



F E D E R A L   T R A N S I T   A D M I N I S T R A T I O N

# New York City Transit Title VI Compliance Review Final Report

June 2014

Federal Transit Administration

**PREPARED BY**  
The DMP Group, LLC  
Washington, DC



U.S. Department of Transportation  
Federal Transit Administration

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**I. GENERAL INFORMATION**

Grant Recipient: MTA New York City Transit (NYCT)

City/State: New York, NY

Grantee No: 1789

Executive Official: Carmen Bianco  
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## **II. JURISDICTION AND AUTHORITIES**

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct civil rights compliance reviews. New York City Transit (NYCT) is a recipient of FTA funding assistance and is therefore subject to the Title VI compliance conditions associated with the use of these funds pursuant to the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d)
- Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.)
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.)
- Department of Justice regulation, 28 CFR part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs” (December 1, 1976, unless otherwise noted)
- DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964” (June 18, 1970, unless otherwise noted)
- Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, “Environmental Impact and Related Procedures” (August 28, 1987)
- Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, “Planning Assistance and Standards,” (October 28, 1993, unless otherwise noted)
- DOT Order 5610.2, “U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations,” (April 15, 1997)
- DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons, (December 14, 2005)
- Section 12 of FTA’s Master Agreement 18, (October 1, 2011)

## **III. PURPOSE AND OBJECTIVES**

### **Purpose**

The FTA Office of Civil Rights periodically conducts discretionary reviews of grant recipients and subrecipients to determine whether they are honoring their commitments, as represented by certification, to comply with the requirements of 49 U.S.C. 5332. In keeping with its regulations

and guidelines, FTA determined that a Compliance Review of New York City Transit (NYCT) Title VI Program was necessary.

The Office of Civil Rights authorized The DMP Group, LLC, to conduct the Title VI Compliance Review of NYCT. The primary purpose of this Compliance Review was to determine the extent to which NYCT has met its General Reporting and Program-Specific Requirements and Guidelines, in accordance with FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients.” Members of the Compliance Review team also discussed with NYCT the requirements of the 2001 DOT Guidance on Special Language Services to Limited English Proficient (LEP) Beneficiaries that is referenced in Circular 4702.1A. The Compliance Review had a further purpose to provide technical assistance and to make recommendations regarding corrective actions, as deemed necessary and appropriate. The Compliance Review was not an investigation to determine the merit of any specific discrimination complaints filed against NYCT.

## Objectives

The objectives of FTA's Title VI Program, as set forth in FTA Circular 4702.1A, dated May 13, 2007, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," are to:

- Ensure that the level and quality of transportation service is provided without regard to race, color, or national origin
- Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations
- Promote the full and fair participation of all affected populations in transportation decision making
- Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations
- Ensure meaningful access to programs and activities by persons with limited English proficiency. The objectives of Executive Order 13166 and the "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries" are for FTA grantees to take reasonable steps to ensure "meaningful" access to transit services and programs for limited English proficient (LEP) persons

The objectives of Executive Order 13166 and the "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries" are for FTA grantees to take reasonable steps to ensure "meaningful" access to transit services and programs for limited English proficient (LEP) persons.

#### **IV. BACKGROUND INFORMATION**

New York City Transit (NYCT) is an affiliate of the Metropolitan Transportation Authority (MTA), which the State legislature created in 1968 to develop and implement a unified mass transportation policy for the region. The bus, rail, and paratransit services provided by NYCT combine to provide more than 7.5 million trips on an average weekday. The services operate throughout New York City, including the five boroughs of Manhattan, Brooklyn, Queens, the Bronx, and Staten Island. The estimated population of the service area is more than eight million persons.

NYCT and the Manhattan and Bronx Surface Transportation Operating Authority (MaBSTOA), a statutory subsidiary of NYCT, provides local bus, express bus, subway, rail, and paratransit services. It directly operates the bus and subway services and contracts out the paratransit services. NYCT also operates the Staten Island Railway (SIR), which is operated with no FTA funding.

MTA is responsible for providing oversight and direction in connection with the operations of its subsidiaries and affiliates. This work includes coordinating the funding from federal, state, and local sources. MTA, not NYCT, is the direct grantee of funds from FTA. However, NYCT is responsible for implementing various FTA-funded and other capital projects as well as operating transit services. This review focused on transit services, capital projects, and related amenities managed by NYCT and included the evaluation of certain functions that were the direct responsibility of NYCT.

NYCT has an active fleet of 4,344 buses, of which 3,681 are needed for peak service that operates on 224 routes. All buses are locally funded. According to the most recently-approved NTD data, NYCT has more than 6,282 subway cars operating in its subway system, with an additional 64 cars in service at the SIR. The rail fleet is a combination of locally and federally funded vehicles.

The basic fare for NYCT subways and local buses is \$2.25. The fare for NYCT express bus service is \$5.50. In addition to paying cash on buses, riders can purchase a fare card known as MetroCard for use on buses and at subway stations. The MetroCard permits a passenger to transfer for free for up to two hours between the bus and subway systems (with the exception of the MetroCard Single Ride ticket). Senior citizens, persons with disabilities, and Medicare cardholders are eligible for reduced fares for all subway and regular bus services. To be eligible, a person must provide acceptable identification with a cash fare or obtain a Reduced-fare MetroCard. Express bus reduced fares are available off-peak weekdays and anytime on weekends. Reduced fares for express buses are half the posted single-ride fare.

Access-A-Ride (AAR) is the complementary ADA paratransit service for transit in New York City. NYCT administers AAR and the service is shared-ride, door-to-door, or feeder service. NYCT contracts with private carriers to provide AAR service with lift-equipped vans or sedans. In addition, service is provided by private taxis, livery, and black car services. The system has approximately 1,920 vehicles available for service and operates 1,744 vehicles in maximum service. Fares for the AAR are the same as the fixed-route service.

The following table represents a demographic profile of the NYCT service area using data from the 2000 and the 2010 Census. The table shows the 2000 and 2010 population by racial/ethnic group, the increase (or decrease) in population from 2000 to 2010, and the percentage of the racial/ethnic group population to the total population in both 2000 and 2010. The table also shows the 2000 and 2010 population of individuals below the poverty level (Low-Income) and individuals who speak English less than “very well” (Limited English).

From 2000 to 2010, the total population of the NYCT service area increased 2.1 percent. During this period, the White population decreased 2.8 percent, while the African American population decreased 5.1 percent, the Hispanic population increased 8.1 percent, the Asian population increased 31.8 percent, the American Indian/Alaskan Native population increased less than 1 percent, and the Hawaiian/Pacific Islander decreased 1.2 percent.



In 2010, 33.3 percent of the total population was White, 22.8 percent was Black, 28.6 percent was Hispanic, 12.6 percent was Asian, 0.2 percent was American Indian/Alaskan Native, and 0.03 percent was Hawaiian/Pacific Islander.

According to the 2000 Census, 1,666,938 persons (21.25 percent) of the population had income below the poverty level and 1,768,758 persons (23.66 percent) of the population had limited English proficiency (LEP). The information for low income and LEP for 2010 are estimates (please see footnotes below the following table).

**Demographics of New York City  
Racial/ Ethnic Breakdown, 2000 and 2010**

Racial/ Ethnic Group	New York City 2000		New York City 2010		Change in New York City		
	Number	Percent	Number	Percent	Number	Percent change ethnic group	Percent change total population
White	2,801,267	35.0%	2,722,904	33.3%	-78,363	-2.8%	-1.0%
African American	1,962,154	24.5%	1,861,295	22.8%	-100,859	-5.1%	-1.3%
American Indian/ Alaska Native	17,321	0.2%	17,427	0.2%	106	0.6%	0.0%
Asian	780,229	9.7%	1,028,119	12.6%	247,890	31.8%	3.1%
Hawaiian/ Pacific Islander	2,829	0.0%	2,795	0.03%	-34	-1.2%	0.0%
Other Race	58,775	0.7%	57,841	0.7%	-934	-1.6%	0.0%
Two or More	225,149	2.8%	148,676	1.8%	-76,473	-34.0%	-1.0%
Hispanic Origin <sup>1</sup>	2,160,554	27.0%	2,336,076	28.6%	175,522	8.1%	2.2%
<b>Total</b>	8,008,278	100%	8,175,133	100%	166,855		2.1%

Low Income	1,668,938	21.25%	1,561,450 <sup>2</sup>	19.1%
Limited English	1,768,758	23.66%	1,733,373 <sup>2</sup>	22.96%

**Source: 2000 and 2010 U.S. Census**

<sup>1</sup> Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories.

<sup>2</sup> Per the 2006–2010 American Community Survey 5-Year Estimates.

<sup>2</sup> Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories.

<sup>2</sup> Per the 2006–2010 American Community Survey 5-Year Estimates.

## **V. SCOPE AND METHODOLOGY**

### **Scope**

The Title VI Compliance Review of NYCT examined the following requirements and guidelines as specified in FTA Circular 4702.1A:

1. General Reporting Requirements and Guidelines – All applicants, recipients and subrecipients shall maintain and submit the following:
  - a. Annual Title VI Certification and Assurance
  - b. Title VI Complaint Procedures
  - c. Record of Title VI Investigations, Complaints, and Lawsuits
  - d. Language Access to LEP Persons
  - e. Notice to Beneficiaries of Protection under Title VI
  - f. Submit Title VI Program
  - g. Environmental Justice Analysis of Construction Projects
  - h. Inclusive Public Participation
2. Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas – All applicants, recipients and subrecipients that provide public mass transit service in areas with populations over 200,000 shall also submit the following:
  - a. Demographic Data
  - b. System-wide Service Standards and Policies
  - c. Evaluation of Service and Fare Changes
  - d. Monitoring Transit Service

### **Methodology**

Initial interviews were conducted with the FTA Headquarters Civil Rights staff and the FTA Region II Director of Operations and Programs Management to discuss specific Title VI issues

and concerns regarding NYCT. Following these discussions, an agenda letter was sent to NYCT advising it of the site visit and indicating that additional information that would be needed and issues that would be discussed. The NYCT Title VI review team focused on the compliance areas that are contained in FTA Title VI Circular 4702.1A that became effective on May 13, 2007. These compliance areas are (1) General Reporting Requirements and Guidelines and (2) Program-Specific Requirements for Recipients Serving Large Urbanized Areas. The General Reporting Requirements and Guidelines now include implementation of the Environmental Justice (EJ) and Limited English Proficiency (LEP) Executive Orders.

NYCT was requested to provide the following documents in advance of the site visit:

- Description of NYCT's service area, including general population and other demographic information using the most recent Census data.
- Current description of NYCT's public transit service, including system maps, public timetables, transit service brochures, etc.
- Roster of current NYCT revenue vehicles, to include acquisition date, seating configurations, and other amenities.
- Description of transit amenities owned, controlled, and/or maintained by NYCT for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.
- Any studies or surveys conducted by NYCT, its consultants, or other interested parties (colleges or universities, community groups, etc.) regarding ridership, service levels and amenities, passenger satisfaction, passenger demographics or fare issues for its public transit service. and projects during the past three years.
- NYCT Organization Chart.
- Summary of NYCT's efforts to seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities during the last three years.
- A copy of NYCT's four-factor analysis of the needs of persons with Limited English Proficiency.
- A copy of NYCT's plan for providing language assistance for persons with Limited English Proficiency that is based on the USDOT LEP Guidance.

- NYCT’s procedures for investigating and tracking Title VI complaints and documentation that the procedures for filing complaints are available to members of the public upon request.
- A list of any investigations, lawsuits, or complaints naming NYCT that alleges discrimination on the basis of race, color, or national origin since June 30, 2010. This list must include:
  - the date the investigation, lawsuit, or complaint was filed
  - a summary of the allegation(s)
  - the status of the investigation, lawsuit, or complaint
  - actions taken by NYCT in response to the investigation, lawsuit, or complaint
- Copy of NYCT’s Notice to Beneficiaries of Protections Under Title VI.
- Documentation of efforts made by NYCT to notify members of the public of the protection against discrimination afforded to them by Title VI.
- Copies of any environmental justice assessments, if applicable, conducted for construction projects since June 30, 2010 and, if needed, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities.
- A copy of NYCT’s demographic analysis of its beneficiaries; this can include either demographic maps and charts prepared or a copy of any customer surveys conducted since the last Title VI submittal that contain demographic information on ridership, or NYCT’s locally-developed demographic analysis of its customer’s travel patterns.
- Quantitative system-wide service standards and qualitative system-wide service policies adopted by NYCT to guard discriminatory service design or operation decisions.
- Documentation of NYCT’s methodology for evaluating significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact (Note: per Circular 4702.1A Chapter V part 4, this requirement applies to “major service changes” only and NYCT should have established guidelines or thresholds for what it considers a “major” service change to be.) If NYCT has made significant/minor, increase/decrease service changes or fare changes since June 30, 2010, or is currently planning such changes, provide documentation of NYCT’s Title VI evaluations of the service or fare changes.
- Documentation of periodic service monitoring activities undertaken by NYCT since June 30, 2010, to compare the level and quality of service provided to predominantly minority and low-income areas with service provided in other areas to ensure that the end result of policies and decision-making is equitable service.

If NYCT's monitoring determined that prior decisions have resulted in disparate impacts, provide documentation of corrective actions taken to remedy the disparities.

NYCT assembled the documents prior to the site visit and provided them to the Compliance Review team for advance review. A detailed schedule for the four-day site visit was developed.

The site visit occurred July 31–August 3, 2012. The individuals participating in the NYCT review are listed in Section VIII of this report. An entrance conference was conducted at the beginning of the compliance review with NYCT senior management staff, FTA Regional staff, FTA Headquarters Office of Civil Rights staff, and the contractor review team. During the entrance conference, the review team explained the goals of the review and the needed cooperation of staff members. The review team also showed the participants a video on Title VI during the entrance conference. The detailed schedule for conducting the on-site visit was discussed.

Following the entrance conference, the review team conducted a detailed examination of documents submitted to FTA and uploaded on TEAM-Web documents submitted to the review team in advance of the site visit, as well as documents provided at the site visit by NYCT staff on behalf of the agency. The review team then met with various staff members from NYCT to discuss how NYCT incorporated the FTA Title VI requirements into its public transit system.

At the end of the site visit, an exit conference was held with NYCT senior management staff, FTA Regional staff, FTA Headquarters Office of Civil Rights Staff, and the contractor review team. At the exit conference, initial findings and corrective actions were discussed with NYCT.

### **Site Visits**

With the assistance of NYCT staff, the review team identified one bus route (Q44) and two subway lines (4 and 6) that served minority areas, and one bus route (S79) and one subway line (R) that served non-minority areas. During the site visit, the review team toured each of these routes in their entirety to observe ridership, vehicle or railcar assignments and conditions, bus stops or rail stations, and transit amenities. The review team observed no disparities in

ridership loads, vehicle or railcar assignments and conditions, or amenities on subway lines or at subway stations. The following table identifies the two bus routes toured and their respective transit amenity characteristics:

<b>Transit Amenity</b>	<b>S79 Non- minority</b>	<b>Q44 Minority</b>
Benches	35	27
Shelters	36	27

As indicated in the table above, the review team observed fewer amenities on the minority bus route than on the non-minority bus route; however, it was determined that the minority bus route was also shorter in distance than the non-minority bus route. Accordingly, no significant disparity in the distribution of transit amenities was observed on the minority and non-minority bus routes toured. It was also noted that NYCT is not responsible for the placement of bus shelters and benches along its bus routes as that is the responsibility of the New York City Department of Transportation.

## **VI. FINDINGS AND RECOMMENDATIONS**

The Title VI Compliance Review focused on NYCT's compliance with the General Reporting Requirements and Guidelines and the Program-Specific Requirements for Recipients Serving Large Urbanized Areas. This section describes the requirements, guidance, and findings at the time of the Compliance Review site visit. In summary, no deficiencies were identified in 8 of the 12 requirements of the Title VI Circular applicable to recipients serving large urbanized areas. Deficiencies were identified in the following four Title VI requirement areas:

- Language Access to LEP Persons
- Title VI Complaint Procedures
- Demographic Data
- Evaluation of Service and Fare Changes

Following the site visit, NYCT submitted documentation on August 16, 2012 and May 3, 2013, to address the deficiencies in Complaint Procedures, Demographic Data, and Evaluation of Service and Fare Changes. NYCT submitted documentation that sufficiently addresses the three deficiencies; closure of the three deficiencies are reflected in the final document.

Please transmit your response to your Civil Rights Officer in Region II at:

Aaron Meyers  
Equal Opportunity Specialist  
Federal Transit Administration - Region II  
One Bowling Green, Suite 429  
New York, NY 10004-1415  
E-mail: aaron.meyers@dot.gov

## FINDINGS OF THE GENERAL REPORTING REQUIREMENTS AND GUIDELINES

### 1. Inclusive Public Participation

**Guidance:** *FTA recipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.*

**Finding:** During this Title VI Compliance Review of NYCT, no deficiencies were found regarding its compliance with FTA guidance for Inclusive Public Participation. NYCT's June 2011 Title VI Program submission to FTA included several examples of outreach performed by NYCT, including service change notices, fliers, and press releases. In a letter dated December 5, 2011, FTA conditionally approved NYCT's Title VI Program submission. In this letter, FTA stated that the information submitted by NYCT to document its inclusive public participation efforts, as required by FTA Circular 4702.1A,

*... lacked a description of how this process assures meaningful access to minority and/or low-income communities in the transportation planning and public outreach process.... To correct this area, please include those procedures that assure meaningful access in the public outreach process.*

In response to FTA's conditional approval, MTA provided a description of NYCT's inclusive public participation practices that met FTA Circular 4702.1A requirements.

In its response, dated February 6, 2012, NYCT stated the following:

*The division of Government and Community Relations' (GCR) primary community contact is through New York City's 59 Community Boards (CB), which serve as the local representative body of their respective districts. Community Boards seek to include and ensure the representation of each neighborhood within its geographic boundary, including low-income and/or minority communities. GCR routinely attends Community Board meetings to present plans for major construction work, new or modified services, and significant service diversions. Additionally, NYCT representatives attend community meetings to address transit-related issues when invited.*



*Before implementation of significant service changes and in advance of a proposal being forwarded to the MTA Board, GCR presents the necessary information to elected officials and affected CBs. To ensure their opportunity to attend and be heard, CBs and elected officials are routinely notified when a service change is placed on the agenda of the MTA Board's NYCT Operating Committee meeting. For routine bus and subway schedule changes, GCR provides to all elected officials and CBs a complete list of changes with a cover letter that highlights the more significance changes occurring on the routes in each borough.*

In addition to public engagement through Community Boards, NYCT provided other means of communication, as follows:

- MTA website
- MTA/NYCT public hearings
- MTA Board meeting and Committee meetings, which begin with a public comment segment
- Hotline numbers established for capital construction projects
- Customer surveys (prior to 2009)

In its response, NYCT also documented its practice of scheduling meetings in coordination with local officials, Community Boards, and neighborhood groups to ensure that meeting times and venues were convenient to their respective communities. NYCT stated:

*This results in our participation in both day and evening hours, depending on the needs of the group. If necessary, to ensure full participation, GCR staff and other NYCT representatives arrange to attend meetings to repeat the discussion of a particular transit issue for different neighborhoods and audiences. A good example of the effort to make public participation more convenient and accessible, are NYCT public forums held in larger subway stations during morning and evening rush hours to provide an opportunity for customers to discuss their transportation concerns with senior NYCT staff. At these events, customers are also invited to write their comments on prepaid mailer postcards.*

During the site visit, NYCT provided additional documentation confirming its compliance in this area, including a list of 41 community organizations used by NYCT for outreach to minority and/or low income communities. In a document titled "MTA Multicultural Media Placement," NYCT provided a list of multicultural media used to communicate public input opportunities, which included the following:

	<b>Newspaper</b>	<b>Radio</b>	<b>TV</b>	<b>Online</b>
<b>Spanish</b>	El Diario Hoy El Especialito La Tribuna Noticia El Vocero El Sol La Voz De CT Hora Hispana La Voz Hispana Diaro De Mexico Fe Fuerza Vida	WADQ WSKQ WPAT WXNY	Univision Telemundo	NY1Noticias.com ElDiarioNY.com BatangaNetwork.com YankeeBeisbol.com
<b>African American</b>	Amsterdam News National Journal New York Beacon Black Star News	WBLS WRKS WQHT WWPR WLIB WWRL		
<b>Chinese</b>	World Journal Sing Tao Epoch Times Ming Pao			
<b>Korean</b>	Korean Times Korean Central Daily			
<b>Caribbean</b>	Carib News Caribbean Life Haitian Times			
<b>Indian/S. Asian</b>	India Express Pakistan News News India Times Desi Talk			

## 2. Language Access to LEP Persons

**Requirement:** *FTA recipients shall take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of its programs and activities for individuals who are Limited English Proficient (LEP).*

**Finding:** During this Title VI Compliance Review of NYCT, deficiencies were found regarding NYCT's compliance with FTA requirements for Language Access to LEP persons. In a letter

dated December 5, 2011, FTA conditionally approved NYCT's Title VI Program submission. In this letter, FTA stated that, "While New York MTA and its agencies have submitted both four-factor analyses and implementation plans, the information is at times unclear, incomplete, or conflicting." While not specifically included in the conditional approval, it was determined during this Review that NYCT's four-factor analysis did not adequately identify the number of LEP-speaking persons it served, how often LEP-speaking persons came into contact with its services and programs, what NYCT services were most important to LEP-speaking persons, and what LEP resources were available and the associated costs. In addition, NYCT's Language Assistance Plan (LAP) did not adequately document its current language assistance practices. The following table describes NYCT's LEP four factor analysis and LAP, and whether NYCT satisfied the requirements of FTA Circular 4702.1A and current DOT LEP Guidance:

<b>Elements Required for LEP Four-Factor Analysis and Language Assistance Plan (per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)</b>		
	<b>Included in NYCT's Plan</b>	<b>Notes/Comments</b>
<b>Part A – Four-Factor Analysis</b>		
1. Demography – the number or proportion of LEP persons eligible to be served or likely to be encountered	No	<p>NYCT used 2010 American Community Survey (ACS) data to identify the number of LEP-speaking persons in its service area. While the ACS data is one good resource for beginning to identify LEP-speaking populations, NYCT did not use the ACS data for that purpose. NYCT used the ACS data to identify the number of people who speak a language other than English at home, which does not necessarily identify LEP persons. Many of the people who fall into this category could also speak English. The ACS data also reports on persons who speak English "less than very well" and "not at all," which individually and collectively are a better measure of LEP persons.</p> <p>NYCT must also use at least one other source recommended by the DOT LEP Guidance for identifying LEP persons. This could include data from other state and local agencies, including Department of Education and school district data, and information from organizations that serve LEP persons. A thorough analysis will include data from multiple sources.</p> <p>It was also noted that in its LAP, NYCT stated that it would use U.S. Census data and data from New York City's</p>

<b>Elements Required for LEP Four-Factor Analysis and Language Assistance Plan (per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)</b>		
		Office of Management and Budget (NYCOMB) to identify LEP persons. The NYCOMB data were not used to conduct this analysis.
2. Frequency of Contact – the frequency with which LEP individuals come into contact with the program and/or activities	No	<p>While NYCT identified some of the ways it communicated with LEP persons (e.g., fliers, notices on radio and in newspaper media) in its analysis, it did not identify the frequency with which LEP persons came into contact with its services and programs. NYCT must reference the current DOT LEP Guidance and employ the methods identified therein to measure LEP frequency of contact. Some of the recommended methods include:</p> <ul style="list-style-type: none"> <li>• Outreach to community groups</li> <li>• Customer service surveys</li> <li>• Bus operator and subway attendant surveys</li> <li>• Website translation statistics</li> <li>• Language line usage statistics</li> </ul> <p>During the site visit, NYCT provided language line statistics, but these data were not analyzed as a part of its four-factor analysis.</p>
3. Importance – the nature and importance of the program, activity, or service to people's lives	No	<p>NYCT did not identify what programs and services were most important to LEP riders. NYCT must reference the current DOT LEP Guidance and employ the methods identified therein to identify the nature and importance of its services and programs to LEP persons. Some of the recommended methods include:</p> <ul style="list-style-type: none"> <li>• Outreach to community groups</li> <li>• Customer satisfaction surveys</li> <li>• Bus operator and subway attendant surveys</li> </ul>
4. Resources – the resources available and costs	No	<p>NYCT stated that “due to MTA NYCT’s financial constraints, full translation of all transportation documents, except for vital documents, and in-person interpreter services, are generally not available at this time. MTA NYCT continues to provide language translation and interpretation services when practical within the scope of funding available, in order to provide sufficient and reasonable access to programs, activities and services.”</p> <p>NYCT’s four-factor analysis did not allow NYCT to adequately weigh the demand for language assistance against the agencies current and projected financial and personnel resources, as described by the current DOT LEP Guidance. In addition, NYCT did not identify the resources it currently provided and related costs necessary to conduct this analysis.</p> <p>During the site visit, NYCT provided language line</p>

<b>Elements Required for LEP Four-Factor Analysis and Language Assistance Plan (per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)</b>		
		statistics along with the costs, but these data were not analyzed as a part of its four-factor analysis.
<b>Part B – Develop Language Assistance Plan</b>		
1. Identification of LEP Persons	No	NYCT stated that it would use U.S. Census data and data from New York City’s Office of Management and Budget (NYCOMB) to identify LEP persons. The NYCOMB data were not used to conduct its most recent LEP four-factor analysis. See Factor 1 above for required action.
2. Language Assistance Measures	Partial	<p>NYCT stated in its LAP that it provided “various written, oral, and in-person services for LEP persons” and provided as an example its Language Line. In addition, NYCT referenced a May 12, 2012, Memorandum that established NYCT’s “responsibilities and procedures for the translation of marketing and service information, safety messages and fare policy information so that the aforementioned messages are accessible to non-English speaking customers.” It also described the Agency’s actions to inform the public as to the procedures to file a complaint under Title VI. This memo identified inconsistencies in NYCT’s translation practices. For example, NYCT MetroCard Vending Machines provided purchasing instructions in Spanish, French, French Creole, Russian, Chinese, Japanese, Italian, Korean, Greek, and Polish; NYCT fare and service change information was translated into Spanish; and NYCT’s Title VI Notice to Beneficiaries was translated into Spanish, Chinese, Korean, and Russian.</p> <p>NYCT must update its LAP to identify all of its language assistance measures (e.g., NYCT used pictograms and translated its website through Google translate, but these measures were not included in its LAP under Language Assistance Measures), including a detailed list of vital documents that are translated. NYCT must also determine, based on the results of a more comprehensive four factor analysis, which languages its vital documents will be translated into. This information must be a part of its next LAP, and not included by reference.</p>

<b>Elements Required for LEP Four-Factor Analysis and Language Assistance Plan (per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)</b>		
3. Training of Staff	No	<p>NYCT's LAP stated that it was developing a Title VI/LEP training program for employees likely to have contact with LEP persons. It also provided a list of topics that the training would cover, including the following:</p> <ul style="list-style-type: none"> <li>• Understanding Title VI Responsibilities</li> <li>• Background on LEP populations within the service area</li> <li>• Description of the type of language assistance MTA currently provides</li> <li>• How to handle a complaint</li> </ul> <p>During the site visit, NYCT did not document or otherwise confirm that this training was taking place. In addition, training on topics such as LEP population distribution and travel behavior and assistance needs must be developed in accordance with the conduct and results of a more comprehensive four-factor analysis.</p>
4. Provide Notice to LEP Persons	Yes	NYCT provided notice to LEP persons via its website and through Community Boards and other community-based organization it regularly engaged.
5. Monitor and Update the LAP	No	<p>NYCT stated that it would "monitor and re-evaluate the effectiveness of current methods of communicating with LEP individuals in its service area and, where indicated, make adjustments and/or enhancements as necessary."</p> <p>NYCT must establish procedures to update its LAP a minimum of once every three years.</p>

During the site visit, NYCT stated that it was doing more to provide language assistance to LEP persons than was represented in its most recent LEP four-factor analyses and LAP. When updating its Title VI LEP practices and LAP, NYCT must seek input from across its agency to ensure that all current practices are considered in relation to FTA Circular 4702.1A and DOT LEP Guidance and incorporated in its LAP.

**Corrective Actions and Schedules:** Within 90 days, NYCT must submit to FTA an LEP four-factor analysis and Language Assistance Plan; while the review was conducted under FTA's Circular 4702.1A and current DOT LEP Guidance; NYCT shall ensure that the updated information is consistent with FTA's revised Circular 4702.1B. NYCT, along with the other operating agencies in the MTA family, are required to submit an updated Title VI program consistent with FTA's revised Circular 4702.1B by June 1, 2014. While the review was

conducted under FTA's Circular 4702.1A and current DOT LEP Guidance, NYCT's submission to FTA of an LEP four-factor analysis and Language Assistance Plan in the MTA's June 1, 2014 Title VI program update will close this finding, upon receiving approval of the program from FTA.

### **3. Title VI Complaint Procedures**

**Requirement:** *FTA 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.*

**Finding:** During this Title VI Compliance Review of NYCT, deficiencies were found and one advisory comment was issued regarding NYCT's compliance with FTA requirements for Title VI Complaint Procedures. In a letter dated December 5, 2011, FTA conditionally approved NYCT's Title VI Program submission. In this letter, FTA stated that the *MTA HQ program includes a complaint procedure that indicates Title VI complaints will be investigated, however, all complaints received by MTA HQ were referred to the respective agencies...Each agency has its own standard for defining complaint closures and resolutions. NYCT identifies all complaints as "internal" vs. "external," however, this distinction is not further explained.* Prior to the site visit, NYCT submitted its "MTA New York City Transit Policy/Instruction Number 1.10.1," dated October 18, 2006. The subject of this document was "Title VI Complaints," and the document described NYCT's Title VI complaint procedures. In summary, NYCT's procedures included the following key elements:

- All complaints must be filed in writing, and should include:
  - a written statement of facts supporting the allegation of discrimination, the location and the names, addresses, and telephone numbers of any witnesses
  - the complainant's name, address, telephone number or other method of communicating with the complainant
  - the type of discrimination alleged, i.e. race, color, or national origin
  - the name or other identifying information of the individual alleged to have engaged in the discrimination
  - the transit service or other benefit, which the complainant was allegedly denied
- Complaints could be registered with several departments within NYCT.

- The Office of Equal Employment Opportunity (OEEO) was responsible for receiving, investigating, and making its best efforts to respond to complaints within 60 work-days.

During the site visit, there was considerable discussion over the effectiveness of NYCT's complaint procedures with respect to the letter and spirit of FTA Circular 4702.1A. As a result of these discussions, it was noted that NYCT's complaint procedures lacked the following:

- **Clear procedures on how complaints filed with different operating units within NYCT were received, categorized, and reported to NYCT's OEEO for tracking and external reporting.**

In its Title VI complaint procedures, complaints could be filed with NYCT's Office of Corporate Communications, Customer Service Division (CSD). During the site visit, NYCT explained that the CSD received complaints, determined whether or not they qualified as Title VI, and, if so, notified the complainant that he/she could file the complaint in writing to OEEO. Prior to the site visit, CSD did not report, in detail or summary form, the Title VI complaints it received. After filing a complaint with CSD, if a complainant did not follow-up with a written complaint to OEEO, then OEEO did not investigate or otherwise record and track the complaint filed with CSD. During the site visit, CSD reported that from 2009 to 2012 (year to date) it had received Title VI complaints as follows:

- 2009 – 41 complaints
- 2010 – 68 complaints
- 2011 – 67 complaints
- 2012 (year to date) – 37 complaints

Title VI complaints could also be filed with the Department of Buses, Department of Subways, and by email via MTA's website; however, it was not determined during the site visit how many complaints were filed with these departments.

- **A description of the difference between internal and external complaints, including a description of how both categories of complaints were handled.**

NYCT's Title VI complaint tracking log provided prior to and updated during the site visit included a list of complaints labeled "Internal Complaints" and a list of complaints labeled "External Complaints." NYCT explained that Internal Complaints were those filed in writing with the OEEO and External Complaints were those filed, typically as lawsuits, with NYCT's General Counsel. External Complaints and the procedures for handling them were not described in NYCT's complaint procedures.

- **Procedures on how to file an appeal.**



According to NYCT's complaint procedures, NYCT's OEE0 sends the agency's final response to the complainant. There was no internal appeals process available to the complainant. NYCT's complaint procedures do not specifically notify the complainant of their right to appeal; however, they did include a section on "External Redress," which stated, "in addition to the complaint process at MTA NYCT, a complainant may file a Title VI complaint with the U.S. Department of Transportation, Federal Transit Administration, Office of Civil Rights, One Bowling Green, Room 429, New York, NY 10004-1415." During the site visit, FTA stated that NYCT should develop an internal complaint appeals process and try to resolve complaints at the lowest agency level possible.

- **A description of how NYCT's Title VI Complaint Form was to be used by the complainant and NYCT.**

During the site visit, NYCT referred to its Customer Complaint Intake Form, which could be downloaded from its website; however, neither the complaint form nor its use were described in NYCT's complaint procedures.

- **A less onerous standard for considering, tracking, and recording Title VI complaints than the one in place at the time of the site visit, which required that the complainant submit a very detailed complaint in writing as described above.**

Both the Review team and FTA Office of Civil Rights staff present at the site visit agreed that NYCT should modify its complaint procedures, removing the requirement for complainants to file a "written statement of facts supporting the allegation of discrimination, including the names, addresses and telephone numbers of any witnesses." It is believed that this requirement effectively discouraged individuals who believe they have been discriminated against by NYCT on the basis of race, color, or national origin from filing a Title VI complaint, and therefore denied them a benefit protected by Title VI. This was evidenced by the fact that from July 1, 2007, to June 30, 2012, NYCT's OEE0 reported only 26 Title VI complaints, while NYCT's CSD reported 213 Title VI complaints from 2009–2012 (year to date). Since OEE0 reported only complaints filed in writing, it suggested that NYCT's current policy was ineffective in capturing and tracking Title VI complaints with respect to the letter, spirit, and intended purpose of the Title VI Complaint Procedures requirement in FTA Circular 4702.1A. NYCT should consider all complaints filed against it, even if the complainant chose not to detail his/her complaint in writing as was required by NYCT. The consideration and administrative or procedural disposition of all Title VI complaints would assist NYCT in identifying potential problem areas, and possibly avoid occurrences of Title VI non-compliance.

NYCT is also advised to take steps to close Title VI complaints in a timelier manner. NYCT's complaint procedures stated that the OEE0 "should use best efforts to respond to Title VI complaints within 60 work-days of its receipt of such complaints." NYCT's list of Title VI

complaints included in its June 2011 Title VI submittal contained open complaints dating back to April 2009. Just prior to the site visit in preparation for this review, NYCT's OEEEO closed all Title VI complaints it was tracking except for one external complaint filed on June 8, 2012.

**Corrective Actions and Schedule: None.** Following the site visit, NYCT submitted complaint procedures consistent with the revised Circular 4702.1B.

The deficiency in this area is now closed.

#### **4. Record of Title VI Investigations, Complaints, and Lawsuits**

**Requirement:** *FTA recipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipients that allege discrimination on the basis of race, color, or national origin. 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 to the investigation, lawsuit, or complaint.*

**Finding:** During this Title VI Compliance Review of NYCT, no deficiencies were found regarding NYCT's compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. NYCT's OEEEO reported 15 Internal and 2 External Title VI complaints filed for the most recent 3-year period, July 1, 2009 through June 30, 2012. The list included all elements required by FTA Circular 4702.1A, IV, 3 as follows:

- The date the investigation, lawsuit, or complaint was filed
- A summary of the allegation(s)
- The status of the investigation, lawsuit, or complaint
- Actions taken by the recipient or in response to the investigation, lawsuit, or complaint

#### **5. Notice to Beneficiaries of Protection Under Title VI**

**Requirement:** *FTA recipients shall provide information to the public regarding their Title VI obligations 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 can include but shall not be limited to a posting on its Web site.*

**Finding:** During this Title VI Compliance Review of NYCT, no deficiencies were found regarding NYCT's compliance with FTA requirements for Notice to Beneficiaries of Protection

Under Title VI. NYCT's Notice included all three of the elements required by FTA Circular 4702.1A, IV.5 as shown in the following table.

<b>Elements Required in Title VI Notification (per FTA Circular 4702.1A Chapter IV Section 5.a)</b>	<b>Included in NYCT Draft Policy?</b>
A statement that the agency operates programs without regard to race, color, and national origin	Yes
A description of the procedures that members of the public should follow in order to request additional information on the recipient's nondiscrimination obligations	Yes
A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient	Yes

The review team confirmed NYCT's Notice was posted on its website and included on its schedules, site maps, and other printed flyers. While touring the system, it was observed that the Notice, along with procedures for filing a complaint, were posted at stations and bus stops and were provided in several different languages such as Spanish and Korean.

## **6. Annual Title VI Certification and Assurance**

**Requirement:** *FTA recipients shall submit its annual Title VI certification and assurance as part of its Annual Certifications and Assurances submission to FTA (in the FTA web based Transportation Electronic Award Management (TEAM) grants management system.*

**Findings:** During this Title VI Compliance Review of NYCT, no deficiencies were found regarding NYCT's compliance with FTA requirements for Annual Title VI Certification and Assurance. The FTA Civil Rights Assurance is incorporated in the Annual Certifications and Assurances submitted annually to FTA through the Transportation Electronic Award and Management (TEAM) system. MTA, on behalf of NYCT, executed its FY 2012 Annual Certifications and Assurances in TEAM on December 20, 2011. MTA checked as applicable, 01. Certifications and Assurances required of all applicants. This is the category where the nondiscrimination assurance is located.

## **7. Environmental Justice Analysis of Construction Projects**

**Guidance:** *FTA recipients should integrate an environmental justice analysis into its National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required.). In preparing documentation for a categorical exclusion (CE), recipients can meet this requirement by completing and submitting FTA's standard CE checklist, which includes a section on community disruption and environmental justice.*

**Findings:** During this Title VI Compliance Review of NYCT, no deficiencies were found regarding NYCT's compliance with FTA requirements for Environmental Justice Analysis of Construction Projects. Major construction projects were primarily handled by MTA Capital Programs and not NYCT. At the time of the site visit, all 12 of NYCT's constructions projects were State of Good Repair projects on existing facilities, for which Documented Categorical Exclusions (DCE) were required. These projects were as follows:

- 7/22/10 – Rehabilitate 5 Substation Enclosures
- 11/15/10 – Rehab & Flood Mitigation at 148th Street Yard
- 4/12/11 – Rehabilitation of 8 Bridges – Staten Island Railway
- 5/2/11 – Station Renewal: Forest Ave Station – Myrtle Ave Line
- 5/12/11 – Station Renewal: Hunters Point Ave Station – Flushing Line
- 5/13/11 – Platforms: 45th Street-Court Square Station Flushing Line
- 5/17/11 – 8 Station Structure Rehabs Staten Island Railway
- 5/19/11 – Station Renewal: Central Ave Station – Myrtle Ave Line
- 5/19/11 – Station Renewal: Seneca Ave Station – Myrtle Ave Line
- 5/19/11 – Station Renewal: Knickerbocker Ave Station – Myrtle Line
- 6/8/11 – Station Renewal: Fresh Pond Rd Station – Myrtle Ave Line
- 6/22/11 – ADA Forest Hills-71st Avenue Station – Queens Blvd Line

For each construction project, NYCT determined whether minority and/or low-income persons were impacted by the project by using the New York State Department of Environmental Conservation (NYSDEC) Potential Environmental Justice Area Maps. These were maps of the entire NYCT service area that highlighted concentrations of minority and low-income persons throughout the city by Census Block Group (CBG). Those CBGs that exceeded 51.1 percent minority and 23.59 percent low-income were identified as areas of potential EJ concern. Of the 12 constructions projects, 9 were in potential environmental justice areas. For each of those nine

construction projects, NYCT assessed the project's impacts on minority and low-income communities and determined there to be no disproportionate adverse impact on those communities.

**8. Submit Title VI Program.**

**Requirement:** *FTA recipients serving large urbanized areas are required to document their compliance with the general reporting requirements by submitting a Title VI Program to FTA's Regional Civil Rights Officer once every three years.*

**Findings:** During this Title VI Compliance Review of NYCT, no deficiencies were found regarding NYCT's compliance with FTA requirements to Submit Title VI Program. The New York City Transit 2008–2011 Title VI Program covering the period January 1, 2008, to December 31, 2011, submitted to the FTA in June 2011, was conditionally approved by FTA in a letter dated December 5, 2011.

On February 6, 2012, NYCT submitted clarifications and updates (as appropriate) in response to FTA's conditional approval. NYCT's February 6, 2012, response and its initial June 2011 Title VI Program submittal were reviewed to determine compliance with FTA Circular 4702.1A requirements for Submit Title VI Program. The review team confirmed that NYCT's Title VI Program submittal was prepared in accordance with FTA Circular 4702.1A, as follows:

<b>ELEMENTS REQUIRED FOR TITLE VI PROGRAM</b>	
<b>General Reporting Requirements and Guidelines (per FTA C. 4702.1A, IV, 7. a. (1) – (5))</b>	<b>In NYCT Title VI Program Submittal?</b>
<ul style="list-style-type: none"> <li>Summary of public outreach and involvement activities undertaken since the last submission and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Copy of the agency’s plan for providing language assistance for persons with limited English proficiency that was based on the DOT LEP Guidance or a copy of the agency’s alternative framework for providing language assistance.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Copy of the agency procedures for tracking and investigating Title VI complaints.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>List of any Title VI investigations, complaints, or lawsuits filed with the agency since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to the agency submitting the report, not necessarily the larger agency or department of which the entity is a part.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Copy of the agency’s notice to the public that it complies with Title VI and instructions to the public on how to file a discrimination complaint.</li> </ul>	Yes
<b>Program-Specific Requirements and Guidelines (per FTA C. 4702.1A, V, 6. a. (1) – (4))</b>	
<ul style="list-style-type: none"> <li>Copy of the agency’s demographic analysis of its beneficiaries. This should include either any demographic maps and charts prepared or a copy of any customer surveys conducted since the last report that contain demographic information on ridership, or the agency’s locally-developed demographic analysis of its customer’s travel patterns.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Copies of system-wide service standards and system-wide service policies adopted by the agency since the last submission.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Copy of the equity evaluation of any significant service changes and fare changes implemented since the last report submission.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Copy of the results of either the level of service monitoring, quality of service monitoring, demographic analysis of customer surveys, or locally-developed monitoring procedures conducted since the last submission.</li> </ul>	Yes

## **FINDINGS OF THE PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR RECIPIENTS SERVING LARGE URBANIZED AREAS**

### **9. Demographic Data**

**Requirement:** *FTA recipients serving large urbanized areas shall collect and analyze racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.*

**Findings:** During this Title VI Compliance Review of NYCT, deficiencies were found regarding NYCT's compliance with FTA requirements for demographic data. Prior to the site visit, NYCT provided the following documents to fulfill the requirement for collecting demographic data:

- **Demographics and Service Profile Maps and Charts (all five boroughs were provided)**
  - Census Tracts Base Map
  - Bus Routes Map
  - Subway Route Maps
  - Major Streets and Highways Map
  - Major Trip Generators Map
  - Maintenance and Garage Facilities Map
  - Transit Facilities Rehabilitation Map – modernized retrospective 10 years and scheduled prospective 5 years
- **Demographic Map – (all five borough maps were provided)**
- **Population/Racial Distribution Chart**
- **Survey Information on Customer Demographics and Travel Patterns Chart**
  - Information on riders' race, color, and national origin
  - Information on riders' income or income range
  - Mode of transit service that riders use most frequently
  - Frequency of transit usage (average per week)
  - Fare payment type and media most frequently used
  - Riders' auto availability (one or more automobiles)

NYCT's demographic maps included a base map for each of the five New York City boroughs. Census tracts on the maps were colored to show minority census tracts that exceeded the average minority concentration for the entire service area (65.02 percent). The base maps were based on the 2000 Census and did not disaggregate specific minority groups. As noted above, the base maps were overlaid with separate maps showing subway routes, bus routes, major streets, major generators (to include hospitals, transportation hubs, colleges, recreation centers, and government offices), NYCT subway shops and bus depots, and station rehabilitation projects.

NYCT also provided a table showing the actual numbers for each minority group within each borough, again according to the 2000 Census. This table showed that the total percentage of minority population varied significantly within each borough, as shown below:

<b>Borough</b>	<b>Total Minority</b>	<b>Largest Ethnic Groups (% of Total Population)</b>
Bronx	85.47%	Hispanic (48%), African American (31%)
Brooklyn	65.34%	African American (34%), Hispanic (20%)
Manhattan	54.21%	Hispanic (27%), African American (15%)
Queens	67.13%	Hispanic (25%), African American (19%), Asian (17%)
Staten Island	28.71%	Hispanic (12%)

Following the summary chart, NYCT provided a Population/Racial Distribution by Census Tract table for each borough. These charts showed actual numbers and percentages for each census tract, identifying which census tracts exceeded the service area minority threshold of 65.02 percent.

NYCT provided the same demographic maps and charts, again using 2000 Census data, for income levels. The income base maps, by borough, identified those census tracts where more than 21.25 percent of the population was below or at the poverty level, as defined by the U.S. Census. As noted above, the income base maps were overlaid with separate maps showing subway routes, bus routes, major streets, major generators (to include hospitals, transportation



hubs, colleges, recreation centers and government offices), NYCT subway shops and bus depots, and station rehabilitation projects.

NYCT also provided a table showing the actual population numbers and percentages of persons below the poverty level within each borough, again according to the 2000 Census. This table showed that the total percentage of minority population varied significantly within each borough, as shown below:

<b>Borough</b>	<b>% Population Below or at the Poverty Level</b>
Bronx	30.68%
Brooklyn	25.07%
Manhattan	20.00%
Queens	14.57%
Staten Island	10.05%

Following the summary chart, NYCT provided a Population Below or at the Poverty Level by Census Tract table for each borough. These charts showed actual numbers and percentages for each census tract, identifying which census tracts exceeded the service area poverty level threshold of 21.25 percent.

The review team discussed the Circular's requirements for demographic and service profile maps and charts in relation to NYCT's practices at the time of the site visit, as follows:

<b>Elements Required for Demographic Data (per FTA C. 4702.1A, V, 1. a.)</b>	<b>Included in NYCT's Title VI Submittals?</b>
A base map of the agency's service area that includes each census tract or traffic analysis zone (TAZ), major streets, etc., fixed transit facilities and major activity centers. The map should also highlight those transit facilities that were recently modernized or are scheduled for modernization in the next five years.	Yes
A demographic map that plots the above information and also shades those census tracts or TAZ where the percentage of the total minority and low-income population residing in these areas exceeds the average minority and low-income population for the service area as a whole.	Yes

A chart for each census tract or TAZ that shows the actual numbers and percentages for each minority group within the zone or tract.	Yes
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During the site visit, NYCT explained that its practice of collecting demographic data pursuant to FTA Circular 4702.1A was to do so according to FTA Circular 4702.1A, V.1 Option C: Locally Developed Alternative, which in the case of NYCT, included conducting a Title VI demographic analysis of its service area by using a combination of Demographic and Service Profile Maps and Charts (Option A) and Survey Information of Customer Demographics and Travel Patterns (Option B).

The passenger survey data was not included with the documents submitted for this review; however, a summary of passenger survey responses was included in a document titled “2010 NYCT Title VI Program Final–Part 02” that was uploaded on FTA’s TEAM-Web system. This document noted that the latest survey data available was for the period of 2008–2009 since the marketing department discontinued the survey.

The review team advised NYCT that since it no longer conducts surveys, its locally-developed approach to conducting Title VI demographic analysis was no longer effective, and that unless it creates a new locally-developed methodology, it must meet the requirements of Option A. In addition, NYCT is advised that FTA Title VI Circular 4702.1A requires that “maps and charts should be prepared after each decennial Census.” NYCT’s demographic data must be updated to use 2010 Census data. In addition, given the large number of minority groups, NYCT must disaggregate the minority population by the major ethnic groups (at a minimum, Asian, African American, Hispanic, and other) to ensure that transit services and related benefits are provided equitably to each ethnic group. Further, since the overall minority population at 65.02 percent exceeds 50 percent, NYCT demographic data must identify minority groups by the following levels:

- Less than 50% percent.
- Between 50 percent and the service area average
- Greater than 65.02 percent.

**Corrective Actions and Schedule: None.** Following the site visit, NYCT submitted new demographic maps and charts per FTA Circular 4702.1A using 2010 U.S. Census data, disaggregated the three major ethnic groups, and showed the three levels of minority populations, as described above.

The deficiency in this area is now closed.

## **10. System-wide Service Standards and Policies**

**Requirement:** *FTA recipients serving large urbanized areas shall adopt quantitative system-wide service standards necessary to guard against discriminatory service design or operations decisions. Recipients serving large urbanized areas shall adopt system-wide service policies necessary to guard against discriminatory service design or operations decisions. Service standards differ from service policies in that they are not based necessarily on a quantitative threshold.*

**Findings:** During this Title VI Compliance Review of NYCT, no deficiencies were found regarding NYCT's compliance with FTA requirements for System-wide Service Standards and Policies. FTA Circular 4702.1A describes effective practices to fulfill the Title VI service standard requirements. FTA recommends that recipients set standards for the following indicators, giving transit agencies latitude to set standards for different/or additional indicators at their discretion:

### **Service Standards**

- Vehicle Load
- Distribution of Transit Amenities
- Vehicle Headway
- Service Availability
- On-time Performance

### **Service Policies**

- Vehicle Assignment
- Transit Security

NYCT submitted system-wide service standards for its bus and subway service in a document titled "MTA New York City Transit System-wide Service Standards Title VI (July 2010–June 2011)." In this document, NYCT described its methodology for developing quantifiable service standards, which included the contemplation of vehicle type and capacity, route type, population

density, ridership studies, and industry standards. NYCT’s methodology for each standard was then applied to its major service distinctions, including service modes (bus, subway), types of routes (feeder, grid, express), and times of service (peak, off-peak, weekend, evening). The size and span of NYCT’s transit service produced many different actual standards depending on route/vehicle type, time of day, etc.; however, the methodology for defining each standard remained consistent across its system and is described in the table below:

<b>NYCT Service Standards</b>	<b>Bus</b>	<b>Subway</b>
<b>Vehicle Load</b>	The average load factor is the number of average riders per trip divided by the number of bus seats.	The load factor is the average number of passengers per car divided by the scheduled load.
<b>Vehicle Headway</b>	Based on ridership volume measured periodically at “maximum load points.” Headways ranged from <3 minutes to 30 minutes, depending on volume.	Based on ridership volume measured periodically at “maximum load points.” Headways ranged from 2 minutes to 20 minutes, depending on volume.
<b>On-time Performance</b>	>3 minutes – Peak >5 minutes – Off-peak	>2 minutes – Peak >4 minutes – Off-peak
<b>Distribution of Transit Amenities</b>	Transit amenities are maintained by the New York City Department of Transportation not NYCT.	All subway stations should have the following amenities: <ul style="list-style-type: none"> <li>• Trash receptacles</li> <li>• Train arrival annunciator</li> <li>• MetroCard vending machines, at least two per entry control area, space permitting</li> <li>• Passenger Information Center (PIC) Displays, space permitting</li> <li>• Subway system maps</li> </ul>

NYCT also described the following system-wide service policies:

<b>NYCT Service Policies</b>	<b>Bus</b>	<b>Subway</b>
<b>Service Availability</b>	The NYC Transit follows general industry practice of having transit service stops available within a ¼ mile walk.	Same as Bus
<b>Vehicle Assignment</b>	<p>The Department of Buses seeks to maintain a uniform fleet age across the system, with the average fleet age standard for any depot or division being 6–7 ½ years. The Department of Buses has developed extensive supporting policies to facilitate compliance with this standard.</p> <p>New buses are assigned to various depots in the system based on the needs of the individual depot, not on the needs of the individual route. The average bus age for particular route in a depot is taken as a constant, given that bus assignments are not route specific.</p>	Assignment of Subway cars is not route specific, and is based on the scheduled peak and off-peak requirement. It will change with schedule revision. The age of MTA NYCT subway cars varies from 7–43 years old and most of them are rebuilt or regularly overhauled. Hence, there is no specific standard maintained for the age of subway cars.
<b>On-time Performance</b>	<p>&gt;3 minutes – Peak</p> <p>&gt;5 minutes – Off-peak</p>	<p>&gt;2 minutes – Peak</p> <p>&gt;4 minutes – Off-peak</p>
<b>Distribution of Transit Amenities</b>	Transit amenities are maintained by the New York Department of Transportation, not NYCT.	<p>All subway stations should have the following amenities:</p> <ul style="list-style-type: none"> <li>• Trash receptacles</li> <li>• Train arrival annunciator</li> <li>• MetroCard vending machines, at least two per entry control area, space permitting.</li> <li>• Passenger Information Center (PIC) Displays, space permitting.</li> <li>• Subway system maps</li> </ul>

It was noted that several of NYCT's system-wide service standards were based on data and ridership levels that may not reflect current services. For example, in response to a request for its current system-wide service standards and system-wide service policies, NYCT submitted a document titled "Rapid Transit Loading Guidelines," dated February 8, 1988. This document referenced comparative studies conducted 24 years ago, comparing the vehicle load practices of comparable transit systems, to help inform the development of NYCT's own practices. These practices may no longer be relevant. NYCT also provided supplemental information titled "New York City Transit Authority Operations Planning Department System Data and Traffic," the contents of which were difficult to read as a result of over-reproduction (copying/scanning). In the future, NYCT must determine if the information contained in this document is current, and if so, the document must be updated.

#### **11. Evaluation of Service and Fare Changes**

**Requirement:** *FTA recipients shall evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. For service changes, this requirement applies to "major service changes" only. Recipients should have established guidelines or thresholds for what it considers a "major" change.*

**Findings:** During this Title VI Compliance Review of NYCT, deficiencies were found regarding NYCT's compliance with FTA requirements for Evaluation of Service and Fare Changes. The NYCT definition of "major service change" was not consistent with the requirements of the Circular and NYCT modified the "definition" when it conducted its service change analyses.

In its 2010–2011 Title VI (Environmental Justice) Annual Submission, NYCT indicated that it used the Locally Developed Evaluation Procedure, described as Option B in FTA Circular 4702.1A, and that it would closely follow the Option A approach, but would be modified to address route modification actions and span modification changes not included in the Option A definition. NYCT identified its "definition" of major service change as one that "exceeds at least one of the following three criteria:

- Route restructuring actions resulting in at least 25% change in route length
- Span change actions resulting in at least one hour change in service span
- Frequency adjustment actions resulting in at least 25% change in revenue vehicle miles”

This definition, which was an MTA-approved service change guideline (revised June 10, 1985), was developed to address the FTA requirement to conduct a public hearing for changes for major service reductions and fare increases. This definition did not account for route deletions, new routes, or service expansions that must be included in a Title VI evaluation of service and fare changes. Further, in the description of its Title VI evaluation methodology and in the actual evaluation, NYCT used a different method of determining “major” service changes by introducing the use of route restructuring packages. NYCT’s aforementioned 2010–2011 Annual Submittal noted the following:

*For Route Restructuring Packages (e.g., eliminating a route portions of a route but replacing the service with re-routings of several other nearby routes to minimize overall impacts) where the net change in combined route lengths of longest paths is more than 25%, NYCT conducts a Route Change Analysis on the combined net overall changes (route deletions, additions and replacements). If the restructuring package itself constitutes a minor service change, but certain routes within the package qualifies as a major service change when examined by itself independently of the overall package, NYCT may, at its sole discretion, conduct a Route Change Analysis on those route independently of the overall package.*

This definition added a new element of “net overall changes” to determine if a service change was “major” that was not found in NYCT’s approved guideline.

NYCT determined that there were no major route or span changes in the July 2010–June 2011 Annual Title VI reporting period, based on the net percentage change in the longest path route length. This determination was made in spite of the implementation of a new service (i.e., SelectBus Service 15), which increased express service on the M15 Limited but resulted in the elimination of 11 or 12 weekday trips on the M15 Local.

In its 2007–2010 Triennial Title VI Submission, however, NYCT conducted extensive analyses of proposed service and fare changes resulting from efforts to close a major budget deficit. In these analyses, NYCT used the same definition as described above and determined that there were some changes that resulted in a net change in combined route lengths of longest paths that exceeded 25 percent. To evaluate the equity of span of service changes in excess of 25 percent, NYCT compared the load factors on non-minority bus routes to minority bus routes during the periods proposed for span reduction. Similar analyses were performed on low-income and non-low-income bus routes and subway lines. NYCT used statistical analyses to determine if the differences were statistically significant. NYCT determined that the proposed system-wide service span reductions impacted neighborhoods statistically equally, irrespective of race and income.

For major route changes, NYCT analyzed “packages” of changed bus and subway services including service reductions and eliminations. NYCT used Google Transit to compare travel times in non-minority and minority areas affected by routes proposed for changes. Similar analyses were performed on low-income and non-low-income bus routes and subway lines. As an example, in the case of the proposed elimination of the “W” subway line, NYCT analyzed the elimination of the “W” subway line as a package of changes to the “N,” the “Q,” and the “W” subway lines and determined that the elimination of the “W” subway line actually improved travel time for passengers. Obviously, if the “W” line had been analyzed as a 100 percent elimination of a single route, it would have qualified for an equity analysis on its own in accordance with NYCT’s definition of a major service change, and the analysis could not have concluded that the elimination of a subway line resulted in improved travel time.

NYCT used statistical analyses to determine if the differences were statistically significant for this route change package and the others determined to be “major.” NYCT’s equity evaluation determined that there were no significant differences between the proposed service changes affecting minority riders and non-minority riders or among low-income riders and non-low-income riders.



With respect to fare changes, NYCT conducted equity analyses of five proposed fare restructuring options during the period of 2007 to 2010. In each case, NYCT used demographic data from the U.S. Census, rather than demographic data of its ridership to determine the impact of the fare change. So, for example, for a proposed fare change (Option 2Fe) that would introduce a new 14-Day Unlimited Pass, NYCT used MetroCard fare payment data from all stations and used the census tract of the station to determine the current fare mix by minority and income status. The equity analysis determined that the average fare for minorities would increase by 3.5 percent and 3.4 percent for non-minorities during peak hours. The conclusion here was that there was not a statistically significant difference.

One of the five proposed fare restructuring options submitted by NYCT was detailed in its 2010 Student Fare Change impact analysis. While this fare change was never implemented, NYCT submitted this analysis as an example of its Title VI fare analysis process. Upon review, NYCT used the same approach in this analysis that it used in the other four examples submitted for review. Using census tract data, NYCT determined the impact of increasing the student MetroCard fare from \$0.00 on the subway and between \$0.00 and \$1.10 on the bus to \$1.10 on both subway and bus. NYCT concluded that the proposed change in student fare would have no discriminatory impacts on both minority and low-income student populations. This example highlighted the fact that NYCT's fare change analysis process did not take into consideration the demographic and socioeconomic characteristics of its ridership (in this case, the one million students in New York City public schools who were the eligible users of the student MetroCards). Based on the fact that the population of New York City is 65.02 percent minority, it is likely to assume that public school students are predominately minority and predominately low-income and would, therefore, be disproportionately affected by increases to the student MetroCards. NYCT was advised to consider the demographics of the students when conducting Title VI evaluations of student fare increases in the future.

During the site visit, the review team discussed in detail with NYCT the requirements and guidance for the Evaluation of Service and Fare Changes found in the following documents:

- FTA Circular 4702.1A
- FTA Dear Colleague Letter of March 8, 2011 on Title VI

- FTA Web presentation titled “FTA Transit Service & Fare Equity Analysis Under Title VI of the Civil Rights Act – Training Overview for FTA Funding Recipients”

**Corrective Actions and Schedule: None.** Following the site visit, NYCT submitted a definition of “major service change” for Title VI analysis that reflected how NYCT will determine major service changes and when these changes are across multiple routes/lines, and how NYCT evaluates these “package” changes in order to determine if they qualify as a major service change.

NYCT also submitted a revised evaluation of a service change to document how this methodology will be presented in future evaluations and submissions.

While not requested, NYCT submitted a fare increase analysis broken down by fare media type and showed the results of the statistical t-test on all of the fare increases from 2007–2010. For the 2010 Student Fare Change discussed previously, NYCT added data to show that 82 percent of the student MetroCard users originated in minority census tract origins and that 73 percent of the users entered stations in low-income census tracts. For this evaluation (which was not implemented) and the others, NYCT concluded that the fare increases “would have no discriminatory impacts on both minority and/or low-income populations.”

The deficiency in this area is now closed.

**Note:** See NYCT’s Response to this Finding and the Draft Report in Section IX below.

## **12. Monitoring Transit Service**

**Requirement:** *FTA recipients shall monitor the transit service provided throughout its service area. Periodic service monitoring activities shall be undertaken to compare the level and quality of service provided to predominantly minority areas with service provided in other areas to ensure that the end result of policies and decision-making is equitable service. Monitoring shall be conducted at minimum once every three years. If recipient monitoring determines that prior decisions have resulted in disparate impacts, it shall take corrective action to remedy the disparities.*

**Findings:** During this Title VI Compliance Review of the NYCT, no deficiencies were found regarding NYCT's compliance with FTA requirements for Monitoring Transit Service. NYCT used Option D, the Locally Developed Alternative described in FTA C. 4702.1A, Chapter V, section 5, to fulfill its requirement to monitor transit service. On an annual basis, NYCT conducted both minority and income-based monitoring of the following standards:

- **Level of Service Methodology**
  - Vehicle Load
    - Bus
    - Subway
  - Vehicle Headway
    - Bus
    - Subway
  - On-time performance
    - Bus
    - Subway
    - Distribution of Transit Amenities
    - Bus (analysis not included since NYCT DOT is maintaining bus stops)
    - Subway
  - Service Availability
  - Vehicle Assignment
    - Bus
    - Subway
- **Quality of Service Methodology**
- **Transit Travel Time and Fare Matrices**
  - Average peak hour travel time
  - Number of transfers
  - Cost per trip, and
  - Cost per mile
- **Title VI Analysis of Customer<sup>3</sup>**
  - Survey of Transit Riders

NYCT's 2011 minority monitoring documents included a report on vehicle load for buses that identifies every bus route by borough, a description of the route, whether or not the route served

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<sup>3</sup> NYCT stopped conducting surveys of transit riders in 2009, so this information was not included in its most recent 2011 Title VI Monitoring Report.

primarily minority or non-minority areas, and information on ridership at the maximum load point during the am peak period and the off-peak/mid-day period. To determine if the services provided were equitable, NYCT compared the actual (average) loads to the guideline (service standard) average load factor for the type of bus used (e.g., standard size or articulated bus). NYCT used a statistical analysis to see if there was a significant difference between the services provided for the minority routes and the non-minority routes. The equity analysis for local and express routes, by Borough, showed no significant differences.

With respect to monitoring vehicle load on subways, NYCT determined that an equity analysis was moot because all subway services were classified as minority routes. NYCT used the definition that a subway route was considered minority if one-third of its route miles traveled through minority census tracts.

NYCT also provided a report on vehicle headway for buses that identified every bus route by borough, a description of the route, whether or not the route serves primarily minority or non-minority areas, and information on headways (in minutes) for each route. To determine if the services provided were equitable, NYCT compared the actual headway to the guideline (service standard) headways. NYCT noted that service provided usually exceeded the guidelines. Therefore, NYCT measured whether the per-route statistical deviations of the actual headway from the guideline headway was skewed towards either “better” or “worse” service for a particular minority or non-minority group. NYCT used a statistical analysis to see if there was a significant difference between the services provided for the minority routes and the non-minority routes. The equity analysis for local and express routes, by borough, showed no significant differences. However, some of the results were very close, and NYCT was advised to conduct further equity analysis in the future if the statistical results were very close. As one example, the comparison of AM peak local bus headways, system-wide, showed a statistical variance of 1.99, while the t-critical values are  $\pm 2.00$ . Since these values were so close and since the analysis showed that the actual average headways difference for non-minorities to be nearly twice “better” than the guidelines than that of the minority service, it could have been useful to understand this difference and determine if mitigation was needed.

For subways, once again, NYCT noted that an equity analysis of service headways was moot since all of the subway routes met its definition of a minority route.

To monitor bus on-time performance, NYCT sampled 42 bus routes from all five boroughs that represented the routes with the highest service frequencies and greatest passenger volumes in each respective Borough. NYCT used field personnel to monitor approximately 40,000 bus departures on a semi-annual basis. A bus was determined to be on-time if it was within three minutes of its scheduled time during the peak period and within five minutes of its scheduled time during off-peak periods. The statistical analysis showed that minority routes were on time 80.10 percent of the time, while non-minority routes were on time 81.90 percent of the time, a difference that was not statistically significant.

For transit amenities, NYCT identified the following amenities that were the responsibility of NYCT to install and maintain:

- Passenger information centers
- MetroCard vending machines
- Train arrival annunciators
- Trash receptacles
- Subway system maps
- Benches

NYCT was not responsible for bus stops or shelters, which are selected and maintained by the New York City Department of Transportation (NYCDOT). NYCT was responsible for all of its subway stations. NYCT provided a report that included a list of all of the subway stations, along with the amenities that were available at each station. Each station was identified as a minority or a non-minority station (a minority station was one that was in or adjacent to a minority census tract that exceeded the service area average of 65.02 percent). For the amenities equity analysis, NYCT employed a statistical analysis to see if there was any difference in the distribution of amenities between minority and non-minority stations based on NYCT's standards. It was explained that "analysis was used to test for evenness between the actual and expected

distribution of observations.” The resulting analysis found no statistically significant inequities for any of the six amenities measured.

The identification of minority and non-minority stations did show that 44 percent (205 of 464 stations) of the stations in the subway system were non-minority stations. On certain routes, the number of non-minority stations appeared even higher. During the site visit, the review team noted that NYCT may want to consider revisiting its determination that all subway routes are minority for purposes of Title VI equity monitoring. The review team acknowledged that because NYCT operated multiple subway lines through many stations, an analysis of which routes were actually predominately used by minorities or non-minorities would be difficult without demographic data usually obtained from passenger surveys.

NYCT monitored for service availability by comparing the distance traveled to gain access to a transit service from a random sample of minority and non-minority census tracts, against NYCT’s standard of a 0.25- mile walk. The analysis revealed that the actual average distance traveled was 0.15 miles for minorities and 0.14 miles for non-minorities. Both distances are well below the guideline and not significantly different.

To assess vehicle assignment, NYCT provided reports that identified the bus fleet roster by year of manufacture, and those bus depots that served minority routes (as previously defined) and those that served non-minority routes. The analysis showed that the actual average age of buses assigned to minority depots was 8.46 years, compared to 8.06 years old in the non-minority depots. Both were higher than the system-wide standard of 7.50 years, but not significantly different statistically.

For subways, once again, NYCT noted that an equity analysis of vehicle assignment was moot since all of the subway routes met its definition of a minority route.

For quality of service methodology, NYCT randomly selected 14 minority census tracts and 14 non-minority census tracts as origin points. Using Year 2000 Census journey-to-work data, NYCT identified the three most traveled destinations from each origin census tract. Trip time

and distance were measured from the centroid of the trip origination to the centroid of trip destination during peak hour. Average peak hour travel time, number of transfers, cost per trip, and cost per mile for each origin-destination pair were calculated. NYCT used a statistical analysis to compare the quality of service measures from minority tracts to trips from non-minority tracts. While all of the measures, with the exception of cost per trip (which was equal), were slightly higher for trips from minority census tracts, none of the differences were statistically significant.

NYCT provided a similar monitoring analysis for income levels as described above for minority populations. The 2011 income-based analyses included the same measures as used for the minority based analyses, as follows:

#### **Level of Service Measures**

- Vehicle load
- Vehicle headway
- On-time performance
- Distribution of transit amenities
- Service availability
- Vehicle assignment

#### **Quality of Service Methodology**

- Transit travel time and fare matrices

The major difference from the minority analysis was that NYCT performed equity analysis of subway routes since it determined that 3 of the 20 subway lines were considered to be non-low income. Also, NYCT did not use the statistical test for the subway analyses, as it was felt that the results would not be normally distributed.

The income-based analyses showed that, in most instances, as did the minority analysis, there was no statistically significant difference between services provided to low-income areas and services provide to non-low-income areas. Where there were some differences, such as vehicle

load on three low-income routes being “outliers” from the norm, NYCT explained that these routes were operated on the Lexington Avenue Corridor in Manhattan and that NYCT has taken steps such as implementing bus rapid transit type service on this corridor as an alternative to overcrowding on this subway service. Additionally, a major capital project, the Second Avenue Subway line, was under construction to further alleviate overcrowding on service along this corridor.



## **VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS**

<b>Title VI Requirements for Recipients Serving Large Urbanized Areas</b>	<b>Site Review Finding</b>	<b>Description of Deficiencies</b>	<b>Corrective Action(s)</b>	<b>Response Days/Date</b>	<b>Date Closed</b>
<b>GENERAL REQUIREMENTS</b>					
1. Inclusive Public Participation	ND				
2. LEP Language Assistance Plan	D	Lacking assessment or provisions for LEP persons	NYCT, along with the other operating agencies in the MTA family, are required to submit an updated Title VI program consistent with FTA's revised Circular 4702.1B by June 1, 2014. While the review was conducted under FTA's Circular 4702.1A and current DOT LEP Guidance, NYCT's submission to FTA of an LEP four-factor analysis and Language Assistance Plan in the MTA's June 1, 2014 Title VI program update will close this finding, upon receiving approval of the program from FTA.	June 1, 2014	
3. Title VI Complaint Procedures	D	Complaints not addressed properly	NYCT must submit an updated Title VI complaint procedures that include the following: <ul style="list-style-type: none"> <li>• an internal appeals process</li> <li>• a description of the handling of internal and external complaints</li> <li>• a description of NYCT's Customer Complaint Intake Form and its use; and modification of the requirement for customers to file a written statement of facts supporting the allegation of discrimination,</li> </ul>	May 3, 2013	May 6, 2013

<b>Title VI Requirements for Recipients Serving Large Urbanized Areas</b>	<b>Site Review Finding</b>	<b>Description of Deficiencies</b>	<b>Corrective Action(s)</b>	<b>Response Days/Date</b>	<b>Date Closed</b>
			including the names, addresses and telephone numbers of any witnesses While the review was conducted under Circular 4702.1A; and MTA/NYCT has a current program on file; NYCT shall ensure that the updated information is consistent with the revised circular 4702.1B.		
	AC	Complaints not filed in a timely manner	Take steps to close complaints within the timeframe noted in complaint procedures.		
4. List of Title VI Investigations, Complaints, and Lawsuits	ND				
5. Notice to Beneficiaries of Protection Under Title VI	ND				
6. Annual Title VI Certification and Assurance	ND				
7. Environmental Justice Analyses of Construction Projects	ND				
8. Prepare and Submit a Title VI Program	ND				
<b>PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR LARGE URBANIZED AREAS</b>					
9. Demographic Data	D	Demographic data lacking	NYCT must submit updated demographic maps as described by FTA Circular 4702.1A, using 2010 U.S. Census data. Specifically, NYCT must do the following: <ul style="list-style-type: none"> <li>Disaggregate the minority population into at least three groups: Asian, African American, and Hispanic</li> <li>Show gradations percentages</li> </ul>	August 16, 2012	August 17, 2012

<b>Title VI Requirements for Recipients Serving Large Urbanized Areas</b>	<b>Site Review Finding</b>	<b>Description of Deficiencies</b>	<b>Corrective Action(s)</b>	<b>Response Days/Date</b>	<b>Date Closed</b>
			0 to 50%, 50% to average, and above average		
10. System-wide Service Standards and Policies	ND				
11. Evaluation of Fare and Service Changes	D	Definition of major service change not adequate	NYCT must submit a revised definition of major service change for Title VI evaluations to reflect Circular requirements and actual practices, in accordance with FTA C. 4702.1A	August 16, 2012	August 17, 2012
12. Monitoring Transit Service	ND				

Findings at the time of the site visit: ND = No Deficiencies; D = Deficiency; NA = Not Applicable;  
NR = Not Reviewed; AC = Advisory Comment

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## IX. NYCT'S RESPONSE TO DRAFT REPORT

130 Livingston Street  
Brooklyn, NY 11201

Thomas F. Prendergast  
President



May 3, 2013

### **By E-mail & Regular Mail**

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### **Re: Draft Report of the New York City Transit Title VI Compliance Review**

Dear Mr. Meyers:

The New York City Transit Authority ("NYCT") submits the following information in response to the April 2013 draft report issued by the Federal Transit Administration ("FTA") concerning NYCT's Title VI Compliance Review. NYCT has reviewed the report and requests the following modifications:

### **Background Information**

**Factual Statement:** "*New York City Transit (NYCT) is one of seven affiliates of the Metropolitan Transportation Authority (MTA). . .*"

**Response:** From a purely legal perspective, there are not actually seven affiliate entities of the Metropolitan Transportation Authority ("MTA"). NYCT, along with its subsidiary, the Manhattan and Bronx Surface Transit Operating Authority, is an affiliate of the MTA. The only other affiliate entity of the MTA is the Triborough Bridge and Tunnel Authority. *See* Public Authorities Law §1265-b. The MTA's statutory subsidiaries include the Long Island Rail Road Company, Metro-North Commuter Railroad Company, Staten Island Rapid Transit Operating Authority, MTA Bus Company, MTA Capital Construction Company, and First Mutual Transportation Assurance Company.

NYCT suggests a minor modification of the sentence to read, "New York City Transit (NYCT) is an affiliate of the Metropolitan Transportation Authority (MTA)."

**Factual Statement:** "*MTA is responsible for overseeing and directing the operations of its seven subsidiaries.*"

**Response:** As stated above, NYCT is an affiliate and not a subsidiary of the MTA. Moreover, the affiliates have independent statutory responsibilities. Therefore, a more accurate statement

MTA New York City Transit is an agency of the Metropolitan Transportation Authority, State of New York

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is, "MTA has responsibility for providing oversight and direction in connection with the operations of its subsidiaries and affiliates."

#### **Language Access to LEP Persons**

Corrective Actions and Schedules: *"Within 60 days, NYCDOT [NYCT][sic] must submit to FTA an LEP four-factor analysis and Language Assistance Plan..."*

#### **Response:**

Based on NYCT's discussions with the FTA during its site visit, as well as at the exit conference on August 3, 2012, NYCT anticipated a period of at least one year within which it could submit its revised Language Assistance Program. Indeed, the FTA indicated that, based on its experience, it would take a *minimum* of one year for NYCT to develop a robust, comprehensive and compliant four factor analysis and LEP program.

While NYCT has taken significant steps towards developing and expanding its Language Assistance Program since the compliance review,<sup>1</sup> there remains a great amount of work ahead. To the extent that sixty (60) days from the date of issuance of the final report were to precede September 30, 2013, NYCT requests that it have until the later date of September 30, 2013 to submit its program.

#### **Title VI Complaint Procedures**

Corrective Actions and Schedules: *"Within 60 days, NYCT must submit to FTA, updated Title VI complaint procedures that include the following:*

- *An internal appeals process*
- *A description of the differences and handling of internal and external complaints*
- *A description of NYCT's Customer Complaint Form and its use and modification of the requirement for customers to file a written statement of facts supporting the allegation of discrimination, including the names, addresses and telephone numbers of witnesses."*

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<sup>1</sup> An agency-wide LEP Committee was formed to address the deficiencies identified during the compliance review relating to NYCT's four-factor analysis and Language Assistance Plan. This Committee has been working diligently to address the deficiencies, and NYCT remains committed to taking prompt and reasonable steps to ensure meaningful access to transit services and programs for LEP persons.

**Title VI Complaint Procedures** (Continued)

Please find attached a copy of NYCT's proposed Revised Title VI Complaint Procedures which include:

- *An internal appeals process*
- *A description of the differences and handling of internal and external complaints*
- *A description of NYCT's Customer Complaint Form; and*
- *The removal of the requirement that complainants file with NYCT's Office of Equal Employment Opportunity a written statement of facts supporting the allegation of discrimination, including the names, addresses and telephone numbers of witnesses."*

**Findings of Deficiencies: Demographic Data & Evaluation of Service and Fare Changes**

Findings:

*"During this Title VI Compliance Review of NYCT, deficiencies were found regarding NYCT's compliance with FTA requirements for demographic data."*

*"During this Title VI Compliance Review of NYCT, deficiencies were found regarding NYCT's compliance with FTA requirements for Evaluation of Service and Fare Changes. The NYCT definition of "major service change" was not consistent with the requirements of the Circular and NYCT modified the "definition" when it conducted its service change analysis."*

Response: NYCT notes that the above-referenced deficiencies were addressed within the initial thirty (30) day response period after the exit conference, and were subsequently closed. Accordingly, NYCT requests that these initial concerns not be referred to as "deficiencies" in the final report of NYCT's Title VI Compliance Review.

**Evaluation of Service and Fare Changes**

NYCT also notes that with respect to its evaluations of service and fare changes, its definition of "major service change" has remained unchanged. This Board approved definition has been used by NYCT for all of its Title VI evaluations and submissions.

More specifically, NYCT did not use the "package level analyses" methodology for determining major service changes within the 2007-2010 Triennial Review period, as indicated in the draft report. Rather, NYCT proposed to the FTA at the 2007-2010 Triennial Review (held in 2011), that the *application* of the approved definition should include an analysis of proposed multi-route restructuring changes. This idea was proposed since planners were more often seeking to gain efficiencies and improve service by making simultaneous changes to multiple routes serving



**Evaluation of Service and Fare Changes** (Continued)

common areas. The FTA agreed, and indicated that NYCT should consider using this methodology in future evaluations and Title VI submissions. NYCT used this methodology in the 2010-2011 Title VI (Environmental Justice) Annual submission. However, this methodology was not used in the 2007-2010 reporting period.

Given this apparent misunderstanding, NYCT provides the following related comments:

- *"The NYCT definition of "major service change" was not consistent with the requirements of the Circular and NYCT modified the "definition" when it conducted its service change analyses." (Draft Report page 36).*

NYCT requests that the submitted "major service change" definition be deemed consistent with the FTA Circular, since NYCT never modified its definition when it conducted its service change analyses.

- *"This definition did not account for route deletions, new routes or service expansions that must be included in a Title VI evaluation of service and fare changes." (Draft Report page 37).*

NYCT requests that this statement be eliminated since, in accordance with its major service change definition, NYCT analyzed *all* route deletions and/or new route implementations (which are by definition 100% changes in overall route length), and also evaluated all service expansions whether or not they were changes in route length, revenue mileage or span of service.

- *"In its 2007-2010 Triennial Title VI Submission, however, NYCT conducted extensive analyses of proposed service and fare changes resulting from efforts to close a major budget deficit. In these analyses, NYCT used the same definition as described above and determined that there were some changes that resulted in a net change in combined route lengths of longest paths that exceeded 25 percent." (Draft Report page 38).*

As indicated above, in its 2007-2010 Triennial Title VI Submission, NYCT evaluated all routes separately to determine whether they were "major" route changes. The package level or net change analyses were not implemented in the 2007-2010 Triennial.

- *"As an example, in the case of the proposed elimination of the "W" subway line, NYCT analyzed the elimination of the "W" subway line as a package of changes to the "N," the "Q," and the "W," subway lines and determined that the elimination of the "W" subway line actually improved travel time for passengers. Obviously, if the "W" line had been analyzed as a 100 percent elimination of a single route, it would have qualified for an equity analysis on its own in accordance with NYCT's definition of a major service*

**Evaluation of Service and Fare Changes** (Continued)

*resulted in improved travel time.”* (Draft Report page 38).

For purposes of clarification, the impact of the elimination of the W line was in fact fully analyzed. The riders' travel patterns on the W line when it was in operation were compared to their travel options after it was eliminated. Since there were to be enhanced travel options available in the “after” case, the overall travel time to certain areas was reduced. This is a standard route analysis. Although the “package level analyses” method of major service change determinations was not used in the 2007-2010 Triennial, the equity analysis of the W line would have been performed in exactly the same manner if the “package level” changes were seen as major. Grouping routes as a “package” in order to determine if the net changes are “major” has no impact on subsequent analyses, which are done separately for each route or line in the “package.”

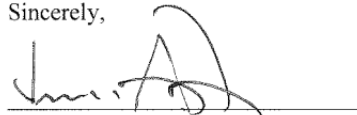
- *“NYCT determined that there were no major route or span changes in the July 2010–June 2011 Annual Title VI reporting period, based on the net percentage change in the longest path route length. This determination was made in spite of the implementation of a new service (i.e., SelectBus Service 15), which increased express service on the M15 Limited but resulted in the elimination of 11 or 12 weekday trips on the M15 Local. (Draft Report page 37).*

SBS15 service supplanted the M15 Limited along the same corridor and was designed by NYCT to be complementary with existing M15 local service in a similar manner to its former limited variant. The readjustments in trips were designed to improve overall service and to decrease overall travel times. More trips were allocated to the SBS15 to account for its increased speed in the corridor and shorter turn around time. A similar readjustment in trips between the M15 Local and M15 Limited variant of the combined M15 service would not have been considered a major change, if the overall percentages of revenue mileages and spans of service did not change significantly (as per NYCT guidelines). This same rationale should apply to the combined SBS15 / M15 shared corridor services.

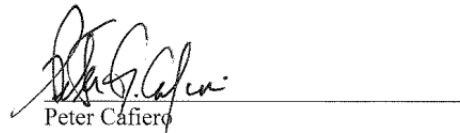
We appreciate your consideration of the above, and look forward to hearing back from you. Please do not hesitate to call us with any questions or concerns.

Attachment

Sincerely,



Joel C. Andrews  
Chief Officer  
Equal Employment Opportunity  
Telephone number: (718) 694-1730



Peter Cafiero  
Chief  
Operations Planning  
Telephone number: (646) 252-5510

Letter to Aaron Myers  
Page 6 of 6  
May 3, 2013  
Draft Report of NYCT's Title VI Compliance Review

cc: Carmen Bianco, Acting President, NYCT  
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Anthony Carr, Deputy Regional Director Administrator, Region II, FTA  
Linda Ford, Acting Director, FTA Office of Civil Rights  
Michael J. Garner, Chief Diversity Officer, MTA  
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