixed guideway stations (i.e., electronic signage that depicts when a transit vehicle will next arrive at the station or stop).
- (d) Intelligent Transportation Systems (ITS) including but not limited to such technologies as automated vehicle location, electronic fare payment, traveler information, collision avoidance systems, mobile data terminals, driver- and lane-assistance systems, precision docking, and collision notification systems.
- (e) Escalators
- (f) Elevators
- (g) Waste receptacles (including trash and recycling)

- (2) Vehicle assignment. Vehicle assignment refers to the process by which transit vehicles are placed into service in depots and on routes throughout the transit provider's system. Policies for vehicle assignment could be based on the age of the vehicle, where age would be a proxy for condition. For example, a transit provider may set a policy to assign vehicles to depots so that the age of the vehicles at each depot does not exceed the system-wide average. The policy could also be based on the type of vehicle. For example, a transit provider may set a policy to assign vehicles with more capacity to routes with higher ridership and/or during peak periods. The policy could also be based on the type of service offered. For example, a transit provider may set a policy to assign specific types of vehicles to express or commuter service. Transit providers deploying vehicles equipped with technology designed to reduce emissions could choose to set a policy for how these vehicles will be deployed throughout the service area.
4. REQUIREMENT TO COLLECT AND REPORT DEMOGRAPHIC DATA. This requirement applies only to transit providers with a total annual operating budget of \$10 million or more or that otherwise meet the threshold in the Introduction section of this chapter. Title 49 CFR Section 21.9(b) requires recipients to keep records and submit compliance reports (a Title VI Program) to FTA. Title VI Programs shall contain "such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part." In addition, 49 CFR 21.9(b) states that recipients "should have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance." In order to ensure compliance with the regulation, FTA requires these transit providers to prepare data regarding demographic and service profile maps and charts as well as customer demographics and travel patterns.

In order to comply with the reporting requirements in 49 CFR Section 21.9(b), transit providers with a total annual operating budget of \$10 million or more or that otherwise meet the threshold in section one (1) of this chapter shall collect and analyze racial and ethnic data as described below in order to determine the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance from FTA.

- a. Demographic and Service Profile Maps and Charts. Transit providers shall prepare demographic and service profile maps and charts after each decennial census and prior to proposed service reductions or eliminations. These maps and charts will help the transit provider determine whether transit service is available to minority populations within the recipient's service area. These maps may be prepared using Geographic Information System (GIS) technology, although transit providers without access to GIS technology may prepare the maps in alternative formats. FTA requires transit providers to prepare the following maps and charts:
- (1) A base map of the transit provider's service area that overlays Census tract, traffic analysis zone (TAZ), or other locally available geographic data with transit facilities—including transit routes, fixed guideway alignments, transit stops and stations, depots, maintenance and garage facilities, and administrative buildings—as well as major activity centers or transit trip generators, and major streets and

highways. Major activity centers and transit trip generators can include, but are not necessarily limited to, the central business district, outlying high employment areas, schools, and hospitals. This map should overlay Census tract data depicting minority populations with fixed transit facilities. Another map should highlight those transit facilities that were recently modernized or are scheduled for modernization in the next five years.

- (2) A demographic map that plots the information listed in (1) above and also shades those Census tracts, TAZs, or other geographic zones where the percentage of the total minority population residing in these areas exceeds the average minority population for the service area as a whole. Transit providers may elect to produce maps that highlight separately the presence of specific minority populations if this information will assist the transit provider in determining compliance with Title VI and/or LEP. Transit providers should also prepare a GIS or alternative map overlaying minority populations with fixed transit facilities.

- b. Demographic Ridership and Travel Patterns. Providers of public transportation that meet the threshold in the Introduction section of this chapter shall collect information on the race, color, national origin, language spoken at home, and travel patterns of their riders using customer surveys. Transit providers shall use this information to develop a demographic profile comparing minority riders and non-minority riders, and trips taken by minority riders and non-minority riders. The demographic information shall be displayed in tabular format. An example of this analysis is depicted in Appendix I.

The information required in this subparagraph may be integrated into customer surveys routinely employed by transit providers and may be collected at the time that such surveys are routinely performed. At a minimum, transit providers are required to collect survey information every three years to identify the racial makeup of their ridership by route or line.

Transit providers shall take steps to translate customer surveys into languages other than English as necessary, or to provide translation services in the course of conducting customer surveys consistent with the DOT LEP guidance.

5. REQUIREMENT TO MONITOR TRANSIT SERVICE. This requirement applies only to providers of public transportation with a total annual operating budget of \$10 million or more or that otherwise meet the threshold in the Introduction section of this chapter. In order to ensure compliance with DOT's Title VI regulations, FTA requires these transit providers to:
 - a. Monitor the performance of their transit system relative to their service standards and service policies (i.e., vehicle load, vehicle assignment, transit amenities, etc.);
 - b. Develop a policy or methodology to determine whether disparate impacts on the basis of race, color, or national origin exist and apply that policy or methodology to the results of the monitoring activities;
 - c. Brief the board of directors or appropriate governing entity regarding the results of the monitoring program;

- d. Submit documentation (e.g., a resolution, copy of meeting minutes, or similar documentation) to verify the board's or governing entity's consideration and awareness of the monitoring results; and
- e. Submit the results of the monitoring program to FTA every three years as part of their Title VI Program. See Appendix J for an example of how to report this information.

Periodic service monitoring activities shall be undertaken to compare the level of service provided to predominantly minority areas with the level of service provided to predominantly non-minority areas to ensure the end result of policies and decision-making is equitable.

If a transit provider determines, based on its monitoring activities, that prior decisions have resulted in a disparate impact on minority populations, the transit provider shall take corrective action to remedy the disparities, and shall discuss in the Title VI Program these disparate impacts and actions taken to remedy the disparities.

A transit provider at its discretion may choose to conduct service monitoring more frequently than every three years. Providers with a total annual operating budget of \$10 million or more or that otherwise meet the threshold in the Introduction section of this chapter shall fulfill this requirement by implementing the monitoring program described below.

Level of Service Monitoring Program.

- (1) Transit providers shall use the minority transit route definition they have selected to implement this monitoring program. Transit providers shall select a sample of bus routes and (if applicable) fixed guideway minority and non-minority routes. The sample shall be those routes that provide service to predominantly minority areas and non-minority areas. Transit providers should bear in mind that the greater the sample size, the more reliable the results.
 - (2) Transit providers shall assess the performance of each minority and non-minority route in the sample for each of the transit provider's service standards and service policies.
 - (3) Transit providers shall compare the transit service observed in the assessment to the established service policies and standards.
 - (4) For cases in which observed service for minority routes exceeds or fails to meet the standard or policy, depending on the metric measured, the transit provider shall analyze why the discrepancies exist, and take steps to reduce the potential effects.
 - (5) Transit providers shall evaluate their transit amenities policy to ensure amenities are being distributed throughout the transit system in an equitable manner.
6. REQUIREMENT TO EVALUATE SERVICE AND FARE CHANGES. This requirement applies only to transit providers with a total annual operating budget of \$10 million or more or that otherwise meet the threshold in the Introduction section of this chapter. These transit

providers are required to prepare and submit service and fare equity analyses as described below.

To further ensure compliance with 49 CFR Section 21.5(b)(2), 49 CFR Section 21.5(b)(7), and Appendix C to 49 CFR part 21, all providers of public transportation to which this section applies shall evaluate, at the planning and programming stages, any and all service changes that exceed the transit provider's major service change threshold, as well as any fare changes, to determine whether those changes will have a discriminatory impact based on race, color, or national origin.

In addition, recognizing the inherent overlap of environmental justice principles in this area, transit providers shall evaluate these proposed changes to determine whether the changes have a disproportionately high and adverse impact on minority populations and/or low-income populations.

Transit providers shall use tables similar to those provided in Appendix K to depict the results of the service and/or fare equity analysis. ***Transit providers should refer to the checklist and examples in the Appendix for additional technical assistance with service and fare equity analyses.***

Upon completion of a service or fare equity analysis, the transit provider shall brief its board of directors, top executive, or appropriate governing entity regarding the service or fare change(s) and the equity impacts of the service or fare change(s). The transit provider shall submit documentation such as a board resolution, copy of meeting minutes, or similar documentation with the Title VI Program as evidence of the board's consideration and awareness of the analysis.

- a. Major Service Change Policy. A major service change is defined as a numerical standard, as expressed by distribution of routes as measured against the existing level of service, or the number or concentration of people affected. The major service change policy shall apply to both service reductions and service increases.
- b. Fare Changes. The fare equity analysis requirement applies to all fare changes regardless of the amount of increase or decrease.

The transit provider shall engage the public in the decision-making process to develop the major service change policy and fare change policy. Additionally, the transit provider shall develop a policy for measuring disparate impact. The impact may be defined as a statistical percentage.

- c. Impacts. Transit providers shall evaluate the impacts of their service and/or fare changes using the following method:
 - (1) Assess the effects of the proposed fare or service change on minority and low-income populations.

- (a) Major Service Change Policy. The transit provider shall describe in its service equity analysis its policy for a major service change, and why the service change proposal(s) qualifies as major.
 - (b) Public Engagement. The transit provider shall describe how the public was engaged in the development of the major service change policy and the disparate impact policy.
 - (c) Data Analysis. The transit provider shall describe the dataset(s) the transit provider will use in the service change analysis. This section shall also describe what techniques and/or technologies were used to collect the data.
 - (d) GIS or Alternative Maps. For proposed major service changes that would reduce or increase the frequency of service or eliminate or add routes, the transit provider shall prepare maps of the routes that would be reduced, increased, eliminated, or added, overlaid on a demographic map of the service area, to highlight those Census tracts or TAZs where the total minority and/or low-income population is equal to or greater than the total percent minority and/or low-income populations of the service area average.
 - (e) Service Changes. For proposed changes that would reduce or expand hours and days of service, the transit provider shall analyze any available information generated from ridership surveys or other available data to compare the pre and post level service changes associated with the service change (e.g. service frequency, headways, service hours, addition of routes, span of service, elimination of routes, elimination of trips, or other planning change features). In addition to pre and post level changes, the analysis shall compare the travel time, distance, and cost of the current route with the travel time, distance, and cost of the alternatives. Any service change analysis shall be expressed as a percent change in tabular format.
 - (f) Fare changes. For proposed changes that would increase or decrease fares on the entire system, or on certain transit modes, or by fare payment type or fare media, the transit provider shall analyze any available information generated from ridership surveys indicating whether minority and/or low-income riders are disproportionately more likely to use the mode of service, payment type, or payment media that would be subject to the fare increase. The analysis shall be depicted in tabular format and compare the existing cost, the percent change, and the usage by minority and low-income groups.
- (2) Assess the alternatives available for people affected by the fare increase or major service change.
- (a) Service changes. For proposed service changes, the transit provider shall analyze what, if any, alternate modes of transit or alternate transit routes are available for people affected by the service expansions or reductions. The transit provider shall use its disparate impact policy to determine whether this percent change will

result in a disparate impact on minority populations and/or an adverse effect on low-income populations during the time in which the service change is conducted.

- (b) Fare changes. For proposed fare changes, the transit provider shall analyze what, if any, alternative transit modes, fare payment types, or fare media are available for people affected by the fare change. This analysis shall compare fares that would be paid under the proposed change with fares that would be paid through available alternatives.
- (3) Title VI Disparate Impact Analysis. Determine which, if any, of the proposals under consideration would have the effect of disproportionately excluding or adversely affecting people on the basis of race, color, or national origin. Transit providers can implement a fare increase or major service reduction that would have the effect of disproportionately excluding or adversely affecting people on the basis of race, color, or national origin if and only if the option meets two tests: (1) there is a substantial legitimate justification for adopting one of those proposals and (2) the alternatives would have more severe adverse effects than the preferred alternative. A substantial legitimate justification requires the transit provider to demonstrate that the fare increase or service change was necessary to meet a legitimate, important goal that is integral to the transit provider's mission. A transit provider must consider whether there is a less discriminatory alternative that would still accomplish the transit provider's program objective.
- (4) Environmental Justice Disproportionately High and Adverse Effect Analysis. Determine which, if any, of the proposals under consideration would have a disproportionately high and adverse effect on minority and low-income riders. In making determinations regarding disproportionately high and adverse effects on minority and low-income populations, consider mitigation and enhancement measures that will be taken, as well as any offsetting benefits to the affected minority and low-income populations. For example, an offsetting benefit in the case of a new multi-transit system fare card, for which the transit provider will charge a nominal fee, might be to provide a specific number of the cards to human service agencies that serve minority or low-income populations for distribution to their clients free of charge. Transit providers can implement a fare increase or major service reduction that would have disproportionately high and adverse effects on minority and low-income populations if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is "practicable," the transit provider should take into account the social, economic (including costs), and environmental effects of avoiding or mitigating the adverse effects.
- d. Service and Fare Equity Analysis for New Starts. Transit providers who have implemented or will implement a New Start, Small Start, or other new fixed guideway capital project with financial assistance under 49 U.S.C. Section 5309 shall conduct a service and fare equity analysis prior to receipt of a Full Funding Grant Agreement for a New Start; a Project Construction Grant Agreement for a Small Start; or a grant for construction or capital acquisition of equipment or facilities for new fixed guideway

capital projects that are not New Starts or Small Starts. The analysis is critical at this point of the project to evaluate whether any planned changes in services or fares would have a disparate impact on minority populations. If the entity building the project is different from the transit provider that will operate the project, the transit provider shall conduct the analysis. The service equity analysis shall include a comparative analysis of service levels pre and post the New Starts/Small Starts/new fixed guideway capital project. The analysis shall be depicted in tabular format and shall determine whether the service changes proposed (including both reductions and increases) due to the capital project will result in a disparate impact on minority populations. The transit provider shall also conduct a fare equity analysis for any and all fares that will change as a result of the capital project.

In addition, immediately prior to the beginning of revenue operations of the project and any concurrent changes in existing service, the transit provider that will operate the project shall update the service and fare equity analysis, even if the proposed changes to existing service do not rise to the level of “major change” as defined by the transit provider.

CHAPTER V

REQUIREMENTS FOR STATES

1. **INTRODUCTION.** This chapter provides requirements for States. States that receive financial assistance from FTA are also responsible for following:
 - a. The general requirements in Chapter III of this Circular; and
 - b. The requirements in Chapter IV of this Circular if the State is a provider of public transportation.
2. **REQUIREMENT TO PREPARE AND SUBMIT A TITLE VI PROGRAM.** Title 49 CFR Section 21.9(b) requires recipients to submit reports to FTA in order for FTA to ascertain whether the recipient is in compliance with the DOT Title VI regulations, and recipients must have available “racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.” As stated in Chapter III of this Circular, FTA requires that all direct and primary recipients document their compliance by submitting a Title VI Program to their FTA regional civil rights officer once every three years, or as otherwise directed by FTA.

For all recipients (including subrecipients), the Title VI Program must be approved by the recipient’s board of directors or appropriate governing entity prior to submission to FTA. For State DOTs, the appropriate governing entity is the State’s Secretary of Transportation. States shall submit a copy of the appropriate documentation demonstrating that the State’s Secretary of Transportation has approved the Title VI Program. FTA will review and grant approval or conditional approval for Title VI Programs. Subrecipients, including MPOs that receive planning money from the State, shall submit Title VI Programs to the State as the primary recipient from whom they receive funding, in order to assist the State in its compliance efforts. See Appendix L for clarification of reporting responsibilities by recipient category.

States shall include the following information in their Title VI Program:

- a. All general requirements set out in Chapter III of this Circular;
- b. All requirements for transit providers set out in Chapter IV of this Circular if the State is a provider of public transportation services;
- c. A demographic profile of the State that includes identification of the locations of minority populations as covered by Title VI;
- d. Demographic maps that overlay the percent minority and non-minority populations and charts that analyze the impacts of the distribution of State and Federal funds for public transportation purposes, including Federal funds managed by the State as a designated recipient;

- e. A description of the statewide transportation planning process that identifies the needs of minority populations;
 - f. An analytical process that identifies the State's transportation system investments for different socioeconomic groups, identifies any disparate impacts on minority populations, and responds to the analyses produced;
 - g. A description of the procedures the State uses to pass-through FTA financial assistance to subrecipients in a non-discriminatory manner; and
 - h. A description of the procedures the State uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations.
3. PLANNING. All States are responsible for conducting planning activities that comply with 49 U.S.C. section 5304, Statewide Transportation Planning, as well as subpart B of 23 CFR part 450, Statewide Transportation Planning and Programming. Since States "pass through" planning funds to the MPO, the State as primary recipient is responsible for collecting Title VI programs from MPOs and submitting those Programs to FTA when the State submits its Title VI program. The State is thus responsible for monitoring the Title VI compliance of the MPO for those activities for which the MPO is a subrecipient.

Self-certification of compliance with all applicable Federal requirements is required of all States, which is reviewed by FTA and the Federal Highway Administration (FHWA) in the joint Statewide Planning Finding, rendered at the time of update or amendment of the Statewide Improvement Program (STIP). The joint FTA/FHWA planning certification review includes a review of Title VI compliance. The self-certification and joint FTA/FHWA "Finding" include a review of Title VI compliance. As part of that evaluation, FTA/FHWA review State-developed documentation to determine whether States have:

- a. Analyzed regional demographic data to identify minority populations within the non-urbanized areas of the State.
 - b. Where necessary, provided local service providers and agencies with data to assist them in identifying minority populations in their service area.
 - c. Ensured that members of minority communities are provided with full opportunities to engage in the Statewide Transportation Planning process. This includes actions to eliminate language, mobility, temporal, and other obstacles to allow these populations to participate fully in the process.
 - d. Monitored the activities of subrecipients with regard to Title VI compliance, where the State passes funds through to subrecipients.
4. REQUIREMENTS FOR PROGRAM ADMINISTRATION. In order to comply with 49 CFR Section 21.5, the general nondiscrimination provision, States shall document that they pass through FTA funds under the Elderly Individuals and Individuals with Disabilities (Section 5310) program, the Formula Grants for Other Than Urbanized Areas (Section 5311)

program, and any other FTA funds, to subrecipients without regard to race, color, or national origin, and assure that minority populations are not being denied the benefits of or excluded from participation in these programs.

States shall prepare and maintain, but not report unless requested by FTA, the following information:

- a. A record of funding requests received from private non-profit organizations, State or local governmental authorities, and Indian tribes. The record shall identify those applicants that would use grant program funds to provide assistance to predominantly minority populations. The record shall also indicate which applications were rejected and accepted for funding.
- b. A description of how the agency develops its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. This description shall emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority populations, including Native American tribes, where present.
- c. A description of the agency's criteria for selecting entities to participate in an FTA grant program.

CHAPTER VI

REQUIREMENTS FOR METROPOLITAN TRANSPORTATION PLANNING ORGANIZATIONS

1. **INTRODUCTION.** This chapter describes the procedures that metropolitan planning organizations (MPOs) shall follow in order to comply with the DOT's Title VI regulations. MPOs are also responsible for following the general requirements in Chapter III of this circular.

An MPO may serve many different roles depending on its "recipient" status, i.e., designated recipient, direct recipient, primary recipient, or subrecipient. This chapter describes the many roles an MPO may fill, and provides guidance on Title VI compliance for each of those roles.

2. **REQUIREMENT TO PREPARE AND SUBMIT A TITLE VI PROGRAM.** Title 49 CFR Section 21.9(b) requires recipients to submit reports to FTA in order for FTA to ascertain whether the recipient is in compliance with the DOT Title VI regulations, and recipients must have available "racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance." As stated in Chapter III of this Circular, FTA requires that all direct and primary recipients document their compliance by submitting a Title VI Program to their FTA regional civil rights officer once every three years, or as otherwise directed by FTA.

For all recipients (including subrecipients), the Title VI Program must be approved by the recipient's board of directors or appropriate governing entity prior to submission to FTA. FTA will review and grant approval or conditional approval for Title VI Programs. Subrecipients, including MPOs that receive Federal planning money from the State, shall submit Title VI Programs to the State as the primary recipient from whom they receive funding, in order to assist the State in its compliance efforts. See Appendix L for clarification of reporting responsibilities by recipient category.

MPOs shall include the following information in their Title VI Programs.

- a. In its regional transportation planning capacity, the MPO shall submit to the State as the primary recipient, and also to FTA:
 - (1) The information required under section 4 of chapter III (General Requirements) of this Circular;
 - (2) A demographic profile of the metropolitan area that includes identification of the locations of minority populations as covered by Title VI;
 - (3) Demographic maps that overlay the percent minority and non-minority populations and charts that analyze the impacts of the distribution of State and Federal funds for public transportation purposes, including Federal funds managed by the MPO as a designated recipient;

- (4) A description of the procedures by which the mobility needs of minority populations are identified and considered within the planning process; and
 - (5) A description of the analytical process(es) used by the MPO to identify how transportation system investments proposed in the MPO's metropolitan transportation plan (MTP) and transportation improvement program (TIP) serve different minority populations, identifies any disparate impacts of investment proposed in the MTP and TIP on minority populations, and responds to results of the analyses produced.
- b. In its capacity as a direct recipient, the MPO shall submit to FTA:
- (1) The information required under section 2a of this chapter; and
 - (2) If the MPO is a provider of public transportation service, the information required under section 2 of chapter IV (Requirements and Guidelines for Transit Providers). The reporting requirements that the MPO must follow for the provision of public transportation service will be based on the operating budget for the public transportation service only, and not on the operating budget of the MPO as a whole.
- c. In its capacity as a primary recipient, the MPO shall submit to FTA:
- (1) The information required under section 2a of this chapter;
 - (2) A description of the procedures the MPO uses to pass-through FTA financial assistance to subrecipients in a non-discriminatory manner; and
 - (3) A description of the procedures the MPO uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations.

See Appendix L for clarification of reporting responsibilities by recipient category.

3. **PLANNING.** All MPOs are responsible for conducting planning activities that comply with 49 U.S.C. Section 5303, Metropolitan Transportation Planning, as well as subpart C of 23 CFR part 450, Metropolitan Transportation Planning and Programming, for a specified metropolitan planning area. Since States "pass through" planning funds to the MPO, MPOs are subrecipients of the State and must submit Title VI compliance reports for planning activities to the State in order to assist the State in demonstrating compliance with Title VI. The State is thus responsible for monitoring the Title VI compliance of the MPO for those activities for which the MPO is a subrecipient. If the MPO passes planning funds through to one or more subrecipients, the MPO is responsible for ensuring those subrecipients comply with Title VI.

All MPOs are required to self-certify compliance with all applicable Federal requirements. Planning certification reviews conducted jointly by FTA and FHWA of the metropolitan transportation planning processes of transportation management areas include a review of Title VI compliance. As part of the planning certification review, FTA/FHWA review MPO-developed documentation to determine whether MPOs have:

- a. Analyzed regional demographic data to identify minority populations within the region.
 - b. Where necessary, provided member agencies with regional data to assist them in identifying minority populations in their service area.
 - c. Ensured that members of minority communities are provided with full opportunities to engage in the transportation planning process. This includes actions to eliminate language, mobility, temporal, and other obstacles to allow these populations to participate fully in the process.
 - d. Monitored the activities of subrecipients with regard to Title VI compliance, where the MPO passes funds through to subrecipients.
4. DESIGNATED RECIPIENT. MPOs sometimes serve the role of designated recipient. FTA apportions funds each year to the MPO as designated recipient, and the MPO, in turn, suballocates funds (without receiving the actual funds from FTA) to various entities and/or retains funds for projects or activities, or to pass through to subrecipients. If the MPO as designated recipient simply suballocates the funds to other entities, and those entities apply to FTA directly for the funds, the MPO and each entity to which it suballocates funds enter into a “supplemental agreement.” Under a supplemental agreement, the direct recipient is responsible for demonstrating compliance with Federal law, including Title VI, and the MPO is not in any manner subject to or responsible for the direct recipient’s compliance with the DOT Title VI regulations.

However, the MPO as designated recipient is responsible for suballocating FTA funds without regard to race, color, or national origin. Suballocations must be based on project implementation priorities in the MTP, which includes a robust public participation process. Each MPO must have a locally developed process that establishes criteria for making determinations of funding priorities without regard to race, color, or national origin.

5. DIRECT RECIPIENT. An MPO that receives funding directly from FTA for its own activities is a direct recipient, and therefore must develop a Title VI Program and report Title VI compliance to FTA for those activities for which it is a direct recipient. As a direct recipient, an MPO may also pass through funds to subrecipients. When an MPO receives funds directly from FTA and then passes funds through to subrecipients, the MPO becomes a primary recipient under the DOT Title VI regulations and is responsible for monitoring the compliance of its subrecipients with Title VI.
6. REQUIREMENTS FOR PROGRAM ADMINISTRATION. In order to comply with 49 CFR Section 21.5, the general nondiscrimination provision, MPOs shall document that they pass through FTA funds under any FTA programs (e.g., 49 U.S.C. 5316 (JARC) or 49 U.S.C. 5317 (New Freedom)), to subrecipients without regard to race, color, or national origin, and assure that minority populations are not being denied the benefits of or excluded from participation in these programs.

MPOs shall prepare and maintain, but not report unless requested by FTA, the following information:

- a. A record of funding requests received from private non-profit organizations, State or local governmental authorities, and Indian tribes. The record shall identify those applicants that would use grant program funds to provide assistance to predominantly minority populations. The record shall also indicate which applications were rejected and accepted for funding.
- b. A description of how the MPO develops its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. This description shall emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority populations, including Native American tribes, where present.
- c. A description of the MPO's criteria for selecting entities to participate in an FTA grant program.

CHAPTER VII

EFFECTING COMPLIANCE WITH DOT TITLE VI REGULATIONS

1. **INTRODUCTION.** This chapter outlines procedures when FTA determines that a recipient is noncompliant with the DOT Title VI regulations. Title 49 CFR Section 21.13(a) states the following:

If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to: (1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the [Civil Rights] Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

2. **PROCEDURES FOR SECURING VOLUNTARY COMPLIANCE.** FTA may determine a recipient is noncompliant with DOT's Title VI regulations following a compliance review or after FTA completes an investigation in response to a Title VI complaint. Prior to taking measures to effect compliance, FTA will attempt to resolve noncompliance informally and by using the following procedures.
 - a. **Notification to the Recipient.** When FTA has determined that a recipient is noncompliant with DOT's Title VI regulations, it will transmit a letter of finding to the recipient that describes FTA's determination and requests that the recipient voluntarily take corrective action(s) that FTA deems necessary and appropriate.
 - b. **Recipient Response.** Within 30 days of receipt of FTA's letter of finding, the recipient must submit a remedial action plan, including a list of planned corrective actions and, if necessary, sufficient reasons and justification for FTA to reconsider any of its findings or recommendations. The recipient's plan shall:
 - (1) List all corrective action(s) accepted by the recipient.
 - (2) Describe how the corrective actions will be implemented, and provide a timeline for achieving compliance.
 - (3) Include a written assurance that the recipient will implement the accepted corrective action(s) and has the capability to implement the accepted corrective action(s) in the manner discussed in the plan.
 - c. **Request for Reconsideration.** A recipient may request that FTA reconsider its finding. A request for reconsideration shall provide a justification for the request to reconsider, including any evidence or information supporting such a request, and include a written

assurance that on the basis of the requested reconsideration, the agency is or otherwise will come into compliance with DOT's Title VI regulations. This request shall be submitted within 30 days of FTA's notification to the recipient.

- d. FTA Review of the Recipient Response. Within 30 days after receiving the recipient's response, FTA will review the submitted remedial action plan and any request for reconsideration and decide what remedial action(s) are necessary and appropriate to bring the recipient into compliance. If necessary, before making a decision, FTA may conduct a site visit to substantiate information or statements contained in the recipient's response. FTA will issue a decision, including its findings and recommendations, as part of a final remedial action plan. The final remedial action plan will be sent to the recipient for review and consent. Consent means the recipient agrees to initiate action(s) specified in the plan.
 - e. Conditions for Declining the Remedial Action Plan. The recipient has 15 days from the date of notification by FTA to agree or disagree with the final remedial action plan. If a recipient disagrees with this plan, it must submit a written statement of its reasons for not agreeing to the remedial actions contained in the plan. Under those circumstances, the recipient will be considered in noncompliance, and FTA will schedule a meeting with the recipient within 30 days to resolve the disagreements.
3. PROCEEDINGS. When FTA and the recipient cannot agree on a final remedial action plan and the recipient continues to be in noncompliance with DOT Title VI regulations, in accordance with 49 CFR Section 21.13, FTA may suspend, terminate, or refuse to grant or continue Federal financial assistance to the recipient. This will generally occur when all means of informal resolution have failed to get the recipient to comply with the law. FTA may refer a matter to DOJ with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States or any assurance or other contractual undertaking.
- a. Termination of or refusal to grant or to continue Federal financial assistance. In accordance with 49 CFR Section 21.13(c), FTA will not suspend, terminate, or refuse to grant or continue Federal financial assistance until:
 - (1) FTA has notified the applicant or recipient of its failure to comply and has determined that compliance cannot be secured by voluntary means;
 - (2) FTA has found, after opportunity for a hearing, that the applicant or recipient has failed to comply with Title VI regulations;
 - (3) The action has been approved by the Secretary of Transportation; and
 - (4) 30 days have passed after FTA has filed with the Transportation and Infrastructure Committee of the House of Representatives; and the Banking, Housing and Urban Affairs Committee of the Senate, a full written report of the circumstances and the grounds for such action.

- b. Other means authorized by law. In accordance with 49 CFR Section 21.13(d), FTA will not refer the matter to DOJ or take any other action to effect compliance until:
- (1) FTA has determined that compliance cannot be secured by voluntary means;
 - (2) FTA has notified the recipient of its failure to comply and the action FTA intends to take; and
 - (3) At least 10 days have passed from the mailing of such notice to the recipient. During this 10 day period, FTA will make additional efforts to persuade the recipient to comply with the regulation and to take such corrective action as may be appropriate.
- c. Hearings. Whenever FTA has determined that it is appropriate to terminate or refuse to grant or continue Federal financial assistance, prior to such action FTA will provide the applicant or recipient with an opportunity for a hearing, in accordance with 49 CFR Section 21.15. FTA will provide reasonable notice of the hearing by registered or certified mail, return receipt requested, to the applicant or recipient. The notice will advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action. The notice will either:
- (1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the FTA Administrator that the matter be scheduled for hearing; or
 - (2) Advise the applicant or recipient that the matter in question has been scheduled for a hearing at a stated place and time. The time and place will be reasonable and subject to change for cause.
- The complainant, if any, shall be advised of the time and place of the hearing.
- d. Waiver of Hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under Section 602 of the Civil Rights Act of 1964 and 49 CFR Section 21.13(c), and consent to FTA making a decision on the basis of the available information.
- e. Time and Location of Hearing. Hearings will be held at the FTA Headquarters office in Washington, DC, at a time fixed by the FTA Administrator unless the convenience of the applicant or recipient or of FTA requires that another place be selected.
- f. Hearing officer. Hearings will be held before the Secretary of Transportation or before a hearing examiner appointed in accordance with Section 3105 of title 5, United States Code.

- g. Right to counsel. In all proceedings carried out under the authority of 49 CFR Section 21.15, the applicant or recipient and FTA shall have the right to be represented by counsel.
 - h. Procedures, evidence, and record. Pursuant to 49 CFR 21.15(d), the hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 554 through 557 of title 5, United States Code, and in accordance with such rules of procedure as are proper relating to the conduct of the hearing, giving of notices to the applicant or recipient, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. FTA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.
4. JUDICIAL REVIEW. When FTA issues a final order after a hearing on the record, such final action is subject to judicial review.

CHAPTER VIII

COMPLIANCE REVIEWS

1. INTRODUCTION. This chapter describes the review process FTA will follow when determining whether a recipient is compliant or noncompliant with DOT Title VI regulations, subsequent to the award of Federal financial assistance, and describes the information and actions expected from recipients that are subject to these reviews.
2. COMPLIANCE PROCEDURES. Title 49 CFR Section 21.11(a) requires FTA to conduct compliance reviews of its recipients. These reviews are separate from and may be in addition to a Triennial Review, State Management Review, or Planning Certification Review and will be conducted either as a desk audit or an on-site visit. The review may cover all or a portion of the recipient's compliance with Title VI. Such reviews are conducted at the discretion of FTA, and the scope of a review is defined on a case-by-case basis.
3. CRITERIA. The following list of factors will contribute to the selection of recipients for compliance reviews:
 - a. Lawsuits, complaints, or investigations conducted by organizations other than FTA alleging the recipient is noncompliant with DOT Title VI regulations;
 - b. Alleged noncompliance brought to the attention of FTA by other Federal, State, or local agencies;
 - c. A recipient submitting an incomplete or insufficient Title VI Program; and
 - d. Title VI findings or recommendations on prior Triennial, State Management, or Planning Certification Reviews that have not been sufficiently resolved or implemented, or repeat findings in any FTA review concerning Title VI.
4. SCOPE. In general, compliance reviews will assess the following information:
 - a. The recipient's documented efforts to meet the requirements under Chapter III and the program-specific sections of this Circular.
 - b. Other information that is necessary and appropriate to make a determination that the recipient is in compliance with Title VI.
5. DETERMINATIONS. After reviewing the recipient's or subrecipient's efforts to meet the general reporting and program-specific reporting sections of the Circular, FTA will issue a compliance report that includes findings of no deficiency, deficiency, or noncompliance.
 - a. Findings of no deficiency are determinations that no deficiency was found in review of the recipient's Title VI Program or after the results of an investigation or compliance review. Agencies are not expected to take any corrective action in response to findings of no deficiency except with regard to advisory comments. Advisory comments are recommendations that the recipient undertake activities in a manner more consistent with the guidance provided in the pertaining section of the Circular. FTA expects recipients to

notify FTA as to whether the recipient will take action in response to the advisory comments.

- b. Findings of deficiency are determinations that the recipient has not complied with one or more of the pertinent provisions of this circular. Recipients are expected to take corrective actions in response to findings of deficiency and the compliance review will provide specific instructions to the recipient on how the corrective action shall be taken.
 - c. Findings of noncompliance are determinations that the recipient has engaged in activities that have had the purpose or effect of denying persons the benefits of, excluding them from participation in, or subjecting persons to discrimination on the basis of race, color, or national origin under the recipient's program or activity; upon such determination, FTA will consider the recipient to be noncompliant with Title VI. If noncompliance cannot be corrected informally, the recipient may be subject to remedial action or proceedings under Chapter IX of this circular and the DOT Title VI regulations at 49 CFR Sections 21.13, 21.15, and 21.17.
6. RESULTS OF COMPLIANCE REVIEW ACTIVITIES. FTA will summarize the results of the review in a draft compliance report, which will include findings of no deficiency, findings of deficiency, and advisory comments, as appropriate. If findings of deficiency remain in the final compliance report, the recipient will be required to take corrective action, develop a timeline for compliance, and report on its progress to FTA on a quarterly basis. Once FTA determines that the recipient has satisfactorily responded to the review's findings, it will inform the recipient that the review process has ended and release it from further progress reporting in response to the review. FTA may follow up on a compliance review with additional reviews as necessary.
 7. EFFECTING COMPLIANCE. Consistent with the provisions of 49 CFR Sections 21.13, 21.15, and 21.17, and as explained in Chapter VII of this Circular, if a recipient fails to take appropriate corrective action in response to the findings of deficiency in the report, FTA may initiate proceedings that could result in action taken by the U.S. DOT to suspend, terminate, refuse to grant or continue Federal financial assistance to a recipient, or may make a referral to the Department of Justice (DOJ) with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States or any assurance or other contractual undertaking.

CHAPTER IX

COMPLAINTS

1. INTRODUCTION. This chapter describes how FTA will respond to complaints filed with FTA alleging that an FTA recipient has violated the DOT Title VI regulations. FTA will promptly investigate all complaints in accordance with 49 CFR Section 21.11. FTA may delay its investigation if the complainant and the party complained against agree to postpone the investigation pending settlement negotiations.
2. RIGHT TO FILE A COMPLAINT. Any person who believes himself, herself, or any specific class of persons to be subjected to discrimination on the basis of race, color, or national origin may by himself or by a representative file a written complaint with FTA. A complaint must be filed no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by FTA.
3. COMPLAINT ACCEPTANCE. Once a complaint has been accepted by FTA for investigation, FTA will notify the recipient that it is the subject of a Title VI complaint and ask the recipient to respond in writing to the complainant's allegations. If the complainant agrees to release the complaint to the recipient, FTA will provide the agency with the complaint, which may have personal information redacted at the request of the complainant. If the complainant does not agree to release the complaint to the recipient, FTA may choose to close the complaint.
4. INVESTIGATIONS. FTA will make a prompt investigation whenever a compliance review, report, complaint or any other information indicates a possible failure to comply with DOT's Title VI regulations. The investigation will include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with DOT's Title VI regulations occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with DOT's Title VI regulations.
5. LETTERS OF FINDING. After FTA has concluded the investigation, FTA's Office of Civil Rights will transmit to the complainant and the recipient one of the following letters based on its findings:
 - a. A letter of finding indicating FTA did not find a violation of DOT's Title VI regulations. This letter will include an explanation of why FTA did not find a violation. If applicable, the letter may include a list of procedural violations or concerns, which will put the recipient on notice that certain practices are questionable and that without corrective steps, a future violation finding is possible.
 - b. A letter of finding indicating the recipient is in violation of DOT's Title VI regulations. The letter will include each violation referenced to the applicable regulation, a brief description of proposed remedies, notice of the time limit on coming into compliance, the consequences of failure to achieve voluntary compliance, and an offer of assistance to the recipient in devising a remedial plan for compliance, if appropriate.

6. ADMINISTRATIVE CLOSURE. FTA will administratively close Title VI complaints before a resolution is reached where 1) the complainant decides to withdraw the case; 2) the complainant is not responsive to FTA's requests for information or to sign a consent release form; 3) FTA has conducted or plans to conduct a related compliance review of the agency against which the complaint is lodged; 4) litigation has been filed raising similar allegations involved in the complaint; 5) the complaint was not filed within 180 days of the alleged discrimination; 6) the complaint does not indicate a violation of 49 CFR part 21; 7) the complaint is so weak, insubstantial, or lacking in detail that FTA determines it is without merit, or so replete with incoherent or unreadable statements that it, as a whole, cannot be considered to be grounded in fact; 8) the complaint has been investigated by another agency and the resolution of the complaint meets DOT regulatory standards; 9) the complaint allegations are foreclosed by previous decisions of the Federal courts, the Secretary, DOT policy determinations, or the U.S. DOT's Office of Civil Rights; 10) FTA obtains credible information that the allegations raised by the complaint have been resolved; 11) the complaint is a continuation of a pattern of previously filed complaints involving the same or similar allegations against the same recipient or other recipients that have been found factually or legally insubstantial by FTA; 12) the same complaint allegations have been filed with another Federal, state, or local agency, and FTA anticipates that the recipient will provide the complainant with a comparable resolution process under comparable legal standards; or 13) the death of the complainant or injured party makes it impossible to investigate the allegations fully.

INTRODUCTION TO TECHNICAL APPENDICES

The following Appendices A through K provide sample checklists, templates, standards, policies, tables and maps for FTA recipients to consult when preparing their Title VI Programs. FTA is issuing these appendices in order to provide technical assistance and guidance and thereby increase the level of clarity, organization and uniformity across Title VI Programs. The samples are provided as guidance; recipients may revise as appropriate for their purposes.

APPENDIX A**TITLE VI PROGRAM CHECKLIST**

Every three years, on a date determined by FTA, each recipient is required to submit the following information to the Federal Transit Administration (FTA) as part of their Title VI Program. Subrecipients shall submit the information below to their primary recipient (the entity from whom the subrecipient receives funds directly).

General Requirements (Chapter III)

All recipients must submit:

- ☐ Title VI Notice to the Public, including a list of locations where the notice is posted
- ☐ Title VI Complaint Procedures (i.e., instructions to the public regarding how to file a Title VI discrimination complaint)
- ☐ Title VI Complaint Form
- ☐ List of transit-related Title VI investigations, complaints and lawsuits
- ☐ Public Involvement Plan, including information about outreach methods to engage minority and limited English proficient populations, as well as a summary of outreach efforts made in the past three (3) years
- ☐ Limited English Proficiency Plan for providing language assistance to persons with limited English proficiency (LEP), based on the DOT LEP Guidance
- ☐ A table depicting the membership of the agency's non-elected decision-making bodies, broken down by race, and a description of the process the agency uses to ensure that boards are representative of the demographics of communities they serve
- ☐ Primary recipients shall include copies of subrecipient Title VI Program(s)
- ☐ Primary recipients shall include a description of how the agency monitors its subrecipients for compliance with Title VI
- ☐ A copy of board meeting minutes, resolution, or other appropriate documentation showing the governing entity reviewed and approved the Title VI Program
- ☐ Additional information as specified in chapters IV, V, and VI, depending on whether the recipient is a transit provider, a State, or a planning entity (see below)

Requirements of Transit Providers – Chapter IV

All Transit Providers Regardless of Total Operating Budget must submit:

- ☐ All requirements set out in Chapter III (General Requirements)
- ☐ Service standards
 - o Vehicle load
 - o Vehicle headway
 - o On time performance
 - o Service availability
- ☐ Service policies
 - o Vehicle assignment
 - o Transit Amenities

Transit Providers with Total Operating Budget of \$10 Million or More must submit:

- ☐ Demographic analysis of their passengers, including maps and charts
- ☐ Data regarding customer demographics and travel patterns, collected either from surveys
- ☐ Results of their monitoring program and report, including evidence that the board or other governing entity considered and was aware of the results
- ☐ A description of the public engagement process for setting the “major service change policy” and disparate impact policy
- ☐ Results of service and/or fare equity analyses conducted since the last Title VI Program submission, including evidence that the board or other governing entity considered and was aware of the results of the analysis

Requirements of States (Chapter V)

States must submit:

- ☐ All requirements set out in Chapter III (General Requirements)
- ☐ The requirements set out in Chapter IV (Transit Provider) if the State is a provider of public transportation
- ☐ Demographic profile of the State
- ☐ Analysis of the impacts of the distribution of State and Federal funds for public transportation projects, including maps
- ☐ Description of the procedures the agency uses to ensure an equitable, nondiscriminatory Statewide planning process
- ☐ Analysis of the State’s transportation system investments that identifies and addresses any disparate impacts
- ☐ Description of the procedures the agency uses to ensure nondiscriminatory pass-through of FTA financial assistance
- ☐ Description of the procedures the agency uses to provide assistance to potential subrecipients in a nondiscriminatory manner

Requirements of MPOs (Chapter VI)

Metropolitan Planning Organizations and other planning entities must submit:

- ☐ All requirements set out in Chapter III (General Requirements)
- ☐ The requirements set out in Chapter IV (Transit Provider) if the MPO is a provider of public transportation
- ☐ Demographic profile of the metropolitan area
- ☐ Analysis of the impacts of the distribution of State and Federal funds for public transportation projects, including maps
- ☐ Description of the procedures the agency uses to ensure an equitable, nondiscriminatory metropolitan planning process
- ☐ Analysis of the MPO’s transportation system investments that identifies and addresses any disparate impacts
- ☐ Description of the procedures the agency uses to ensure nondiscriminatory pass-through of FTA financial assistance
- ☐ Description of the procedures the agency uses to provide assistance to potential subrecipients in a nondiscriminatory manner

APPENDIX B**TITLE VI NOTICE TO THE PUBLIC (GENERAL REQUIREMENT)****Background.**

A Title VI Notice to the Public must be displayed to inform a recipient's customers of their rights under Title VI. Many agencies display their Title VI Notices in transit facilities (e.g., headquarters, transit shelters and stations, etc.), and on transit vehicles (e.g., buses, rail cars, etc.). The Title VI Notice is a vital document. If any of the Limited English Proficient (LEP) populations in the recipient's service area meet the Safe Harbor Threshold (see Chapter III), then the Title VI Notice should be provided in English and in any other language(s) for which the population meets the threshold. At a minimum, this statement in the Notice - "If information is needed in another language, then contact [phone number]" - should be stated in English and in any other language(s) spoken by LEP populations that meet the Safe Harbor threshold.

The sample below is provided for the purposes of guidance only.

SAMPLE Title VI Notification to the Public.

Notifying the Public of Rights Under Title VI

THE CITY OF USA

- The City of USA operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the City of USA.
- For more information on the City of USA's civil rights program, and the procedure to file a complaint, contact 800-555-1212, (TTY 800-555-1111); email title.vi.complaint@city.ca.us; or visit our administrative office at 1234 Center Street, City of USA, State 11111. For more information, visit www.city.ca.us
- If information is needed in another language, contact 800-555-1212.
 - MAKE SURE THE SENTENCE ABOVE IS ALSO PROVIDED IN ANY LANGUAGE(S) SPOKEN BY LEP POPULATIONS THAT MEET THE SAFE HARBOR THRESHOLD

APPENDIX C

TITLE VI COMPLAINT PROCEDURE (GENERAL REQUIREMENT)

Background.

Recipients' Title VI Programs must include a copy of the agency's Title VI complaint procedure. The Title VI Complaint Procedure is a vital document. If any of the Limited English Proficient (LEP) populations in the recipient's service area meet the Safe Harbor threshold (see Chapter III) the Title VI Complaint Procedure should be provided in English and in any other language(s) spoken by LEP populations that meet the Safe Harbor Threshold. At a minimum, the complaint procedure should include a notice - "If information is needed in another language, then contact [phone number]" - stated in English and in any other language(s) spoken by LEP populations that meet the Safe Harbor threshold.

The sample below is provided for the purposes of guidance only.

SAMPLE Title VI Complaint Procedure.

Any person who believes she or he has been discriminated against on the basis of race, color, or national origin by the City of USA Transit Authority (hereinafter referred to as "the Authority") may file a Title VI complaint by completing and submitting the agency's Title VI Complaint Form. The City of USA Transit Authority investigates complaints received no more than 180 days after the alleged incident. The Authority will process complaints that are complete.

Once the complaint is received, the Authority will review it to determine if our office has jurisdiction. The complainant will receive an acknowledgement letter informing her/him whether the complaint will be investigated by our office.

The Authority has XX days to investigate the complaint. If more information is needed to resolve the case, the Authority may contact the complainant. The complainant has XX business days from the date of the letter to send requested information to the investigator assigned to the case. If the investigator is not contacted by the complainant or does not receive the additional information within XX business days, the Authority can administratively close the case. A case can be administratively closed also if the complainant no longer wishes to pursue their case.

After the investigator reviews the complaint, she/he will issue one of two letters to the complainant: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed. An LOF summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member, or other action will occur. If the complainant wishes to appeal the decision, she/he has XX days after the date of the letter or the LOF to do so.

A person may also file a complaint directly with the Federal Transit Administration, at FTA Office of Civil Rights, 1200 New Jersey Ave., SE, Washington, DC 20590.

APPENDIX D**SAMPLE TITLE VI COMPLAINT FORM (GENERAL REQUIREMENT)****Background.**

Recipients must create and make available a Title VI Complaint Form for use by customers who wish to file a Title VI complaint. A recipient's Title VI Complaint Form should specify the three classes protected by Title VI – race, color, and national origin – and allow the complainant to select one or more of those protected classes as the basis/bases for discrimination. The Title VI Complaint Form is a vital document. If any of the Limited English Proficient (LEP) populations in your service area meet the Safe Harbor threshold (see Chapter III), then the procedure should be provided in English *and* in any other language(s) spoken by LEP populations that meet the Safe Harbor Threshold.

The sample below is provided for the purposes of guidance only.

Section I:				
Name:				
Address:				
Telephone (Home):			Telephone (Work):	
Electronic Mail Address:				
Accessible Format Requirements?	Large Print		Audio Tape	
	TDD		Other	
Section II:				
Are you filing this complaint on your own behalf?			Yes*	No
*If you answered "yes" to this question, go to Section III.				
If not, please supply the name and relationship of the person for whom you are complaining:				
Please explain why you have filed for a third party: _____				
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.			Yes	No
Section III:				
I believe the discrimination I experienced was based on (check all that apply):				
[] Race [] Color [] National Origin				
Date of Alleged Discrimination (Month, Day, Year): _____				
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.				

Section IV		
Have you previously filed a Title VI complaint with this agency?	Yes	No
Section V		
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court? ☐ Yes ☐ No If yes, check all that apply: ☐ Federal Agency: _____ ☐ Federal Court _____ ☐ State Agency _____ ☐ State Court _____ ☐ Local Agency _____		
Please provide information about a contact person at the agency/court where the complaint was filed.		
Name:		
Title:		
Agency:		
Address:		
Telephone:		
Section VI		
Name of agency complaint is against:		
Contact person:		
Title:		
Telephone number:		

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date required below

Signature

Date

Please submit this form in person at the address below, or mail this form to:
 City of USA Title VI Coordinator
 1234 Center Street
 City of USA, State 11111

APPENDIX E**LIST OF TRANSIT-RELATED TITLE VI INVESTIGATIONS, COMPLAINTS, AND LAWSUITS (GENERAL REQUIREMENT)****Background.**

All recipients shall prepare and maintain a list of any of the following that allege discrimination on the basis of race, color or national origin:

- Active investigations conducted by FTA and entities other than FTA;
- Lawsuits; and
- Complaints naming the recipient.

This list shall include the date that the transit-related Title VI investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response, or final findings related to the investigation, lawsuit, or complaint. This list shall be included in the Title VI Program submitted to FTA every three years.

The sample below is provided for the purposes of guidance only.

SAMPLE List of Investigations, Lawsuits and Complaints

	Date (Month, Day, Year)	Summary (include basis of complaint: race, color, or national origin)	Status	Action(s) Taken
Investigations				
1.				
2.				
Lawsuits				
1.				
2.				
Complaints				
1.				
2.				

APPENDIX F**TABLE DEPICTING MINORITY REPRESENTATION ON DECISION-MAKING BODIES (GENERAL REQUIREMENT)****Background.**

Recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar decision-making bodies must provide a table depicting the membership of those bodies broken down by race, and a description of efforts made to encourage the participation of minorities on such decision-making bodies.

The sample below is provided for the purposes of guidance only.

SAMPLE Table Depicting Membership of Decision-Making Bodies, Broken Down by Race

Body	Caucasian	Latino	African American	Asian American	Native American
Population	46%	28%	14%	8%	4%
Board of Directors	45%	25%	20%	10%	0%
Citizens Advisory Council	40%	25%	20%	10%	5%
Bicycle Pedestrian Committee	45%	30%	15%	5%	5%

APPENDIX G

**SERVICE STANDARDS (REQUIREMENT FOR ALL TRANSIT PROVIDERS,
REGARDLESS OF TOTAL OPERATING BUDGET)**

Background.

FTA requires all providers of public transportation to develop *quantitative* standards for the following indicators. Individual public transportation providers will set these standards; therefore, these standards will apply to each individual agency rather than across the entire transit industry.

- *Vehicle Load*: Generally expressed as the ratio of passengers to the number of seats on a vehicle, relative to the vehicle's maximum load point. Can specify vehicle loads for peak vs. off-peak times, and for different modes of transit.
- *Vehicle Headway*: The amount of time between two vehicles traveling in the same direction on a given line or combination of lines.
- *On-time performance*: A measure of runs completed as scheduled.
- *Service availability*: A general measure of the distribution of routes within an agency's service area.

The samples below are provided for the purposes of guidance only.

SAMPLE Standards.***SAMPLE Vehicle Load Standards******1. Expressed in writing***

The average of all loads during the peak operating period should not exceed vehicles' achievable capacities, which are 30 passengers for a 15' mini-bus, 51 passengers for low-floor 40-foot buses, 60 passengers for standard 40-foot buses, and 133 passengers on a light rail car.

2. Expressed in tabular format

Vehicle Type	Average Passenger Capacities			
	Seated	Standing	Total	<u>Maximum Load Factor</u>
15' Mini-Bus	28	2	30	1.1
40' Low Floor Bus	39	12	51	1.3
40' Standard Bus	43	17	60	1.4
Light Rail Vehicle	64	69	133	2.1

SAMPLE Vehicle Headway Standards**1. Expressed in writing**

Service operates on regional trunk lines every 15 minutes or better from early morning to late in the evening, seven days a week. On weekdays, 15 minute or better service should begin no later than 6:00 a.m. and continue until 10:30 p.m. On weekends, 15 minute or better service should begin by 8:00 a.m. and continue until 10:30 p.m.

Scheduling involves the consideration of a number of factors including: ridership productivity, transit/pedestrian friendly streets, density of transit dependant population and activities, relationship to the *Regional Transportation Plan*, relationship to major transportation developments, land use connectivity, and transportation demand management.

2. Expressed in tabular format**POLICY HEADWAYS AND PERIODS OF OPERATION**

WEEKDAY	Peak	Base	Evening	Night
Regional Trunk	10	15	15	30
Urban Radial	15	15	30	60
Cross-Town	15	15	30	--
Secondary Radial	30	30	60	--
Feeder	30	30	60	--
Peak Express	30	--	--	--
Employer Feeder	60	--	--	--

* Peak: 7-9 am and 4-6 pm; Base 9am - 4pm; Evening: 6-9:30 pm; Night: 9:30pm-Midnight; "--" means no service is provided during that time period.

SATURDAY	Day	Evening	Night
Regional Trunk	15	30	30
Urban Radial	30	60	--
Cross-Town	15	30	--
Secondary Radial	60	60	--
Feeder	60	60	--
Peak Express	--	--	--
Employer Feeder	--	--	--

* Day 7am - 6pm; Evening: 6-9:30 pm; Night: 9:30pm - Midnight; "--" means no service is provided during that time period.

SUNDAY	Day	Evening	Night
Regional Trunk	30	60	--
Urban Radial	30	60	--
Cross-Town	30	--	--
Secondary Radial	--	--	--
Feeder	--	--	--
Peak Express	--	--	--
Employer Feeder	--	--	--

** Day 7am - 6pm; Evening: 6-9:30 pm; Night: 9:30pm-Midnight; "--" means no service is provided during that time period.*

SAMPLE On-Time Performance Standards

Expressed in writing

- Sample 1:
 - Ninety-five (95) percent of the City of USA's transit vehicles will complete their established runs no more than 5 minutes early or late in comparison to the established schedule/published timetables.
- Sample 2:
 - A vehicle is considered on time if it departs a scheduled timepoint no more than 1 minute early and no more than 5 minutes late. The City of USA's on-time performance objective is 90% or greater. The City of USA continuously monitors on-time performance and system results are published and posted as part of monthly performance reports covering all aspects of operations.

SAMPLE Service Availability Standards

Expressed in writing

The City of USA will distribute transit service so that 90% of all residents in the service area are within a ¼ mile walk of bus service or within a ½ mile walk of rail service.

APPENDIX H**SERVICE POLICIES (REQUIREMENT FOR ALL TRANSIT PROVIDERS,
REGARDLESS OF TOTAL OPERATING BUDGET)****Background.**

FTA requires that all providers of public transportation develop *qualitative* policies for the following procedures. These policies are to be set by individual transit providers; therefore, these policies will apply to individual agencies rather than across the entire transit industry.

- Vehicle Assignment
- Transit Amenities

The samples below are provided for the purposes of guidance only.

Policies.***SAMPLE Vehicle Assignment Policy******Expressed in writing***

Since ridership is the primary determinant of fleet assignments, communities with the greatest need for and use of transit receive the newest vehicles. Low-floor buses are heavily deployed on frequent service and other high-ridership lines, so these buses carry a higher share of ridership than their numerical proportion of the overall bus fleet. Low-floor buses are also equipped with air conditioning and automated stop announcement systems.

All rail cars are equipped with air conditioning, and high-floor rail cars are always paired with a low-floor car to provide accessibility.

Bus assignments also take account of the operating characteristics of buses of various lengths, which are matched to the operating characteristics of the route. Local routes with lower ridership may be assigned 30-foot buses rather than the 40-foot buses. Some routes requiring tight turns on narrow streets are operated with 30-foot rather than 40-foot buses.

SAMPLE Transit Amenities Policy***Expressed in writing***

Installation of transit amenities along bus and rail routes are based on the number of passenger boardings at stations stops and stations along those routes.

APPENDIX I

DEMOGRAPHIC PROFILE AND TRAVEL PATTERNS (REQUIREMENT FOR TRANSIT PROVIDERS WITH TOTAL OPERATING BUDGETS OF \$10 MILLION OR MORE, OR THAT OTHERWISE MEET THE THRESHOLD DEFINED IN CHAPTER IV)

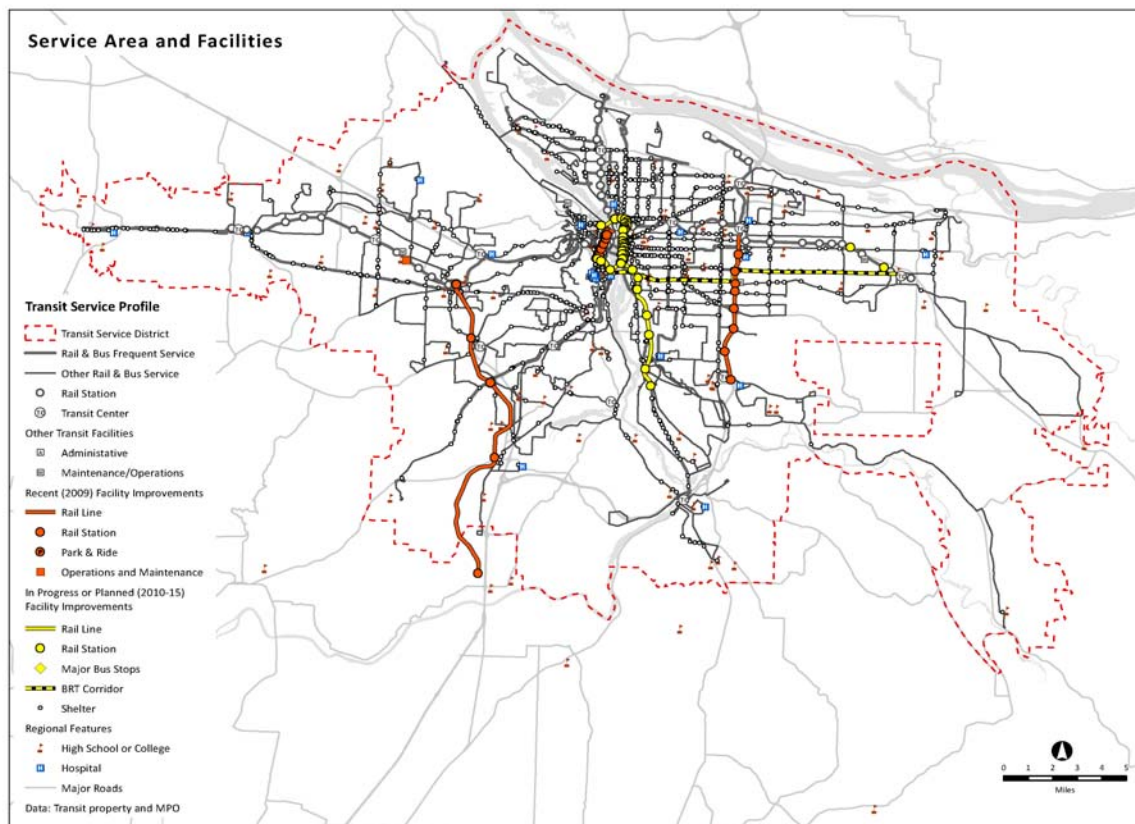
Background

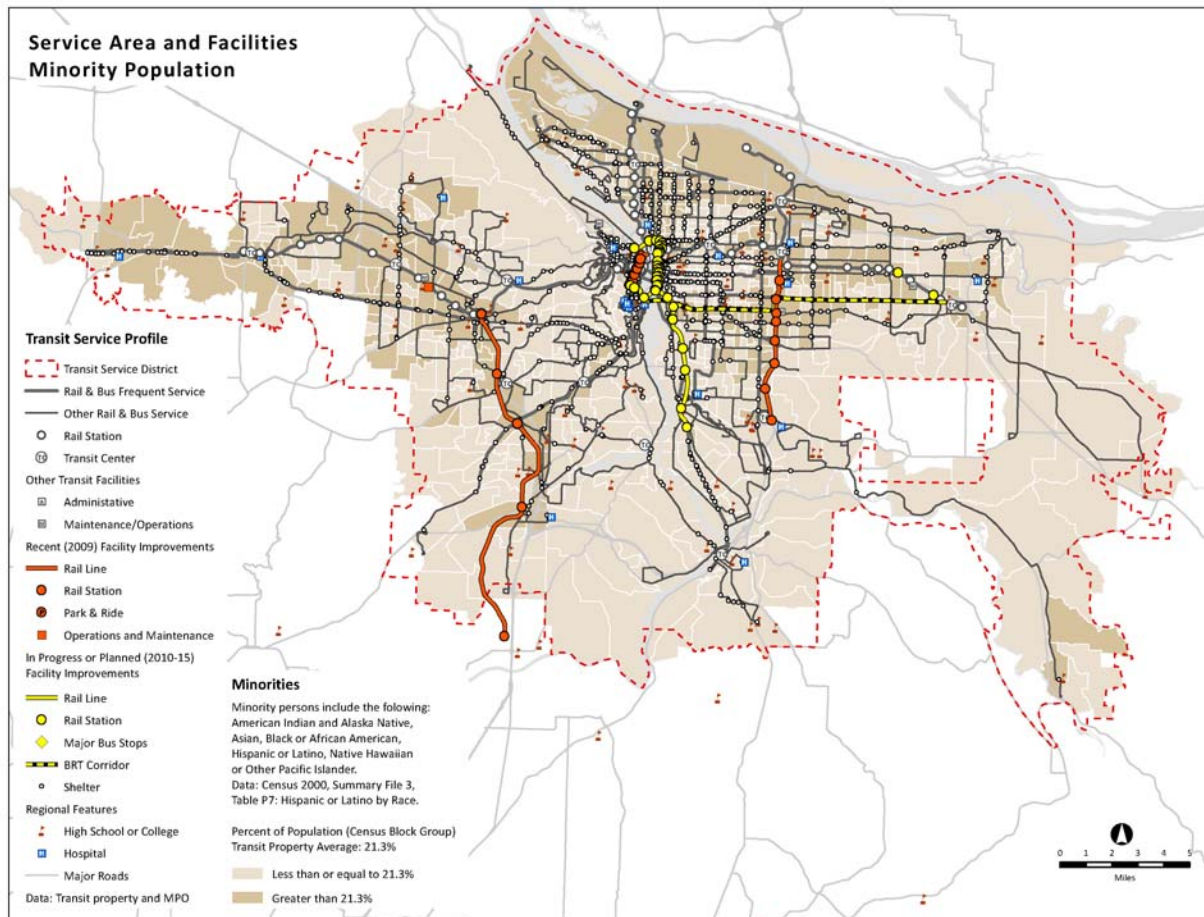
Transit service providers with total operating budgets of \$10 million or more, or that otherwise meet the threshold defined in Chapter IV, are required to prepare demographic and service profile maps and charts to determine whether transit service is available to minority populations within the recipient's service area. Recipients should include charts and tables summarizing data in their Title VI Programs. Recipients should not send raw data to FTA.

The aforementioned transit providers are also required to prepare data regarding customer demographics and travel patterns.

The sample below is provided for the purposes of guidance only.

SAMPLE Demographic and Service Profile Maps and Charts





SAMPLE Demographic Profile and Travel Patterns

Category	Minority	Non-Minority
All Riders	52%	48%
Bus Riders	55%	45%
Rail Riders	37%	63%
Two or More Trips/Day	72%	28%
Two or More Transfers/Day	68%	32%
Trips Made for Work	54%	46%
Trips Made for Shopping	42%	58%
Automobile Access	30%	70%
Transit Dependency	60%	40%

APPENDIX J

REQUIREMENT TO MONITOR TRANSIT SERVICE (REQUIREMENT FOR TRANSIT PROVIDERS WITH TOTAL OPERATING BUDGETS OF \$10 MILLION OR MORE, OR THAT OTHERWISE MEET THE THRESHOLD DEFINED IN CHAPTER IV)

Background

FTA requires transit providers with total operating budgets of \$10 million or more, or that otherwise meet the threshold defined in Chapter IV, to monitor their service standards and policies. Service standards and policies provide the framework for monitoring and assessment of service to compare service provided in areas with above-median minority populations and areas with below-median minority populations.

The following tables and maps are provided as examples of how to assess the performance of service on minority and non-minority routes for each of the recipient's service standards and service policies. Recipients should follow these examples for submitting data in their Title VI Programs. Recipients should assess transit service and compare actual/observed service to the established service policies and standards. The standards and policies that must be monitored are:

- Standards
 - Vehicle Load
 - Vehicle Headway
 - On-Time Performance
 - Service Accessibility
- Policies
 - Vehicle Assignment
 - Distribution of Transit Amenities (Policy and Standards)

The samples below are provided for the purposes of guidance only.

SAMPLE Methodology

This section describes a sample methodology to determine the minority populations served by each bus and rail line, and provides a framework for comparisons.

For each individual bus and/or rail line, calculate the percentages of all persons residing in areas served by the line who are minority persons. Define a unique geographic area of coverage for each line by including all Census Block Groups within one-quarter mile walking distance of bus stops and/or within one-half mile walking distance of rail stations served by that line. For each line, calculate the number of minority persons residing in all Block Groups served, and determine the percentage of minority persons among all persons served by the line.

SAMPLE Monitoring of Service Standards***SAMPLE Vehicle Load Monitoring***

Table 1 below shows passenger capacities for buses and light rail cars as the average maximum number of persons seated and standing during the peak one-hour in the peak direction. Maximum load factors represent the maximum achievable capacity, and are calculated by dividing the total seated and standing capacity by the seated capacity of the vehicle.

Table 1. Passenger Capacities

Vehicle Type	Average Passenger Capacities			Maximum Load Factor
	Seated	Standing	Total	
30' Bus	28	2	30	1.1
40' Low Floor Bus	39	12	51	1.3
40' Standard Bus	43	17	60	1.4
Light Rail Vehicle	64	69	133	2.1

Assessment: Average weekday loads on each line were determined for the following time periods and directions of travel:

- AM in peak direction (7-9 a.m.)
- PM in peak direction (4-6 p.m.)
- Midday in both directions (9 a.m. – 4 p.m.)

Table 2 below shows the average vehicle loads by time period for lines in each quartile, for minority lines, for non-minority lines, and for all lines in the system.

For purposes of this discussion the following methodology was used to determine which routes serve high concentrations of minority routes:

Identify all Census Block Group's served by bus lines within $\frac{1}{4}$ mile from bus stops and $\frac{1}{2}$ mile from rail stations. The agency calculated the percentage and number of minority and non-minority populations served by the line. Then, staff ranked all lines by the highest percentage of minority populations and further subdivided the list into four quartiles; Q1, Q2, Q3, Q4; and Q1 being the lines with the lowest percentage of minority populations served and Q4 being the lines with the highest percentage of minority populations served. The breakpoint for Q4 and Q3 were determined by comparing the percent minority with the median percentage of these populations within the agencies service area.

Table 2. Vehicle Loads for Minority and Non-Minority Lines

Shaded Cells Represent Lines Serving Areas with Minority Populations Above the Median Average

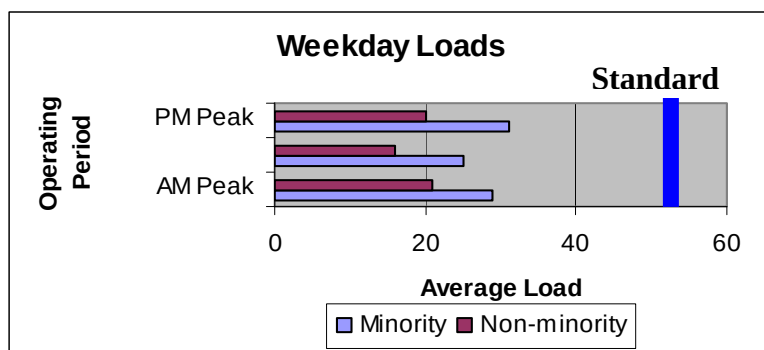
Lines and System	AM Peak IB		Midday IB & OB		PM Peak OB	
	Load/Seats	Avg Load	Load/Seats	Avg Load	Load/Seats	Avg Load
4th Quartile (Minority Population > 29%)	0.62	34	0.55	28	0.65	37
3rd Quartile (Minority Population > 21.6%)	0.60	24	0.54	21	0.62	24
2nd Quartile (Minority Population > 16.6%)	0.59	23	0.49	18	0.59	22
1st Quartile (Minority Population < 16.6%)	0.49	18	0.39	14	0.48	18
Minority Lines (3rd and 4th Quartiles)	0.61	29	0.54	25	0.64	31
Non-Minority Lines (1st and 2nd Quartiles)	0.54	21	0.44	16	0.54	20
System	0.58	25	0.49	21	0.59	26

Currently, no line exceeds the standard.

The average load factors in the AM peak were .61 for minority lines and .54 for non-minority lines. The average load factors in the PM peak were .64 for minority lines and .54 for non-minority lines. No lines exceeded the vehicle load standard during the peak periods.

Figure 1 below depicts the average loads for minority and non-minority lines for PM peak, midday, and AM peak as shown in Table 2 above, in comparison to the maximum capacity of 51 passengers for a 40-foot bus.

Figure 1. Vehicle Loads for Minority and Non-Minority Lines by Peak Period



SAMPLE Vehicle Headway Monitoring

SAMPLE Assessment: Table 3 below shows the average headway in minutes for minority and non-minority lines for AM peak, midday, PM peak, evening, and night periods, for weekday, Saturday and Sunday, respectively. The average span of service in hours and tenths of hours is shown for minority and non-minority lines for weekdays, Saturdays and Sundays, respectively.

Table 3. Weekday, Saturday and Sunday Headways and Span of Service on Weekdays, Saturdays and Sundays for Minority and Non-Minority Lines

WEEKDAY	Lines Operating	% Operating	Freq Lines	Rail Lines	Service Begins	AM Peak Headway	Midday Headway	PM Peak Headway	Evening Headway	Night Headway	Service Ends	Span (Hours)
4th Quartile (Minority Population > 29%)	25	100%	5	3	5:14 a	26	28	27	31	41	9:48 p	16.6
3rd Quartile (Minority Population > 21.6%)	24	100%	6		5:14 a	21	26	22	30	44	10:52 p	17.6
2nd Quartile (Minority Population > 16.6%)	24	100%	3		5:33 a	27	39	27	38	42	8:56 p	15.4
1st Quartile (Minority Population < 16.6%)	24	100%	2		5:45 a	30	38	31	45	53	8:13 p	14.5
Minority Lines (3rd and 4th Quartiles)	49	100%	11		5:14 a	24	27	24	30	43	10:19 p	17.1
Non-Minority Lines (1st and 2nd Quartiles)	48	100%	5		5:39 a	29	38	29	41	47	8:35 p	14.9
System	97	100%	16		5:26 a	26	32	27	34	44	9:29 p	16.0
SATURDAY	Lines Operating	% Operating	Freq Lines	Rail Lines	Service Begins	Daytime Headway	Evening Headway	Night Headway	Service Ends	Span (Hours)		
4th Quartile (Minority Population > 29%)	18	72%	5	3	5:35 a	33	37	36	10:22 p	16.8		
3rd Quartile (Minority Population > 21.6%)	19	79%	6		5:52 a	25	38	45	12:00 a	18.1		
2nd Quartile (Minority Population > 16.6%)	16	67%	3		6:50 a	43	48	48	8:56 p	14.1		
1st Quartile (Minority Population < 16.6%)	11	46%	2		7:50 a	37	45	50	9:11 p	13.3		
Minority Lines (3rd and 4th Quartiles)	37	76%	11		5:43 a	29	38	42	11:13 p	17.5		
Non-Minority Lines (1st and 2nd Quartiles)	27	56%	5		7:15 a	40	47	49	9:02 p	13.8		
System	64	66%	16		6:21 a	34	41	44	10:19 p	16.0		
SUNDAY	Lines Operating	% Operating	Freq Lines	Rail Lines	Service Begins	Daytime Headway	Evening Headway	Night Headway	Service Ends	Span (Hours)		
4th Quartile (Minority Population > 29%)	17	68%	5	3	6:08 a	34	39	33	10:38 p	16.5		
3rd Quartile (Minority Population > 21.6%)	19	79%	6		6:27 a	32	46	46	11:33 p	17.1		
2nd Quartile (Minority Population > 16.6%)	13	54%	3		7:02 a	45	48	48	9:55 p	14.9		
1st Quartile (Minority Population < 16.6%)	7	29%	2		7:57 a	34	40	45	8:52 p	12.9		
Minority Lines (3rd and 4th Quartiles)	37	76%	11		6:18 a	33	43	42	11:07 p	16.8		
Non-Minority Lines (1st and 2nd Quartiles)	27	56%	5		7:21 a	41	46	47	9:33 p	14.2		
System	64	66%	16		6:40 a	36	44	44	10:33 p	15.9		

Shaded cells represent minority lines.

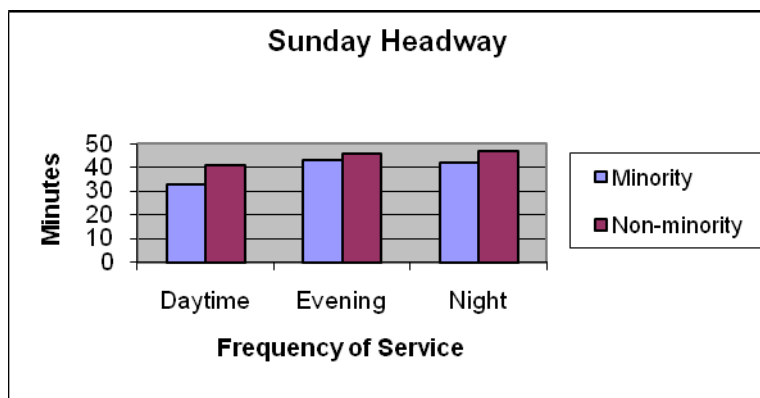
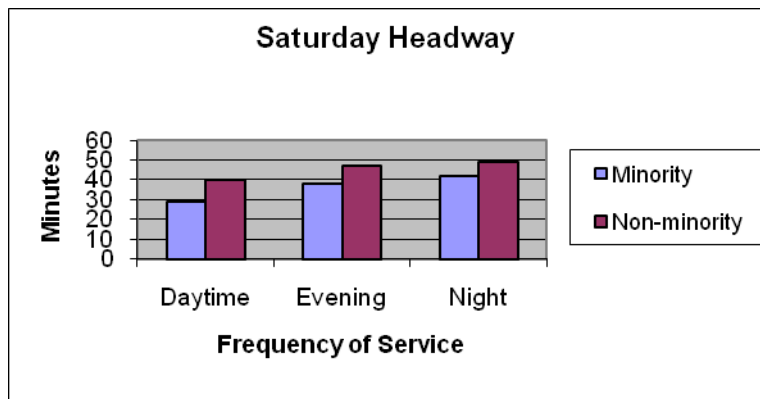
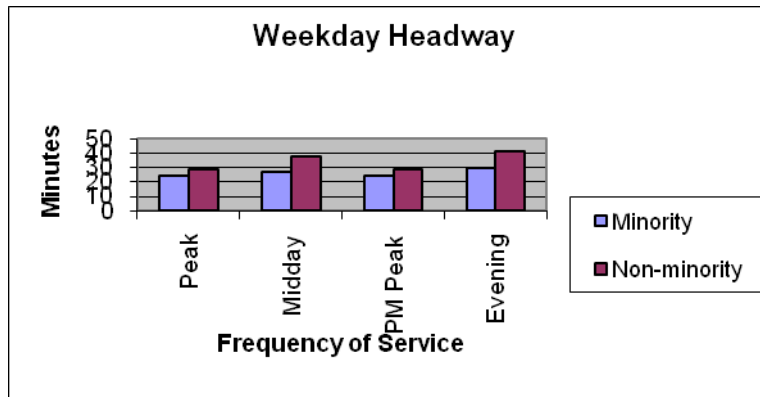
On weekdays, Saturdays and Sundays, eleven (11) minority lines and five (5) non-minority lines were designated as Frequent Service lines (i.e., Freq Lines). On weekdays, the average AM and PM peak headway on minority lines was 24 minutes, versus 29 minutes on non-minority lines. Average headways on minority lines during weekday midday, evening and night periods were lower (i.e., provided more frequent service) than on non-minority lines. Minority lines had an average weekday span of service of 17.1 hours, as compared with a 14.9 span of service on non-minority lines.

On Saturdays and Sundays, average daytime headways on minority lines were 29 and 33 minutes, respectively, versus 40 and 41 minutes, respectively, for non-minority lines. Average headways on minority lines during Saturday and Sunday evening and night periods were lower (i.e., provided more frequent service) than on non-minority lines. Minority lines had average

Saturday and Sunday span of service of 17.5 and 16.8 hours, respectively, as compared with a 13.8 and 14.2 span of service on non-minority lines.

Figure 2 below depicts weekday headways for minority and non-minority lines for AM peak, midday, PM peak, and evening. Saturday and Sunday headways for minority and non-minority lines are shown for daytime, evening and night periods. In all days and time periods, average frequency of service on minority lines exceeded frequency of service on non-minority lines (i.e., the average headway in minutes was lower on minority lines).

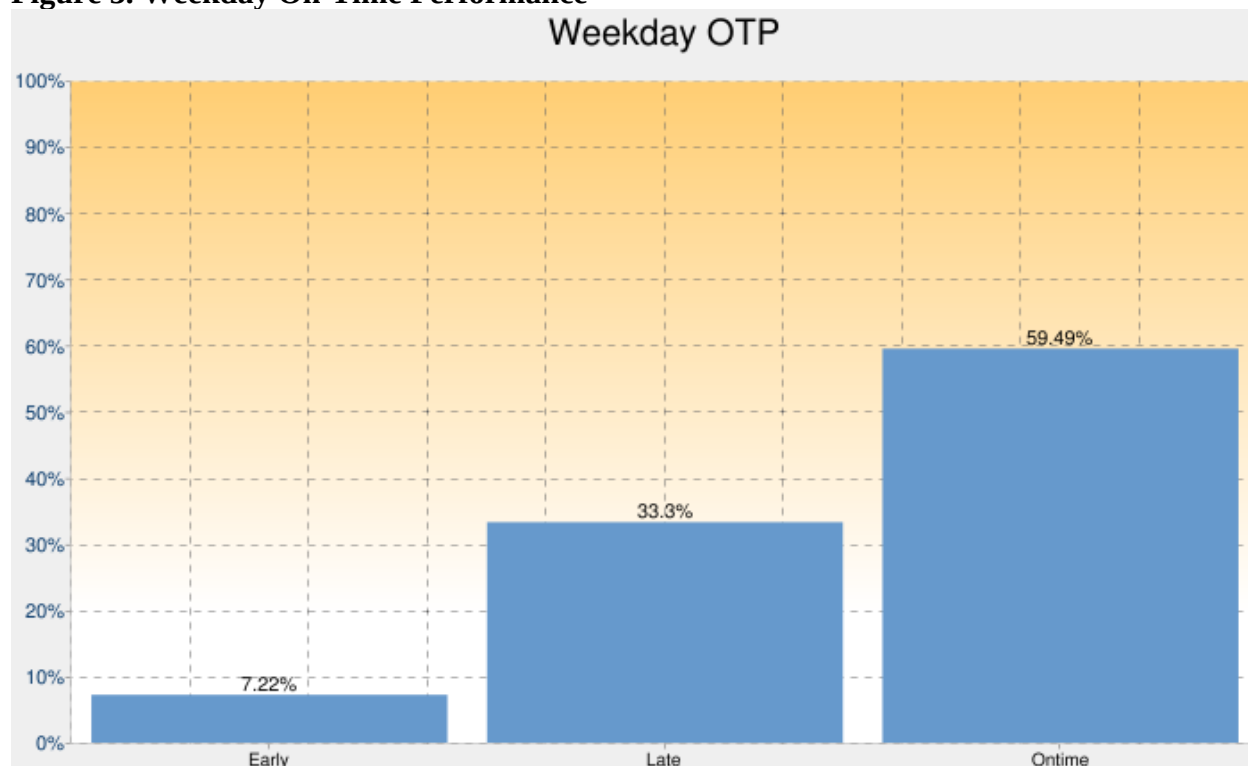
Figure 2. Headways for Minority and Non-Minority Lines on Weekdays, Saturdays and Sundays by Time Period



SAMPLE On-Time Performance Monitoring

- ***SAMPLE Table:*** The table below shows that 59.49% of transit vehicles passed time points on time, 7.22% passed time points early, and 33.3% passed time points late. This information would be compared with the On-Time Performance Standard and analyzed to determine potential disparate impact.

Figure 3. Weekday On-Time Performance



Courtesy of ACE Transit

- ***SAMPLE Assessment:*** The City of USA initiated a random spot check program to assess a variety of performance measures, including on-time performance. This “Mystery Rider” program completed a total 77 observations during the past fiscal year. Of the 77 bus trips observed, approximately five (5) percent were found departing a schedule time point late (i.e., more than 5 minutes after the departure time in the printed schedule). These routes on which late departures were observed were:
 - o B07
 - o R10
 - o R24
 - o B48

Of these four routes, three (B07, R10, and R24) have a greater than average proportion of route miles in minority Census blocks. These findings suggest that additional monitoring of on-time performance to assess potential disparate impacts is warranted. The City of USA will initiate additional on-time performance monitoring as part of the “Mystery Rider” spot check program.

SAMPLE Service Availability Monitoring

SAMPLE Assessment: Table 4 below shows the percentages of minority and non-minority households served. The percentage of minority households within ½ mile walk of stops and/or stations was 86.6%. The percentage of non-minority households within ½ mile walk of stops and/or stations was 76.8%.

Table 4. Service Availability for Minority and Non-Minority Residents

Households	Within ½ Mile	More than ½ Mile
Minority	86.6%	13.4%
Non-Minority	76.8%	23.2%
System	78.5%	21.5%

Source: 2000 Census Block Group Data

All residents of Census Block Groups where geographic center of the Block Group is within ½-mile walk of a bus stop and/or rail station are considered within ½-mile of service

SAMPLE Monitoring of Service Policies.***SAMPLE Vehicle Assignment Monitoring***

SAMPLE Assessment: The table below shows the average age of buses in relation to minority population served. In this case, all rail lines are minority lines, so rail vehicle age is excluded from the calculation of average vehicle age. Buses on minority lines had an average age of 12.1 years, compared to the system bus fleet average age of 12.7 years.

SAMPLE Table:**Table 5. Vehicle Assignment**

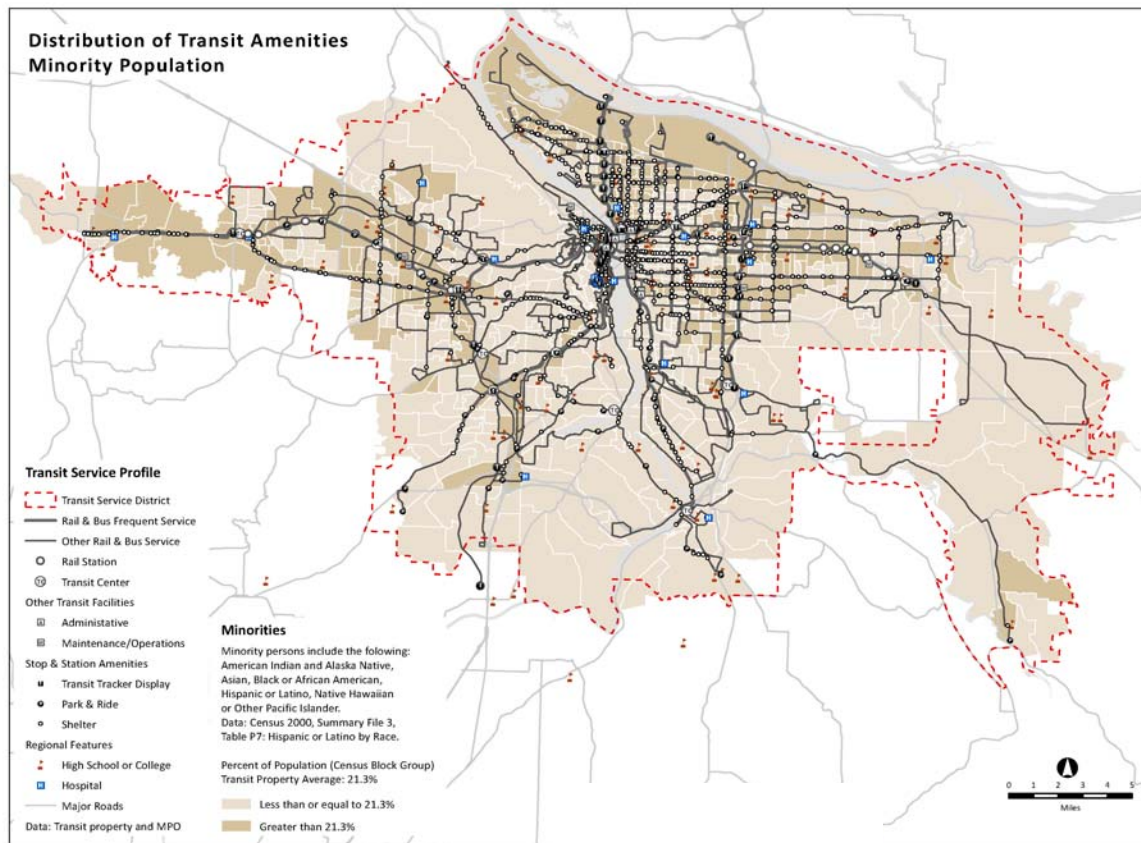
Shaded Cells Represent Lines Serving Areas with Minority Percentages Above the Median

Average Vehicle Age	Avg Date of Purchase	Avg Age of Buses	Lines with Low Floor Buses
4 th Quartile (Minority Population > 29%)	1994.4	13.1	8
3 rd Quartile (Minority Population > 21.6%)	1996.3	11.2	9
2 nd Quartile (Minority Population > 16.6%)	1994.3	13.2	4
1 st Quartile (Minority Population < 16.6%)	1994.3	13.2	5
Minority Lines (3 rd and 4 th Quartiles)	1995.4	12.1	17
Non-Minority Lines (1 st and 2 nd Quartiles)	1994.3	13.2	9
System	1994.8	12.7	26

SAMPLE Transit Amenities Monitoring

The overlay map below shows the locations of many of the transit agency's amenities, including park and ride facilities, transit centers, pedestrian improvements, and bus shelters, relative to the locations of bus and rail routes and the locations of minority and non-minority populations. Such a map is one way to demonstrate how amenities are distributed across the transit system.

Figure 4. Transit Amenities Overlay Map



APPENDIX K**SERVICE AND FARE EQUITY ANALYSIS QUESTIONNAIRE CHECKLIST
(REQUIREMENT FOR TRANSIT PROVIDERS WITH TOTAL OPERATING
BUDGETS OF \$10 MILLION OR MORE, OR THAT OTHERWISE MEET THE
THRESHOLD DEFINED IN CHAPTER IV)****Background.**

Transit providers with total operating budgets of \$10 million or more, or that otherwise meet the threshold defined in Chapter IV, must conduct a Title VI equity analysis whenever they plan a fare change and/or a major service change. Equity analyses are required regardless of whether proposed changes would cause positive or negative impacts to riders. In other words, transit providers must conduct an equity analysis for any and all fare changes (even for a one-penny increase or decrease) and for major service reductions and major service expansions. Financial exigencies and other special circumstances (e.g., economic hardships, size of transit provider's service area or staff) do not exempt transit providers from the requirement to conduct equity analyses.

The checklist below is provided for the purposes of guidance only.

Service and Fare Equity Questionnaire Checklist.***A. Major Service Change Policy***

- ☐ We have briefly and clearly stated our Major Service Change Policy.
- ☐ We have briefly and clearly explained how this particular service change meets or exceeds our Major Service Change Policy.
- ☐ Our policy specifies quantitative thresholds in terms of both percentages and absolute changes.
- ☐ Our policy describes specifically how we engaged the public in developing the major service change policy.
- ☐ Our policy specifies how we engaged the public in developing our policy for measuring disparate impact.
- ☐ Our policy specifies categories of public involvement activities for different magnitudes of service change.
- ☐ We have briefly, clearly defined the terms "minority" (in aggregate) and "low-income."
- ☐ Our agency has developed a policy to determine when a "disparate impact" occurs in the contexts of service reductions and/or expansions. In particular, our agency knows the

policy thresholds (in terms of absolute numbers or proportions) for identifying disparate impacts, as well as whether the thresholds differ by mode.

B. Analysis Approach

- ☐ We have described the data set(s) used in the analysis, as well as the techniques and/or technologies used to collect the data.
- ☐ We have described the geographic level at which we have measured minority and low-income concentrations.
- ☐ We have described the geographic levels at which we have assessed disparate impacts on minority riders.
- ☐ We have explained whether we have measured disparate impact with regard to residents of the entire service area, riders of specific transit lines, and/or at another level.
- ☐ If our analysis includes a comparison of minority routes and/or low-income routes to non-minority and/or non-low-income routes, then we have clearly stated our definitions of “minority route” and “low-income route.”
- ☐ We have described the geographic level (e.g., Census tract, Census block group, TAZ, etc.) at which we have measured minority and low-income concentrations.
- ☐ We have identified which minority population(s) will experience disparate impacts at the level of overall ridership and/or residents of the service area.
- ☐ We have provided a step-by-step description of the analytical methodology we followed to determine whether the proposed change(s) would have a disparate impact on minority populations.
- ☐ We have provided a step-by-step description of the analytical methodology we followed to determine whether the proposed change(s) would have a disproportionately high or adverse effect on minority and/or low-income populations

C. Considerations for a Service Equity Analysis

- ☐ We have demonstrated how the proposed service changes would impact minority and/or low-income populations at the geographic level(s) identified in Section B of this questionnaire by including the following:
 - o **Overlay maps** showing proposed service changes as well as demographic data
 - o **Tables** showing impacts associated with each type of route or service change (e.g., routing, frequency, span of service, addition or elimination of routes).
- ☐ We have demonstrated that our assessments of the impacts of service span changes are based on existing ridership data wherever possible.

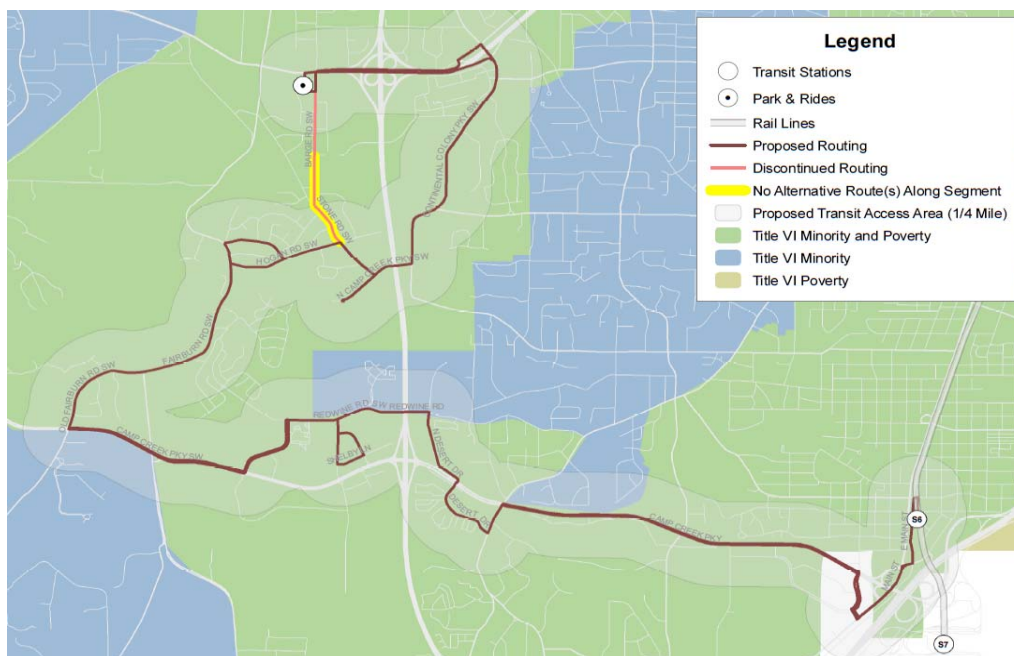
- ☐ If our agency operates multiple modes of service but the proposed major service changes would only affect one mode, we have conducted our equity analysis at the modal level, based on the proportions of minority and low-income ridership for each mode.
- ☐ If we are proposing a service improvement, we have analyzed accrual of benefits for minority and low-income populations as compared to non-minority and non-low-income populations, ideally based on current ridership.
- ☐ If we are proposing a service reduction, we have described alternative services available for impacted minority and low-income populations. We have also explained how the use of these alternatives would affect riders' travel times, distances and costs.
 - ☐ Note: Alternatives could include other lines or services, potentially involving transfers and/or other modes, which connect affected riders with destinations that they commonly access.
- ☐ If we are proposing a service reduction, we have described the measures we have considered to mitigate, minimize and/or offset disparate impacts to minority and low-income populations. We have also explained how we plan to implement these measures prior to or concurrent with the reduction in service.
 - ☐ Depending on the nature of impacts, service-related mitigation could include strategies such as alignment or frequency changes to nearby lines or services to offer more convenient access to affected areas, expansion of demand-response service in affected areas, or implementation of a guaranteed ride home program.
- ☐ We have described in detail other budgetary actions our agency is taking to limit impacts to riders, such as internal cost-containment strategies.
- ☐ We have described any plans our agency has developed to restore service as additional funds become available.
- ☐ If service is proposed to be increased and/or expanded, but low-income and/or minority populations are not expected to benefit from the expansion as much as non-low-income and/or non-minority populations, then we have explained how our agency plans to improve service to the low-income and/or minority populations.
- ☐ We have clearly stated our conclusions regarding the impact of the proposed service changes on low-income and minority populations.
- ☐ If we have determined that a disparate impact exists, we have also:
 - ☐ Clearly demonstrated that the preferred alternative meets a substantial need that is in the public interest.
 - ☐ Clearly demonstrated that other alternatives would have more severe adverse effects than the preferred alternative.

SAMPLE reporting of proposed headway change.

Average headway (minutes)	Existing		Proposed		Absolute Change (minutes)		Percentage Change	
	Minority Routes	Non-Minority Routes	Minority Routes	Non-Minority Routes	Minority Routes	Non-Minority Routes	Minority Routes	Non-Minority Routes
Weekday Peak	23.5	22.7	23.8	22.9	0.3	0.2	1.3%	0.9%
Weekday Midday	25.9	27.5	27.2	28.3	1.3	0.8	5.0%	2.8%
Weekday Evening	28.4	31.0	31.5	33.4	3.1	2.4	10.9%	7.2%
Saturday	35.4	36.9	36.3	38.0	0.9	1.1	2.5%	3.0%
Sunday	42.2	45.2	44.7	46.4	2.5	1.2	5.9%	2.7%

In the table above, an agency has assessed how proposed service changes would affect average headways on routes that it has classified as “minority” and “non-minority.” (See the minority transit route definition described earlier in the circular.) Here, the proposed increases in headways are slightly greater for minority routes than non-minority routes during most service periods, although service on minority routes would remain slightly more frequent at most times. The transit provider must develop a policy for disparate impact, analyze the data, and determine if the proposal will have disparate impacts on the basis of race, color, or national origin.

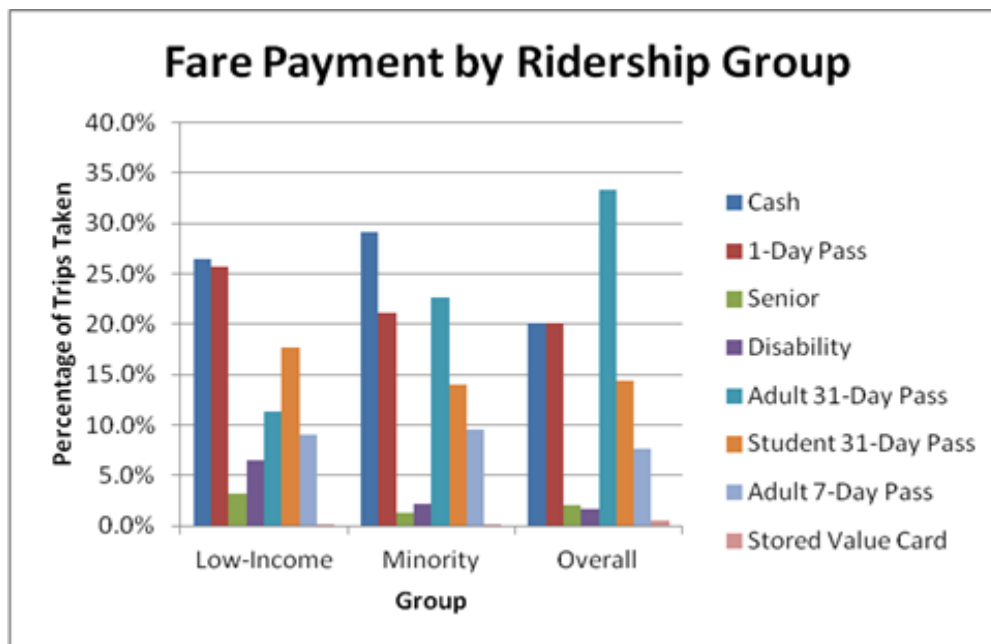
The below is a GIS map depicting proposed route changes and nearby minority and low-income concentrations.



D. Considerations for a Fare Equity Analysis

- ☐ We have analyzed any fare change, regardless of amount, to determine whether the fare increase or reduction has a disparate impact.
 - If we have documented a disparate impact, we have explored alternatives, including the timing and amount of fare increases, providing discounts on passes to social service agencies that serve the impacted populations, and other alternatives as appropriate.
 - If we have determined the proposed action will result in a disparate impact, we have documented how alternatives would have more severe adverse effects than the preferred alternative, as well as documented a substantial need that is in the public interest for our action.
- ☐ We have analyzed the fare media generated from ridership surveys indicating whether minority and/or low-income riders are disproportionately more likely to use the mode of service, payment type, or payment media that would be subject to the fare increase (see sample, next page).
 - A profile of fare usage by group – low-income, minority and overall ridership – as shown below can provide a useful summary if such data is available
 - If the changes would only affect certain modes, the analysis should address whether focusing changes on those modes may lead to a disparate impact.
- ☐ We have clearly depicted the information in tabular format (see sample, page K-7).
 - The table depicts the fare media comparing the existing cost, the percent change, and the usage of minority and low-income groups.
- ☐ We have analyzed any alternative transit modes, fare payment types, or fare media available for people affected by the fare change.
 - Analysis compared the fares paid by the proposed changes with fares that would be paid through available alternatives.
 - Analysis shows how we determined that the alternative fare media was affordable or not affordable for minority and low-income populations.
 - Analysis shows whether vendors that distribute/sell the fare media are located in areas that would be convenient to impacted populations.

Charting fare payment by ridership group (as shown below) can be a useful early step in a fare equity analysis to understand how fare media usage varies between low-income riders, minority riders and overall ridership. Comparing fare payment patterns for minority versus non-minority and low-income versus higher-income riders can yield even clearer depictions of differences that should be considered when developing fare change proposals.



SAMPLE Fare Equity Analysis

Count	Cost		Change		Usage by Group		
Fare type	Existing	Proposed	Absolute	Percentage	Low-Income	Minority	Overall
Cash	\$1.50	\$2.00	\$0.50	33.3%	308,287	402,021	451,152
1-Day Pass	\$4.50	\$5.50	\$1.00	22.2%	299,880	290,456	448,907
Senior	\$0.50	\$0.75	\$0.25	50.0%	37,536	17,681	46,077
Disability	\$0.50	\$1.00	\$0.50	100.0%	75,440	29,280	38,600
Adult 31-Day Pass	\$57.00	\$63.00	\$6.00	10.5%	132,720	311,225	746,769
Student 31-Day Pass	\$30.00	\$35.00	\$5.00	16.7%	205,708	192,661	323,150
Adult 7-Day Pass	\$15.00	\$17.00	\$2.00	13.3%	105,831	132,135	170,300
10-Ride Card	\$13.50	\$18.00	\$4.50	33.3%	184	780	11,400
Total					1,165,586	1,376,239	2,236,355

% of Total	Cost		Change		Usage by Group		
Fare type	Existing	Proposed	Absolute	Percentage	Low-Income	Minority	Overall
Cash	\$1.50	\$2.00	\$0.50	33.3%	26.4%	29.2%	20.2%
1-Day Pass	\$4.50	\$5.50	\$1.00	22.2%	25.7%	21.1%	20.1%
Senior	\$0.50	\$0.75	\$0.25	50.0%	3.2%	1.3%	2.1%
Disability	\$0.50	\$1.00	\$0.50	100.0%	6.5%	2.1%	1.7%
Adult 31-Day Pass	\$57.00	\$63.00	\$6.00	10.5%	11.4%	22.6%	33.4%
Student 31-Day Pass	\$30.00	\$35.00	\$5.00	16.7%	17.6%	14.0%	14.4%
Adult 7-Day Pass	\$15.00	\$17.00	\$2.00	13.3%	9.1%	9.6%	7.6%
Stored Value Card	\$13.50	\$18.00	\$4.50	33.3%	0.0%	0.1%	0.5%
Total					100.0%	100.0%	100.0%

Here, an agency has presented a fare increase proposal and determined fare media usage for low-income, minority and overall ridership from a rider survey. Although a price increase is proposed for all fare media, certain media used disproportionately by low-income and/or minority riders (such as cash fares, one-day passes and disability fares) are proposed for more substantial price increases than other media used more commonly by other riders (particularly the adult 31-day pass). While the changes appear to affect low-income and minority riders more adversely than other riders, the agency's ultimate determination of disparate impacts would depend on its policy thresholds.

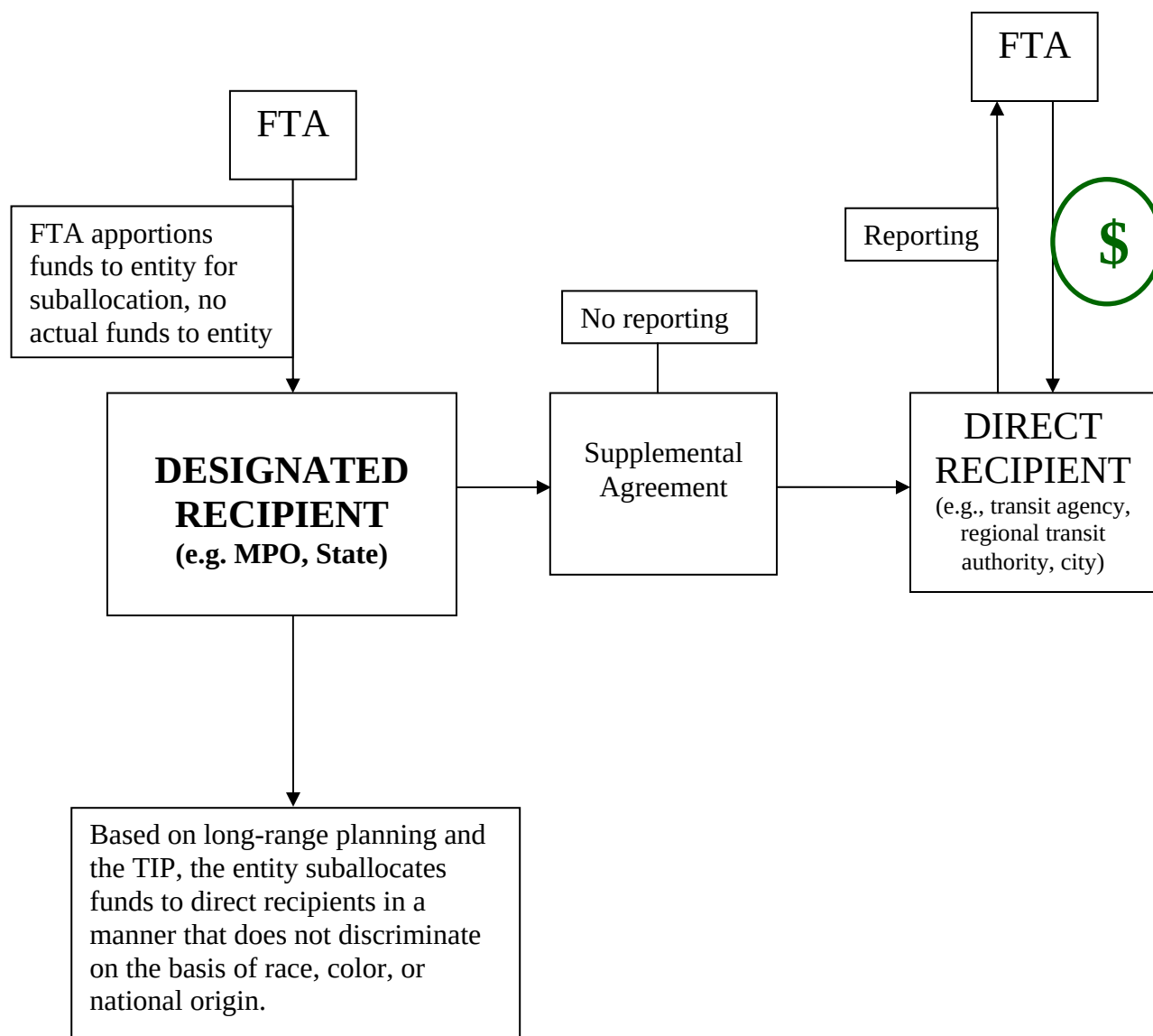
APPENDIX L

REPORTING REQUIREMENTS

1. RECIPIENT TYPE. This circular defines many types of recipients of Federal financial assistance: designated recipients, direct recipients, primary recipients and subrecipients. The reporting and monitoring requirements vary depending on what role an entity serves. One entity could be all four types of recipients, and therefore have many different reporting and monitoring requirements. The following questions are designed to assist recipients in determining what their responsibilities are:
 - a. Have you been designated by the Governor of your State or other local officials to receive and apportion funds from FTA? If yes, you are a ***designated recipient***.
 - b. Do you apply to FTA for funds for programs you run/manage? If yes, you are a ***direct recipient***. You will submit a Title VI Program directly to FTA.
 - c. Do you pass through funds you receive directly from FTA to subrecipients? If yes, then you are a ***primary recipient*** and you must monitor your subrecipients' compliance with Title VI requirements, and collect Title VI Programs from them.
 - d. Do you receive funds from another FTA recipient, that is, are funds "passed through" to you from an entity that received those funds from FTA or another recipient? If yes, then you are a ***subrecipient***. You must submit a Title VI Program to the entity that passed funds through to you.
 - e. Do you suballocate funds to recipients that apply directly to FTA for their funds (i.e., direct recipients)? If yes, have you signed a supplemental agreement? If yes, you do not have any responsibility to monitor the Title VI Program of direct recipients, even if you also "pass through" funds to those recipients (i.e., subrecipients).
 - f. Do you receive discretionary, specialized funding (e.g., TIGER, Livability Urban Circulator)? If yes, do you regularly apply for funds from FTA, i.e., are you a traditional recipient of FTA funds? If you are not a traditional recipient of FTA funds, or are a first-time applicant for FTA funds, special rules may apply.

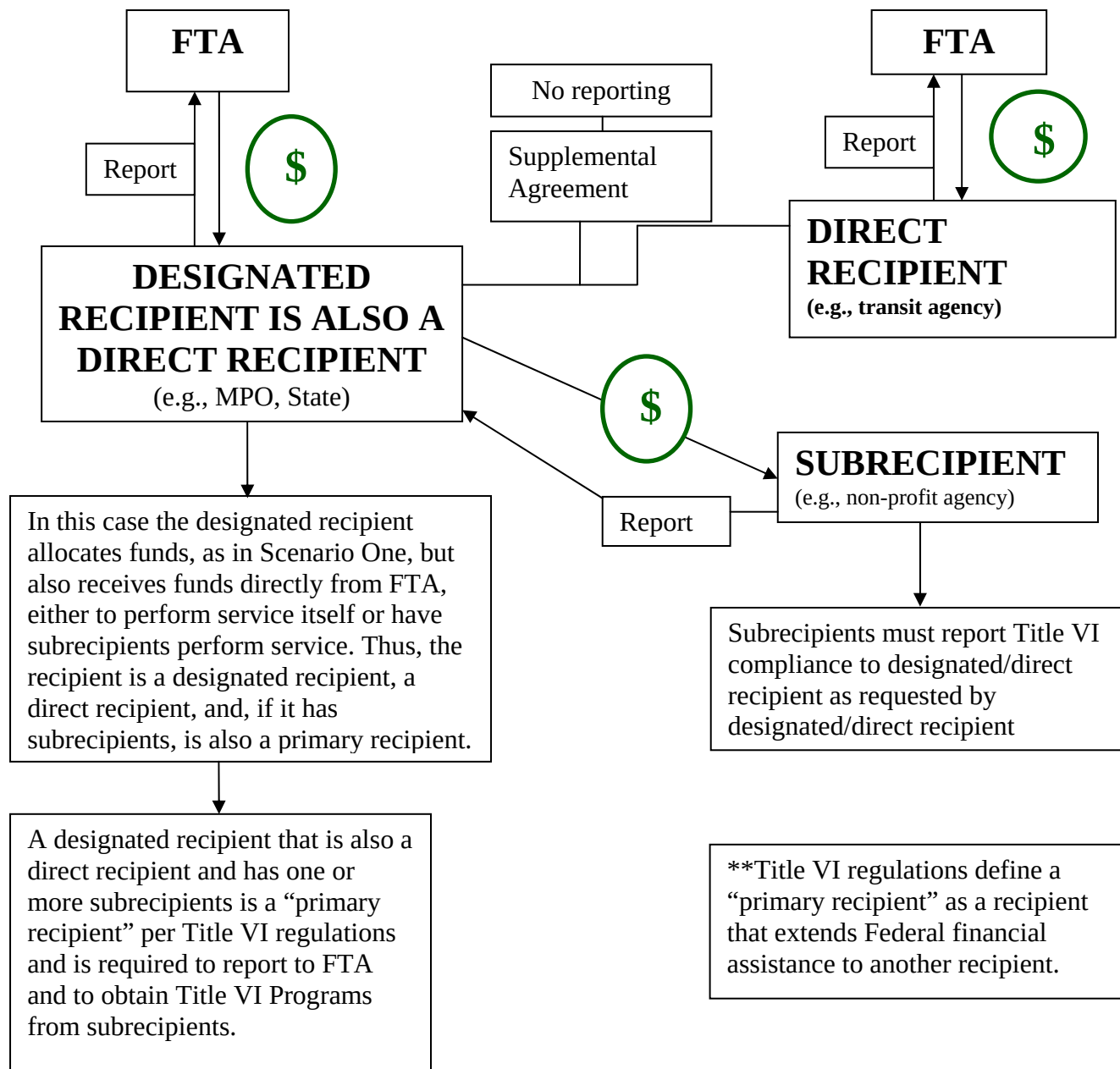
On the following pages are flowcharts that demonstrate the reporting requirements of various types of entities.

Scenario One—States, Designated Recipients, MPOs, and Other Entities That Suballocate FTA Funds



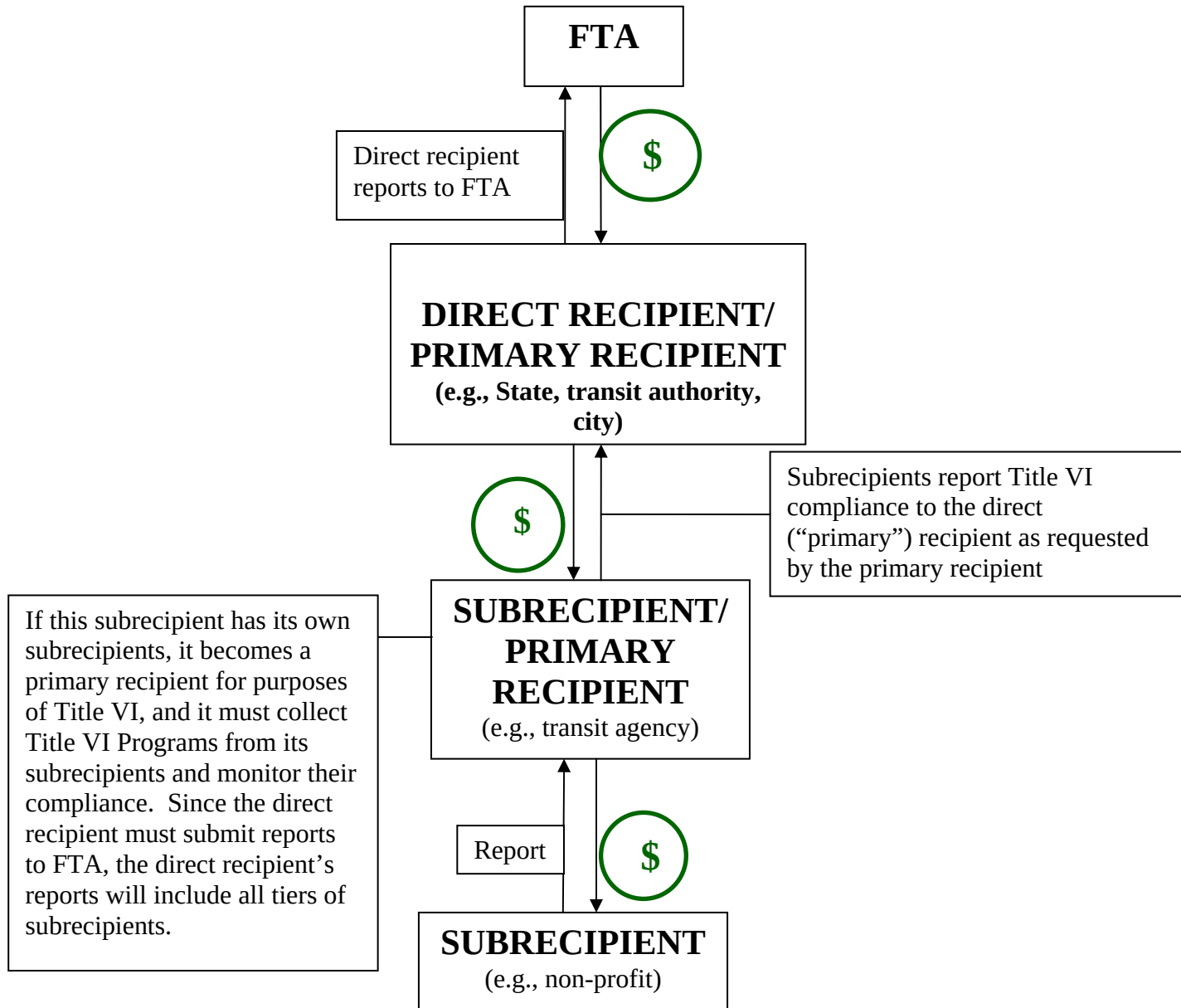
Reporting requirements follow the source of Federal funds. In this case, the designated recipient receives no funding from FTA; it only receives notice of an apportionment and then suballocates funds to direct recipients; therefore, the designated recipient has no oversight responsibility for direct recipients that receive their funding directly from FTA. Direct recipients submit Title VI reports to FTA.

Scenario Two—Designated Recipients That Are Also Direct Recipients



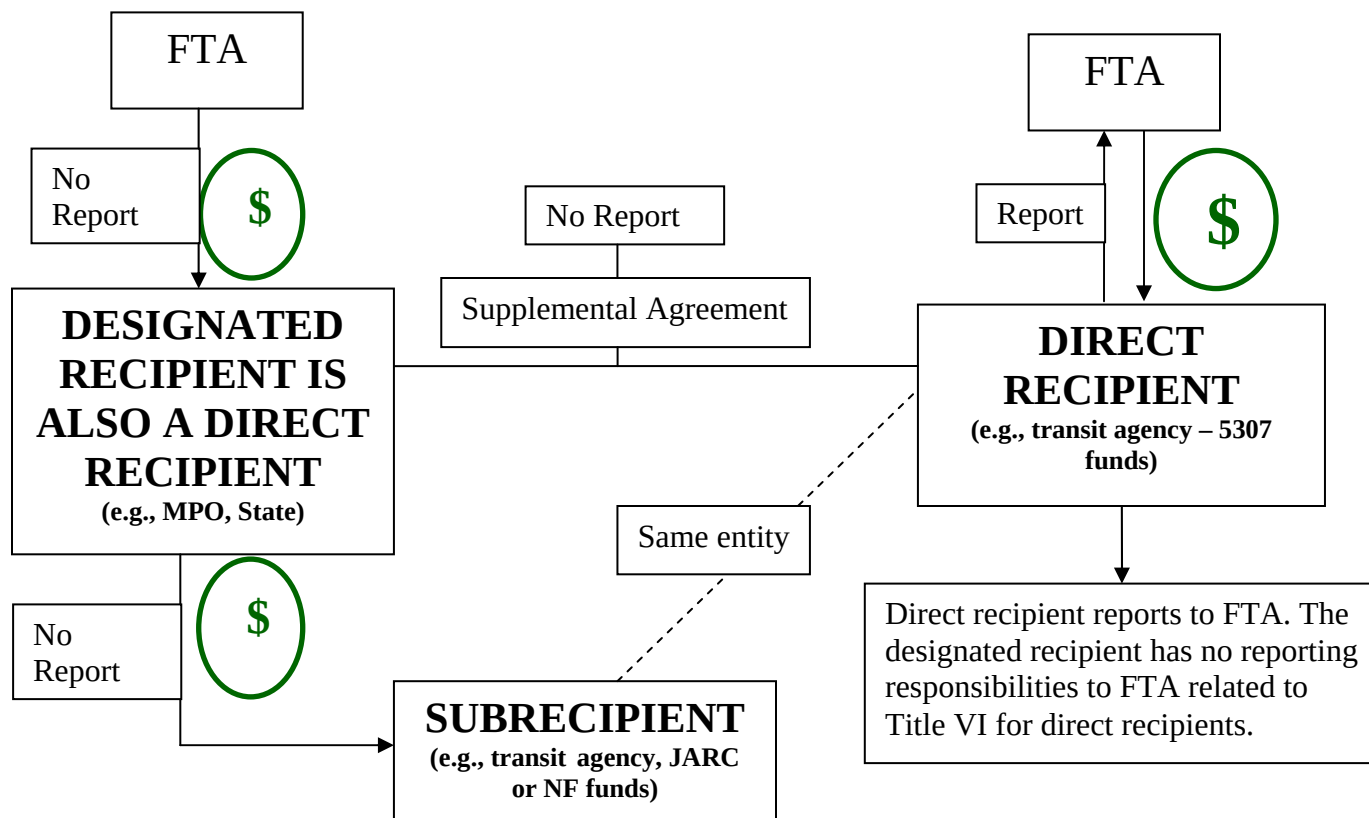
Reporting requirements follow the source of Federal funds. In this case, the designated recipient receives funding from FTA; therefore the designated recipient submits a Title VI Program to FTA and includes subrecipient’s Title VI Programs. The designated recipient does not collect Title VI Programs from direct recipients to whom it only allocates funds. Direct recipients submit Title VI Programs to FTA.

Scenario Three—Direct Recipients, Including States



Reporting requirements follow the source of Federal funds. In this case, the direct (primary) recipient submits a Title VI Program to FTA and includes Title VI Programs for subrecipients at all tiers.

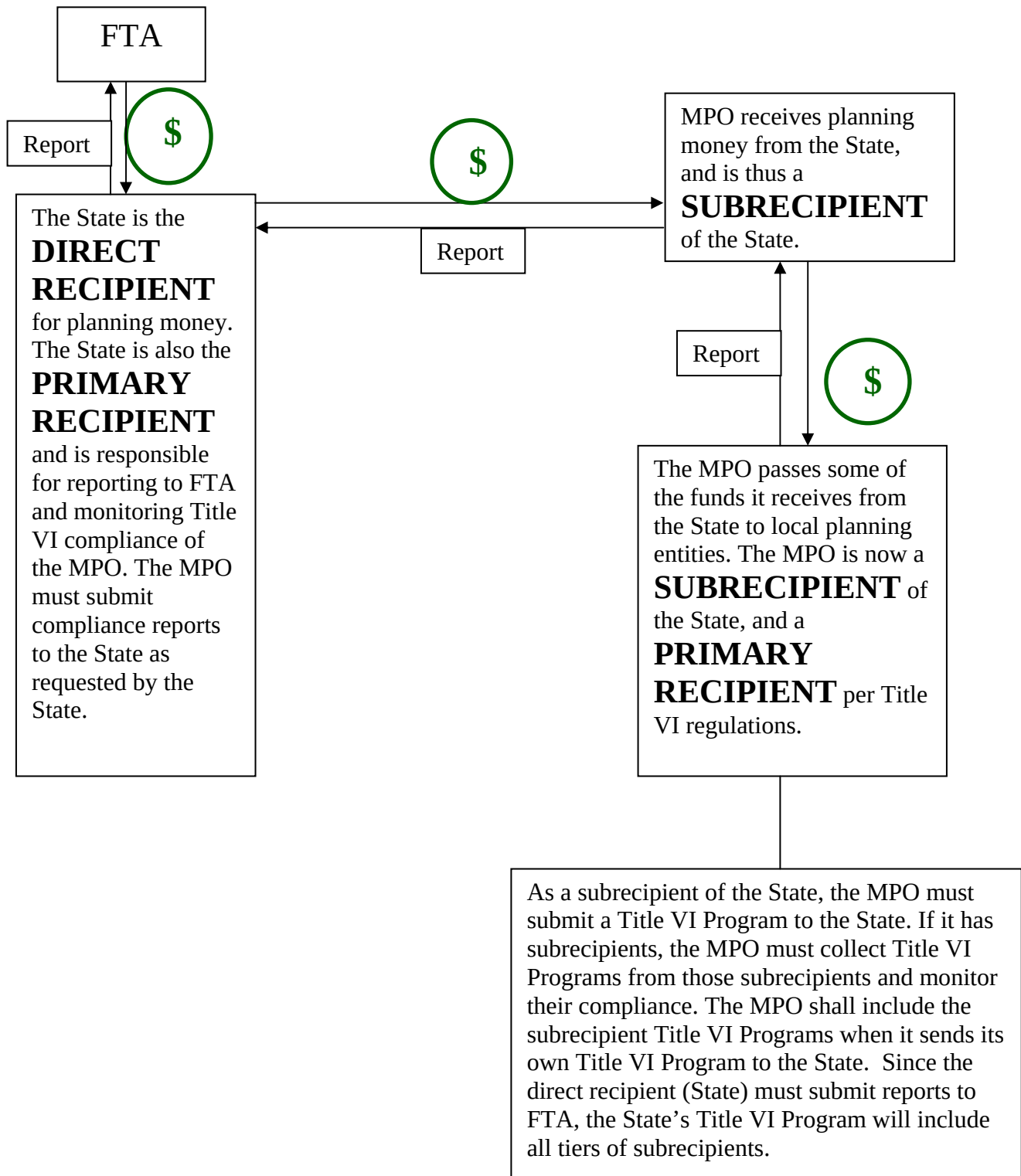
Scenario Four—Designated Recipients That Pass Funds Through to Direct Recipients That Are Covered by a Supplemental Agreement



A subrecipient that is also a direct recipient is required to have an FTA approved Title VI Program in place, and the funds the subrecipient receives through the designated recipient must be utilized in accordance with that Title VI Program. Since the subrecipient/direct recipient must report compliance to FTA, it is not required to report to the designated recipient, and the designated recipient, consistent with the supplemental agreement, is not required to oversee the subrecipient's Title VI Program.

NOTE: If the direct recipient relationship with FTA changes, such that the entity becomes only a subrecipient of the Designated Recipient, then the subrecipient will report to the Designated Recipient, and the Designated Recipient will report to FTA.

Scenario Five—Role of MPOs With Regard to Planning Funds (Other Scenarios May Also Apply)



APPENDIX M

UNDERSTANDING THE DIFFERENCES AND SIMILARITIES BETWEEN TITLE VI AND ENVIRONMENTAL JUSTICE

The Presidential memorandum accompanying EO 12898 identified Title VI of the Civil Rights Act of 1964 as one of several Federal laws that should be applied “to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects.” According to the U.S. Department of Justice, “... the core tenet of environmental justice—that development and urban renewal benefitting a community as a whole not be unjustifiably purchased through the disproportionate allocation of its adverse environmental and health burdens on the community’s minority—flows directly from the underlying principle of Title VI itself.”²

Title VI prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, and national origin, including matters related to language access for limited English proficient (LEP) persons. Under DOT’s Title VI regulations, as a recipient of DOT financial assistance, recipients are prohibited from, among other things, using “criteria or methods of administering its program which have the effect of subjecting individuals to discrimination based on their race, color, or national origin.” For example, facially-neutral policies or practices that result in discriminatory effects or disparate impacts violate DOT’s Title VI regulations, unless the recipient can show the policies or practices are justified and there is no less discriminatory alternative. In addition, Title VI and DOT regulations prohibit recipients from intentionally discriminating against people on the basis of race, color, and national origin.

The overlap between the statutory obligation placed on Federal agencies under Title VI to ensure nondiscrimination in federally-assisted programs administered by State and local entities, and the administrative directive to Federal agencies under the Executive Order to address disproportionate adverse impacts of Federal activities on minority and low-income populations explain why Title VI and environmental justice are often paired. The clear objective of the Executive Order and Presidential memorandum is to ensure that Federal agencies promote and enforce nondiscrimination as one way of achieving the overarching objective of environmental justice—a fair distribution of the adverse impacts of, or burdens associated with, Federal programs, policies, and activities.

Over the years, U.S. DOT has encouraged a proactive approach to the implementation of environmental justice principles in its programs, policies, and activities. This is reflected in the DOT Order on Environmental Justice (DOT Order 5610.2) which, consistent with EO 12898, sets forth a process by which DOT and its Operating Administrations, including FTA, will integrate the goals of EJ into their existing operations to ensure that consideration of EJ principles is an integral part of all programs, policies and activities, from the inception of the planning process through to project completion, operations and evaluation.

² See Title VI Legal Manual, U.S. Department of Justice Civil Rights Division (2001), page 59.

Because of the connection between EJ and Title VI, the consideration of EJ principles has sometimes been confused with the requirements of Title VI. Here is a summary of the key differences between the two:

Key Aspects of the Authorities	Title VI	E.O. 12898
What is the purpose of the authority?	Title VI prohibits recipients of federal financial assistance (e.g., states, local governments, public transportation agencies) from discriminating on the basis of race, color, or national origin in their programs or activities, and it obligates Federal funding agencies to enforce compliance.	Executive Order 12898 calls on each Federal agency to achieve "environmental justice ... by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations...."
To whom does the authority apply?	Title VI is a Federal law that applies to recipients of Federal financial assistance (i.e., persons or entities that receive DOT financial assistance) and not to DOT itself.	Executive Order 12898 applies to Federal agency actions, including DOT's actions, and directs agencies, to the extent permitted by law, to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects on minority populations and low-income populations. Title VI is one of the tools used by Federal agencies to implement this directive.
What does the authority require, and of whom?	Under Title VI, DOT has the responsibility to provide oversight of recipients and to enforce their compliance with Title VI, to ensure that recipients do not use DOT funds to subsidize discrimination based on race, color, or national origin.	Executive Order 12898 is a directive from the President of the United States to Federal agencies intended to improve the internal management of the Federal government.
What does the authority say with regard to disparate impacts?	In accordance with 49 CFR part 21 and FTA's Title VI Circular, if an otherwise facially neutral program, policy or activity will have a disproportionate and adverse impact on minority populations, that program, policy or activity may only be carried	In accordance with the DOT EJ policy, if a U.S. DOT program, policy or activity will have a disproportionately high and adverse effect on minority or low-income populations, that program, policy or activity may only be carried out if further

Key Aspects of the Authorities	Title VI	E.O. 12898
	out if (1) the recipient can demonstrate a substantial legitimate justification for the program, policy or activity; (2) there are no comparably effective alternative practices that would result in less disparate impacts; and (3) the justification for the program, policy or activity is not a pretext for discrimination.	mitigation measures or alternatives that would reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is “practicable,” the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.
Does the authority create any rights or remedies?	Title VI allows persons alleging discrimination based on race, color, or national origin by recipients of Federal funds to file administrative complaints with the Federal departments and agencies that provide financial assistance. Persons alleging intentional discrimination (<i>i.e.</i> , disparate treatment) may bring a court action seeking to enforce Title VI but cannot do so with regard to allegations of discrimination based on agency disparate impact regulations. While judicial enforcement of Title VI disparate impact regulations is foreclosed, Federal agencies are responsible for enforcing their own implementing regulations.	The Executive Order establishes the Administration's policy on environmental justice; it is not enforceable in court and does not create any rights or remedies.

Thus, while Title VI is a key tool for agencies to use to achieve EJ goals, it is important to recognize that Title VI imposes statutory and regulatory requirements that are broader in scope than environmental justice. Recipients are cautioned that while there may be overlap, engaging in EJ analysis under Federal transportation planning and NEPA provisions will not satisfy Title VI requirements, as outlined in this Title VI Circular. Similarly, a Title VI analysis would not necessarily satisfy EJ, since Title VI does not include low-income populations. Moreover, Title VI applies to all Federally-funded projects and activities, not solely those which may have adverse human health or environmental effects on communities.

For example, while a bus rehabilitation project may not impose disproportionately high or adverse health or environmental effects on minority or low-income populations, the **use** of those buses subsequent to the rehabilitation may be subject to a Title VI service equity analysis to ensure that age and quality of vehicles assigned to a particular area does not result in a disparate impact on the basis of race, color, or national origin. In addition, if there are substantive changes to the service levels for which the rehabilitated or other buses will be used, i.e., the vehicles are deployed in such a way that the nature and quantity of service in a particular area is changed, then a service equity analysis must be conducted to determine whether this change results in a disparate impact on the basis of race, color, or national origin. The requirements for that particular analysis are part of the compliance determinations made for Federal transit recipients under chapter IV of this circular.

APPENDIX N**TITLE VI AND LIMITED ENGLISH PROFICIENCY TECHNICAL ASSISTANCE
RESOURCES**

The following resources should help recipients integrate the guidance and procedures of this circular into their planning and operations. Recipients seeking additional resources that may have been published subsequent to the date of this circular may inquire with their local FTA Regional Office or FTA's Office of Civil Rights. Technical assistance resources will be published on the FTA Office of Civil Rights website, http://www.fta.dot.gov/civil_rights.html, on an ongoing basis.

1. Relevant Web sites. Recipients and subrecipients are encouraged to review information on the following Web sites:
 - a. FTA's Title VI Website. www.fta.dot.gov/civilrights/civil_rights_5088.html. This Web site provides an overview of FTA's Title VI activities, including links to recent compliance reviews of recipients, related Web sites, policy guidance and procedures, and instructions on how to file a Title VI complaint.
 - b. Federal Interagency Working Group on Limited English Proficiency. www.lep.gov. LEP.gov promotes a cooperative understanding of the importance of language access to Federal programs and Federally-assisted programs. The site acts as a clearinghouse, providing and linking to information, tools, and technical assistance regarding limited English proficiency and language services for Federal agencies, recipients of Federal funds, users of Federal programs and Federally-assisted programs, and other stakeholders.
 - c. U.S. Department of Justice Civil Rights Division. <http://www.justice.gov/crt/> The Civil Rights Division of the Department of Justice, established in 1957, is the program institution within the Federal government responsible for enforcing Federal statutes prohibiting discrimination on the basis of race, color, national origin, and other protected classes.
 - d. Community Impact Assessment Web site. <http://www.ciatrans.net>. The Community Impact Assessment (CIA) Web site seeks to inform transportation officials and the general public about the potential impacts of proposed transportation actions on communities and their subpopulations.
 - e. United We Ride. www.unitedweride.gov. United We Ride is an interagency Federal national initiative that supports States and their localities in developing coordinated human service delivery systems originating from the Office of Program Management or the Federal Transit Administration. In addition to State coordination grants, United We Ride provides State and local agencies a transportation-coordination and planning self-assessment tool, help along the way, technical assistance, and other resources to help their communities succeed.

2. Technical Assistance Products. Recipients and subrecipients are encouraged to review information on the following technical assistance products. Interested parties can access these products through the relevant Web site or by contacting FTA's Office of Civil Rights.
 - a. "How to Engage Low-Literacy and Limited English Proficient Populations in Transportation Decisionmaking." <http://www.fhwa.dot.gov/hep/lowlim/>. This report documents "best practices" in identifying and engaging low-literacy and limited-English-proficiency populations in transportation decision making. These "best practices" were collected during telephone interviews with individuals in 30 States.
 - b. "Disaster Response and Recovery Resource for Transit Agencies" <http://transit-safety.volpe.dot.gov/Publications/order/singledoc.asp?docid=437>. This resource provides local transit agencies and transportation providers with useful information and best practices in emergency preparedness and disaster response and recovery, including information on how to respond to the needs of low-income persons, limited English proficient persons, persons with disabilities, and older adults.

REFERENCES

- a. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000d.
- b. Federal Transit Laws, Title 49, United States Code, Chapter 53.
- c. National Environmental Policy Act of 1969, as amended, 42 U.S.C. Section 4321 *et seq.*
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. Section 4601, *et seq.*
- e. U.S. Department of Justice regulations, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs,” 28 CFR part 42, Subpart F,
- f. U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR part 21.
- g. Joint FTA/Federal Highway Administration (FHWA) regulations, “Environmental Impact and Related Procedures,” 23 CFR part 771 and 49 CFR part 622.
- h. Joint FTA/FHWA regulations, “Planning Assistance and Standards,” 23 CFR part 450 and 49 CFR part 613.
- i. Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” Feb. 11, 1994, 59 FR 7629 (Feb. 16, 1994).
- j. Executive Order 13166, “Improving Access To Services For Persons With Limited English Proficiency,” Aug. 11, 2000, 65 FR 50121 (Aug. 16, 2000).
- k. U.S. Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations, 62 FR 18377 (Apr. 15, 1997).
- l. U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons, 70 FR 74087 (Dec. 14, 2005).
- m. FTA Master Agreement, FTA MA(17), Oct. 1, 2010.

INDEX

SUBJECT AND LOCATION IN CIRCULAR

<u>Subject</u>	Chapter/Page
Additional Resources	App. N-1
Adverse Effect	Chap. I-2, Chap. I-3, Chap. IV-12, App. K-3, App. M-3
Definition	Chap. I-2
Applicant	
Definition	Chap. I-2
Discrimination	
Definition	Chap. I-2
Disparate Impact	
Definition	Chap. I-3
Disparate Treatment	
Definition	Chap. I-3
Disproportionately High and Adverse Effect	
Definition	Chap. I-3
Department of Justice (DOJ)	
Civil Rights Division Web Site.....	See Websites
Environmental Justice	Chap. I-6, Chap. I-7, Chap. III-6, Chap. IV-12, App. M-1
Federal Financial Assistance	
Definition	Chap. I-3
Federal Transit Administration (FTA)	
Compliance Procedures	Chap. XIII-1
Compliance Review Criteria.....	Chap. XIII-1
Compliance Review Findings.....	Chap. XIII-1
Compliance Review Process.....	Chap. XIII-1
Compliance Review Scope	Chap. XIII-1
Master Agreement.....	Chap. II-2
Regional Office	Chap. I-1
First-Time Applicants	
Procedures.....	Chap. III-1
Requirements	Chap. III-1
Fixed Guideway	
Definition	Chap. I-3
Routes	Chap. IV-8
Stations.....	Chap. IV-8
General Requirements	
Certification and Assurance.....	Chap. IV-1
Hearings	
Notice.....	Chap. VII-3
Procedures.....	Chap. VII-3
Waiver.....	Chap. VII-3
Intelligent Transportation System (ITS)	Chap. V-6

Job Access and Reverse Commute (JARC) Program	Chap. IV-4, App. L-5
Language Access Requirement	
Developing a Language Implementation Plan.....	Chap. III-7
Components of a Language Implementation Plan.....	Chap. III-7
Limited English Proficient (LEP)	
DOT LEP Guidance	Chap. II-2
Definition	Chap. I-3
Populations.....	Chap. III-6, App. B-1, App. C-1, App. D-1
Website	See Websites
Low-Income Person	
Definition	Chap. I-4
Low-Income Population	
Definition	Chap. I-4
Low-Income Riders	Chap. IV-11, App. K-3
Metropolitan Planning Organizations (MPOs)	
Planning Requirements	Chap. IV-1
Reporting Requirements	App. A-2
Requirements	Chap. VI-1
Minority Persons	
Definition	Chap. I-4
Minority Population	
Definition	Chap. I-4
National Environmental Policy Act (NEPA).....	Ref.-1
National Origin	
Definition	Chap. I-4
Noncompliance	
Definition	Chap. I-5
Noncompliant.....	Chap. VII-1
Predominantly Minority Area	
Definition	Chap. I-5
Program-Specific Requirements for Urbanized Areas	Chap. V-3
Demographic Data Collection.....	V-1
Maps and Charts.....	Chap. IV-2, 8, 11, App. I-1
Rider Survey Information.....	Chap. IV-8, 11, App. K-3
Public Participation Requirement	Chap. III-5
Effective Practices	Chap. III-6, 7, 8
Recipient	
Definition	Chap. I-5
Secretary	Chap. IV-3
Definition	Chap. I-5
Service and Fare Changes Requirements	
Alternative and Modifications.....	Chap. IV-12
Fare Changes.....	Chap. IV-11
Evaluation Procedure	Chap. IV-10
Route Changes	Chap. IV-11
Service and Fare Alternatives Assessment.....	Chap. IV-12

Service Area	
Definition	Chap. I-5
Service Standard/Policy	
Definition	Chap. I-5
State DOT Program-Specific Requirements	
Agency Assistance	Chap. V-1
Title VI Program Preparation.....	Chap. V-1
Monitoring Requirements	Chap. V-2
Planning	Chap. V-2
Program Administration.....	Chap. V-2
Subrecipient	
Definition	Chap. II-6
System-wide Service Policy Requirements	Chap. IV-4, 5, 6
System-wide Service Standard Requirements	
Transit Amenities.....	Chap. IV-6
System-wide Service Standard Requirements	
On-time Performance.....	Chap. IV-4, 5, 6, App. J-6
Service Area Routes.....	Chap. IV-4, 5, 6
Vehicle Headway	Chap. IV-4, 5, 6, App. J-4
Vehicle Load	Chap. IV-4, 5, 6 App. J-2
<u>Technical Assistance Resources</u>	App. N-1, 2
Low-Literacy and LEP Best Practices	App. N-2
Title VI	
Complaint Procedures	Chap. III-4, 5
Determination of Compliance.....	Chap. VII-1, 2, 3, 4
FTA's Title VI Website	See Websites
General Requirements.....	Chap. III-1, 2-9
Letters of Finding and Resolution.....	Chap. VII-1, Chap. IX-2
Noncompliance Judicial Review.....	Chap. IV-4
Noncompliance Procedures	Chap. IV-1, 2, 3, 4
Noncompliance Proceedings.....	Chap. IV-1, 2, 3, 4
Objectives	Chap. II-1
Program	
Definition	Chap. I-6
Program Checklist.....	App. A-1
Program Checklist for State DOTs and Other Agencies	App. A-1
Record Keeping Requirements	Chap. III-1, App. L-1
Reporting Requirements	Chap. II-1, Chap. III-4, App. L-1
Transit Service Monitoring Requirements.....	App. L-1
Websites	
Civil Rights Division of the Department of Justice	App. N-1
Community Impact Assessment (CIA).....	App. N-1
FHWA/FTA's Environmental Justice.....	App. N-2
FTA's Title VI	App. N-1
Limited English Proficiency Interagency Working Group	App. N-1
United We Ride.....	App. N-1