



U.S. Department
of Transportation
**Federal Transit
Administration**

REGION X
Alaska, Idaho, Oregon,
Washington

915 Second Avenue
Federal Bldg. Suite 3142
Seattle, WA 98174-1002
206-220-7954
206-220-7959 (fax)

REGION 10 BULLETIN NO: 09-17

Subject: Civil Rights Programs and American Recovery and Reinvestment Act Funding

Program Area: Civil Rights

Date: March 19, 2009

The Federal Transit Administration (FTA) funding recipients should assure all civil rights programs – Title VI, Equal Employment Opportunity (EEO) and the Disadvantaged Business Enterprise (DBE) Program, as required – are current and approved by the Regional Civil Rights Contacts (RCRC) for Region 10, Monica McCallum, or Region 8, Rebecca Tanrath, (acting for Region 10 until April 6, 2009) in order to facilitate processing of America Recovery and Reinvestment Act (ARRA) funds.

Overall, the same civil rights requirements apply to ARRA funds as apply to all other FTA grants; however some requirements, such as DBE goal submission guidelines, have been modified. New recipients or recipients whose programs have lapsed should check on FTA's Web site to find the most recent guidance to develop their programs and consult with the RCRC if they have questions. This bulletin is not intended to be comprehensive guidance, but provides resources to update civil rights programs if needed.

Title VI of the Civil Rights Act of 1964 (Title VI)

Title VI applies to ARRA funds. All grantees must have a current Title VI Program. Over the Road Bus and Tribal Transit Programs are exceptions and do not need Title VI. Please reference the following guidelines when preparing:

- Title VI Programs must adhere to Circular 4702.1A at http://www.fta.dot.gov/laws/circulars/leg_reg_5956.html, which was released in May, 2007.
- Transit agencies serving large urban areas (over 200,000 people) that are planning system-wide changes to routes or fares should perform an evaluation to determine whether those changes have a discriminatory impact. Service and fare change analysis and public notices should be done **prior** to any changes and the analysis should be submitted to the RCRC for review.

Disadvantaged Business Enterprise (DBE)

DBE applies to ARRA funds.

- If a grantee's contracting expenditures (excluding buses) exceeds \$250,000 during a federal fiscal year, they will need a DBE program and goal.
- Buses purchased must be built by a transit vehicle manufacturer (TVM) with a current DBE Program and goal on file with FTA. The list of TVMs with an FTA-approved DBE goal is available at http://www.fta.dot.gov/documents/TVM_2009.2.27.2009.xlsA.xls2.xls4.pdf, which is on the Office of Civil Rights DBE Web site, found at http://www.fta.dot.gov/civilrights/civil_rights_5089.html. This site is update regularly. Transit agencies must assure *at time of bid* that TVMs have an FTA-approved DBE goal.

Comprehensive DBE guidance is available on the Department of Transportation (DOT) Office of Small Business Utilization Web site, <http://osdbu.dot.gov/DBEProgram/index.cfm>.

ARRA is an opportunity for transit agencies to perform outreach to new and underutilized DBE contractors.

More information on DBE and ARRA can be found on the Federal Highway Administration's Economic Recovery Web site, <http://www.fhwa.dot.gov/economicrecovery/qandas.htm>, FTA's Contracting and Procurement Web site is located at http://www.fta.dot.gov/index_9239.html and FTA's ARRA Web site located at http://www.fta.dot.gov/index_9118.html.

Grantees may need to update their DBE goal, depending on how much ARRA funds they receive and how those funds are applied. In general, they have two options:

1. If the grantee does not have a Fiscal Year (FY) 2009 goal, they may submit a new goal that accounts for the remainder of FY 2009 contract expenditures and includes FY 2010 contract expenditures. The grantee does not need to submit a FY 2010 goal on August 2, 2009.
2. If the grantee already has a FY 2009 goal, but it will be obsolete due to new ARRA funds, they may submit a new goal that accounts for the remainder of FY 2009 contract expenditures and includes FY 2010 contract expenditures. The grantee does not need to submit a FY 2010 goal on August 2, 2009.

Equal Employment Opportunity (EEO)

EEO applies to ARRA funds.

- EEO Programs must be submitted every 3 years by FTA recipients with 50 or more transit-related employees *and* (1) who received \$1 million or more in capital or operating assistance, or (2) who received \$250,000 or more in planning assistance during the previous fiscal year.
- If an EEO Program is required by your agency, refer to the July 1988 FTA Circular: C 4704.1 "Equal Employment Opportunity Guidelines for Grant Recipients." http://www.fta.dot.gov/laws/circulars/leg_reg_5951.html

The Americans with Disabilities Act (ADA)

ADA always applies, regardless of source of funding.

- The transportation provisions of the ADA applies to the following entities, whether or not they receive Federal funding:
 - Any public entity that provides designated public transportation or intercity or commuter rail transportation;
 - Any private entity that provides specified public transportation; and
 - Any private entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system
- United States Department of Transportation (USDOT) regulations implementing the transportation provisions of the ADA are codified at 49 CFR parts 27, 37 and 38, and can be found on the Office of Civil Rights ADA website at <http://www.fta.dot.gov/ada>.
- Effective November 29, 2006, US DOT formally adopted the revised ADA Accessibility Guidelines (ADAAG) for facilities as the enforceable standard under its ADA regulations, with a number of modifications (see Appendix A to 49 CFR Part 37). These standards apply to any new construction or alterations that did not have approval for final design as of November 29, 2006. Elements specific to transportation facilities, including bus stops, are addressed in ADAAG 810, Transportation Facilities, located at <http://www.access-board.gov/ada-aba/final.cfm#a810>.
- Accessibility standards for vehicles and systems are established under 49 CFR Part 38.
- Entities seeking to depart from the specific scoping and technical standards established under ADAAG or Part 38 must apply for a determination of equivalent facilitation from FTA. Determinations of equivalent facilitation can be made only when the alternative method of compliance provides equal or greater accessibility than the required standards provide. Specific procedures for requesting a determination of equivalent facilitation, which include both public hearings and specific outreach requirements, are specified in 49 CFR 37.7(b) for vehicles, and 49 CFR 37.9(d) for facilities). Concurrence by the Office of the Secretary of Transportation is required before FTA can issue such a determination.

The FTA Office of Civil Rights is establishing a hotline for ARRA-related civil rights questions. That number will be available on FTA's civil rights public website soon. The link is http://www.fta.dot.gov/civil_rights.html.

For more information, please contact Rebecca Tanrath at 720-963-3313, email rebecca.tanrath@dot.gov until April 6, 2009, or Monica McCallum at 206-220-4462, email monica.mccallum@dot.gov. In addition, the FTA Office of Civil Rights is preparing a hotline for ARRA-related civil rights questions. That number will be available on FTA's Web site soon.

Sincerely,



R.F. Krochalis
Regional Administrator

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