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Overview of Final Circular 4702.1B Title VI Requirements and Guidelines for Recipients



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Rev. October 2012

Why Revise the Circular

- Clarity
- Accountability
- Transparency
- Consistency

Environmental Justice (EJ)

- Separated EJ from the current Title VI circular to reduce confusion
- FTA developed EJ guidance in circular number 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients”

Title VI



**Environmental
Justice**



EJ and Title VI

- **EJ**

- Executive Order
- Applies to Federal agencies
- Recipients facilitate FTA compliance with Executive Order (E.O)

- **Title VI**

- Statute
- Applies to recipients
- FTA oversees recipients' compliance with Title VI regulations

Organization of Circular

- Chapter I: Introduction and Background
- Chapter II: Program Overview
- **Chapter III: General Requirements and Guidelines**
- **Chapter IV: Requirements and Guidelines for Fixed Route Transit Providers**
- **Chapter V: Requirements for States**
- **Chapter VI: Requirements for MPOs**
- Chapter VII: Effectuating Compliance with DOT Title VI Regulations
- Chapter VIII: Compliance Reviews
- Chapter IX: Complaints
- Appendices

Highlights

- Provides grantees with clear guidance on the relationship between Title VI Program requirements and DOT's Title VI regulation
- Revised format clearly describes what grantees must include in their Title VI programs
- Adds in-depth appendices to provide examples to grantees (Includes graphs, sample forms, and flow charts)

General Requirements

- The circular applies to all grantees:
 - Transit agencies
 - MPOs
 - State DOTs
 - Recipients of special funds such as TIGER and Urban Circulator grants
 - Subrecipients

Subrecipients and Contractors

- Each subrecipient develops its own Program but may use some elements of primary recipient's Title VI Program
- Contractor must implement recipient's program

New Terminology

- **Primary Recipient** – this is a term used in the regulation and it applies to recipients that pass funds through to subrecipients
- **Minority transit route** – this term is used only for service monitoring and not for service and fare equity analyses
- **Disproportionate burden** – applies to impacts on low-income populations for service and fare changes

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Chapter III

General Requirements and Guidelines



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Submitting Title VI Program

- All recipients must submit Title VI Program every three years (TEAM)
- Title VI Program must be approved by grantee's Board of Directors or appropriate governing entity (including sub-recipients) and submit documentation of such action
- Title VI Programs will be due 60 days prior to expiration dates

Requirement to Prepare and Submit a Title VI Program: Determination

- Determination noted in TEAM
 - Concur
 - In Review
 - Expired/Expiration

Requirements for ALL Recipients

Eight elements contained in every Title VI Program:

- Notice of Rights under Title VI
- How to File a Complaint, copy of complaint form
- List of Title VI investigations, complaints or lawsuits
- Public Participation Plan
- LEP Plan
- **Racial Breakdown of Non-elected Advisory Councils**
- **Narrative Describing Subrecipient Monitoring**
- **Board of Directors resolution or meeting minutes demonstrating the board approved the Title VI Program**

Requirement to Notify Beneficiaries of Protection

- Title VI Notice Published
 - Dissemination
 - Document Translation
 - Subrecipients
- Sample provided in Appendix B

Requirement to Develop Title VI Complaint Procedures and Complaint Form

- Procedures for filing a complaint
- Procedures for investigating a complaint
- Title VI Complaint Form
- Post complaint procedures on recipient's website

Requirement to Record and Report Transit-Related Title VI Investigations, Complaints, and Lawsuits

- List of allegations of discrimination on the basis of race, color, or national origin in the form of:
 - Active investigations by entities other than FTA;
 - Lawsuits; and
 - Complaints

Promoting Inclusive Public Participation

- The public participation plan will contain:
 - Proactive Strategies,
 - Procedures, and
 - Desired Outcomes
- Suggested Participation Plan strategies and examples
 - Meetings at convenient times and accessible locations
 - Utilizing different meeting sizes and formats
 - Alternative advertising platforms
 - Varying community interaction

Requirement to Provide Meaningful Access to LEP Persons

- **Reasonable** steps to ensure **meaningful** access to:
 - Benefits
 - Services
 - Information
 - Other important activities

LEP Assessment

- **Four Factor Analysis**
 1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient.
 2. The frequency with which LEP persons come into contact with the program.
 3. The nature and importance of the program, activity, or service provided by the program to people's lives
 4. The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach

Developing a Language Assistance Plan

- Flexible but at a minimum the LEP plan **shall** include:
 - Include the results of the Four Factor Analysis, including a description of the LEP population(s) served
 - Describe how the recipient provides language assistance services by language
 - Describe how the recipient provides notice to LEP persons about the availability of language assistance

Developing a Language Assistance Plan (Cont'd)

- Describe how the recipient monitors, evaluates and updates the language access plan
- Describe how the recipient trains employees to provide timely and reasonable language assistance to LEP populations

Steps After Completing the Four Factor Analysis

- Translating **vital** documents
 - For frequently encountered LEP group(s)
 - Non-exhaustive list that includes, but is not limited to:
 - Consent and complaint forms
 - Intake and application forms
 - Written notices of rights
 - Notice of denials, losses, or decreases in benefits or services
 - Notice of person's rights under Title VI

Safe Harbor Provision

- “Safe harbor” for translation of **written** material
- “Safe Harbor” stipulates if a recipient provides written translation of vital documents for each eligible LEP language group that constitutes 5% or 1,000 persons, whichever is less, of the total population of persons eligible to be served or likely to be affected or encountered, then such action will be considered strong evidence of compliance with the recipient’s written translation obligations

Minority Representation on Planning and Advisory Bodies

- Recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar committees, **the membership of which is selected by the recipient**, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees

Providing Assistance to Subrecipients

- Primary recipients should provide subrecipients:
 - Sample public notices, Title VI complaint procedures, and the recipient's Title VI complaint form.
 - Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient,.
 - Demographic information of residents served by the sub-recipient
 - Any other recipient-generated or obtained data

Monitoring Subrecipients

- Primary recipients must monitor subrecipients
- Non-compliant subrecipient means primary recipient is also non-compliant
- Primary recipients shall:
 - Document process for ensuring all subrecipients are complying with the general and specific requirements
 - Collect and review subrecipient's Title VI Program
 - At FTA's request, the primary recipient shall request that subrecipients who provide transportation services verify that their level and quality of service is equitably provided

Determination of Site or Location of Facilities

- Not about every construction project
- “Facilities” includes but not limited to:
 - Storage facilities
 - Maintenance facilities
 - Operation centers, etc.
- “Facilities” **does not** include:
 - Bus shelters
 - Transit stations
 - Power substations, etc.

Complying with Facilities Requirement

- Complete a Title VI equity analysis during the planning stage
- Be aware of possible cumulative impacts
- If disparate impact on the basis of race, color, or national origin, may locate project in that location if substantial legitimate justification, and no alternatives with a less disparate impact

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Chapter IV

Requirements and Guidelines for Fixed Route Transit Providers



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Chapter IV Applicability

- Applies to all providers of fixed route public transportation (transit providers) that receive Federal financial assistance
- Contractors follow Title VI Program of transit provider
- Subrecipient transit providers submit to their primary recipient
- All providers submit every 3 years

Demand Response Providers

- Providers of demand response service responsible only for Chapter 3 requirements
- Providers of public transportation that operate fixed route and demand response service, or only fixed route service, are responsible for the reporting requirements in this chapter, but these requirements only apply to fixed route service

Fixed Route Transit Providers

4702.1A Threshold

Reporting requirements based on whether the transit agency operates in a large UZA (over 200,000 population) and receives section 5307 funds



4702.1B Threshold

Reporting requirements based on transit providers with 50 or more fixed route vehicles in peak service, located in large UZAs

Requirements for Fixed Route Transit Providers

Requirement	Fixed Route Transit Providers that do not meet the threshold	Transit Providers with 50 or more fixed route vehicles in peak service, located in large UZA
Set system-wide standards and policies	Required	Required
Collect and report data	Not required	Required: <ul style="list-style-type: none"> • Demographic and service profile maps and charts • Survey data regarding customer demographic and travel patterns
Evaluate service and fare equity changes	Not required	Required
Monitor transit service	Not required	Required

Contents of the Title VI Program

All Fixed Route Transit Providers

- All general requirements set out in Section 4 of Chapter III of the Circular; and
- System-wide service standards and system-wide service policies, whether existing or new (i.e., adopted by the transit provider since the last submission) as described in Chapter IV

Contents of the Title VI Program

Transit providers that operate 50 or more fixed route vehicles in peak service and are located in a UZA of 200,000 or more

- All general requirements set out in Section 4 of Chapter III of the Circular;
- A demographic analysis of the transit provider's service area.
- Data regarding customer demographics and travel patterns;
- Results of the monitoring program of service standards and policies and any action taken
- A description of the public engagement process for “major service change policy” and disparate impact policy;
- A copy of board meeting minutes /resolution;
- Results of equity analyses;
- A copy of board meeting minutes or a resolution demonstrating consideration, awareness, and approval of the equity analyses

Requirement to Set System-Wide Service Standards and Policies

- Applies to all fixed route providers of public transportation service
- All fixed route transit providers shall set service standards and policies for each specific fixed route mode of service they provide
- Standards and policies must address how service is distributed across the transit system

Effective Practices to Fulfill the Service Standard Requirement

- Vehicle load for each mode
- Vehicle headway for each mode
- On-time performance for each mode
- Service availability for each mode

Effective Practices to Fulfill the Service Policy Requirement

- Distribution of transit amenities for each mode
- Vehicle assignment for each mode

Requirement to Collect and Report Demographic Data

- Applies only to transit providers that operate 50 or more fixed route vehicles in peak service and located in UZA of 200,000 or more in population
- Must prepare data regarding demographic and service profile maps and charts and customer demographic and travel patterns

Demographic Data

- Demographic and Service Profile Maps and Charts
 - Base map of service area that overlays with geographic data
 - Demographic map
- Demographic Ridership and Travel Patterns
 - Race
 - English Proficiency
 - Language spoken at home
 - Household Income
 - Travel patterns

Requirement to Monitor Transit Service

- Applies only to transit providers that operate 50 or more fixed route vehicles in peak service and located in UZA of 200,000 or more in population
- Done not less than every 3 years

Requirement to Monitor Transit Service: Methods

- Use minority transit route definition to implement monitoring program
- Assess performance of each minority and non-minority route in sample
- Compare service to provider's established policies and standards
- Analyze Discrepancies

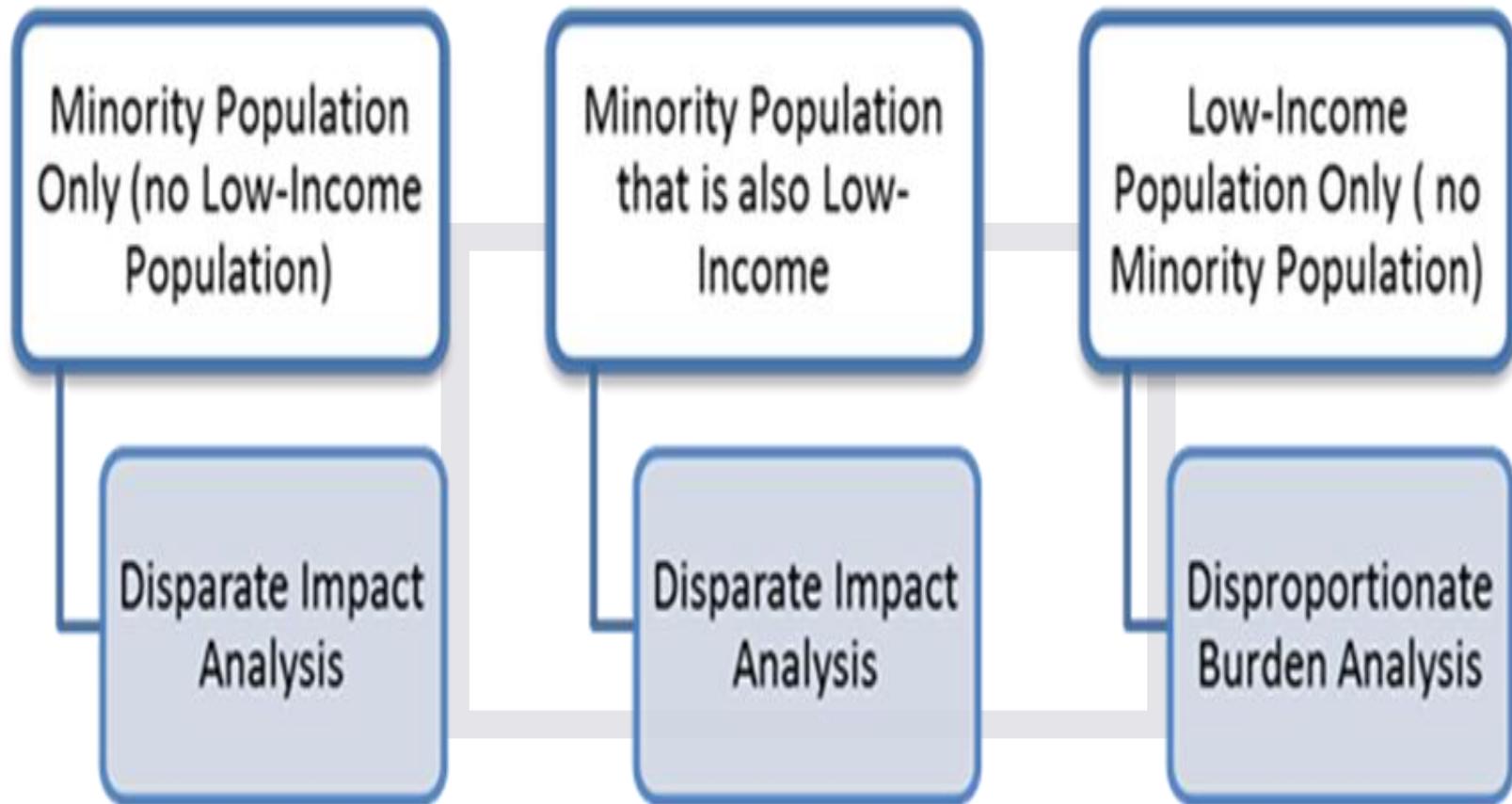
Requirement to Monitor Transit Service: Methods (Cont'd)

- Study amenities distribution
- Develop policy/procedure for possible disparate impacts
- Brief and obtain Board approval regarding monitoring program results
- Submission of monitoring results to FTA every 3 years in Title VI Program

Requirement to Evaluate Service and Fare Changes

- Applies only to transit providers that operate 50 or more fixed route vehicles in peak service and located in UZA of 200,000 or more in population

What is the proper analysis?



Service and Fare Equity Analysis for New Starts and Other New Fixed Guideway Systems

- Transit providers that will implement a New Start, Small Start, or other new fixed guideway capital project shall conduct a service and fare equity analysis
- The analysis must be conducted 6 months prior to beginning revenue operations

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Chapter V

Requirements for States



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Requirements State DOTs

- Clearly defines reporting requirements
- Removes low-income from analysis to focus on Title VI- protected populations
- Subrecipient monitoring moved to Chapter III
- References FTA/FHWA certification reviews

Requirement to Prepare and Submit a Title VI Program

- State shall include:
 - General requirements
 - Any applicable transit provider requirements
 - Demographic profile
 - Demographic maps
 - Analysis of disparate impacts
 - Statewide transportation planning process
 - Pass-through procedures
 - Procedures to assist subrecipients

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Chapter VI

Requirements for Metropolitan Transportation Planning Organizations (MPOs)



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Requirements for Metropolitan Planning Organizations

- Clearly defines reporting requirements
- Removes low-income from analysis to focus on Title VI-protected populations
- Reporting requirements based on role of MPO
- References FTA/FHWA certification reviews

Planning

- If MPO is a sub-recipient of a State, the MPO must report to the State
- If MPO passes planning funds through, MPO is responsible for those sub-recipients
- Self-certify:
 - Analyzed regional demographic data
 - Provided member agencies regional data
 - Engaged minority communities
 - Monitored sub-recipient activity

MPO as Designated Recipient

- If the MPO sub-allocates funds to an entity that is also an FTA direct recipient, the entity and MPO enter into a supplemental agreement
- MPO must sub-allocate FTA funds without regard to race, color, or national origin

MPO as Direct Recipient

- Must report Title VI compliance to FTA for activities directly receiving FTA funds
- If FTA funds passed-through in direct recipient capacity, the MPO is a primary recipient and will monitor the sub-recipient, unless sub-recipient is also a FTA direct recipient

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Chapters VII, VIII and IX



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Compliance Reviews

- Removed length of time since last review as a factor in determining whether to conduct a compliance review since in practice we didn't use this factor
- Upon a finding of noncompliance after a Review or a complaint investigation, Board Resolution has to be submitted showing the Board approved the Remedial Action Plan

Complaints

- The letter of resolution has been removed
- The appeals process has been removed
- Specific conditions for Administrative Closure are included

Enhanced Appendix Section

- Included appendices meant to provide sample checklists, templates, standards, policies, tables and maps for FTA recipients to consult when preparing their Title VI program
- A more thorough checklist for all recipients, fixed route transit providers, Transit providers that operate 50 or more fixed route vehicles in peak service and are located in UZA of 200,000 or more, States, and MPOs
- Clear Guidance provided on Service and Fare Equity Analysis

Implementation

- All Title VI Programs due between October 1, 2012 and March 31, 2013 will be due **April 1, 2013**
 - This allows time to set system-wide standards and policies, set major change and disparate impact policies for larger providers in large UZAs, and get Board approval
- All other Title VI Programs will have to be updated to meet the new circular (including Service Standards) **at next submittal per the new expiration schedule**

Questions?

Direct questions regarding the
Title VI Circular 4702.1B to:

FTATitleVItraining@dot.gov



Federal Transit
Administration
www.fta.dot.gov

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