

## Title VI – Frequently Asked Questions

| Question  | Answer   |
|---|--|
| Are service standards and policies due 60 days before April 1, 2013 (i.e., on February 1, 2013) or are they due on April 1?   | FTA’s August 28, 2012, Federal Register notice stated that all fixed route operators would be required to establish or update service standards and policies and submit them into TEAM by March 31, 2013. However, FTA has determined that it is not necessary for fixed route operators to submit this information except as part of its Title VI Program, on the next due date of the Title VI Program. If your program expires between Oct. 1, 2012 and March 31, 2013, your updated program is due April 1, 2012, and must include updated service standards and policies.   |
| Is there a sample Title VI program or template that can be used as a starting point for a small agency that has fewer than 50 buses in fixed route service in a large UZA or serves a small UZA?  | No samples or templates are available; however, there are detailed checklists in the appendix of the revised circular that will guide you through the Chapter III requirements.  |
| According to the list of due dates for Title VI Programs on FTA’s website, our agency’s Title VI Program must be submitted to FTA in 2014, but we understand compliance with the new requirements must be by April 1, 2013. May the Board review and approve an interim plan in early 2013? Is public input required on such an interim plan? Or is a fully approved and adopted plan that includes public input required by April 1, 2013? | An updated Title VI Program that addresses the new requirements is due in accordance with the list on the website (not by April 1, 2013). Title VI Programs that are due between October 1, 2012, and March 31, 2013, are due April 1, 2013. Otherwise, the table of expiration dates should be followed, and there is no need to adopt an interim plan. After April 1, 2013, all must comply with the revised circular. In your updated Title VI Program you will need to include evidence of Board approval and public participation. You can get that information in 2013 and simply submit it in 2014 when your Title VI Program is due. |
| Where is there more guidance located for defining a “service area”?   | The definition of a service should be part of an agency's charter or authority, which could be legislative or regulatory, and will vary by   |

|   |  |
|---|--|
|   | transit agency. Check with your agency's legal counsel.  |
| Is a sub-recipient with a single discretionary grant required to submit a Title VI Program?   | Yes. If a sub-recipient receives funds both from a transit agency or State and directly from FTA, it must submit a Title VI Program to FTA directly. If the sub-recipient only receives funds from a transit agency or State, then the sub-recipient must submit its Title VI program to the transit agency or State from which it received funds. |
| What are the obligations of direct/primary recipients to monitor their JARC/New Freedom/5310 sub-recipients?  | The direct/primary recipient must collect Title VI Programs from its sub-recipients and must document its process for ensuring sub-recipients are in compliance with Title VI,   |
| Must a Title VI program be reapproved by an agency's governing board every time it is resubmitted?  | Yes, every time a Title VI program is updated (every three years), it must be approved by the agency's governing body.   |
| The circular specifies that a fare change (increase or decrease) requires an analysis, as does a service decrease. Do service increases also require an analysis? | Yes, a service increase requires a service equity analysis. Temporary demonstration projects are exempt from the requirement. If a temporary service addition or change lasts longer than twelve months, FTA considers the service to be permanent and the grantee must conduct a service equity analysis.   |
| For a recipient that is making a service or a fare change prior to April 1, 2013, is it allowable to use the previous Circular 4702.1A?                           | Yes. A recipient that is making a service or a fare change prior to April 1, 2013, may use the guidance in previous circular 4702.1A in order to conduct the analysis, or may use the new circular..   |
| How are demographic data for user groups captured for a fare change analysis—an on-board survey or averaged across ridership data from Census blocks?             | A survey should be used because Census data will not indicate fare media type.   |
| Which program funds can be used for ridership surveys?  | Planning funds (49 USC 5305) as well as urbanized area formula (49 USC 5307) and rural areas formula (49 USC 5311) funds can be used for surveys.  |
| Is a Fare Equity analysis required for a change in paratransit fares?   | No. The fare equity analysis requirement applies only to transit providers that operate 50 or more fixed route vehicles in peak service and are located in an urbanized area of more than 200,000  |

|  |  |
|--|--|
|  | <p>people. However, statutory requirements related to increases in fares in urbanized areas are found at 49 U.S.C. 5307(c)(1)(I). In addition, 49 CFR 37.131 provides that the ADA paratransit fare cannot exceed twice the fixed route fare.</p>  |
| <p>Is there a threshold requirement for an entity that will operate service that is a new fixed guideway (“New Starts”) project?</p>   | <p>Yes, a service and fare equity analysis must be conducted six months prior to the beginning of revenue operations, regardless of whether the proposed changes to service meet the “major service change” as defined in the Title VI Program. If the entity that builds the project is different from the transit provider that will operate it, the transit provider must conduct the analysis. The transit provider must also conduct a fare equity analysis for any and all fares that will be impacted as a result of the project.</p> |
| <p>If an agency has a current fare and service change policy, is development of a new policy required?</p>   | <p>No, so long as the agency’s definition of a major service change has been Board approved and the definition/policy was developed with a public participation process. Fare changes are not subject to a threshold and must be analyzed when there are increases or decreases.</p>   |
| <p>If a new fare media such as a “smart card” is introduced, should a fare equity analysis be conducted, even if the existing fares remain the same and the cost of transfers may be eliminated, depending on the type of card purchase?</p> | <p>Yes, because new fare media may have an adverse impact on minority and low-income populations, depending on where it can be obtained by the public. An analysis of who is using current fare media and projecting who would use the new fare media is required so the transit agency can determine whether there are adverse or disproportionate burdens on minority or low-income populations.</p>   |
| <p>Is the Fare Equity Analysis only for populations of 200,000 and more?</p>   | <p>The fare equity analysis requirement applies only to transit providers that operate 50 or more fixed route vehicles in peak service and are located in an urbanized area of more than 200,000 people.</p>   |
|  |  |
| <p>How should grantees conduct service and fare analyses in majority-</p>  | <p>FTA guidance applies to <u>all</u> areas, including majority-minority</p>   |

|  |   |
|--|---|
| <p>minority areas?</p>   | <p>areas, because it is based on the ridership of the route vs. the ridership of the area, or the Census blocks around the route vs. the population of the area. If the population is 60% minority and the Census blocks around the affected route are 60% minority, there is no disparate impact. It is about disproportionate impacts; if the impact is proportional to the population, agencies may not need to take further action.</p>   |
| <p>Is there a difference between “disparate impact” and “disproportionate burden”? What is the difference?</p>   | <p>“Disparate impact” applies to minority populations and “disproportionate burden” applies to low-income populations. The thresholds for each may differ, depending on the recipient’s calculation, or the standards may be identical. Whatever the recipient’s standards are, it must determine both the disparate impact on minority populations and the disproportionate burden on low-income populations.</p>  |
| <p>Should an agency’s definition of “low-income population” incorporate its disproportionate burden policy?</p>  | <p>It is good practice to include the definition of “low-income” as part of the agency’s Board-approved “disproportionate burden” policy.</p>   |
| <p>What is the definition of “low income”?</p>   | <p>“Low income” is the same as that defined by the Department of Health &amp; Human Services (DHHS). See <a href="http://aspe.hhs.gov/poverty/">http://aspe.hhs.gov/poverty/</a>. However, a transit agency may use a more inclusive definition, such as a percent of the median household income, as long as the definition also includes people in the HHS definition.</p>  |
| <p>Where can DHHS poverty thresholds be found for a locality?</p>  | <p>See <a href="http://aspe.hhs.gov/poverty/">http://aspe.hhs.gov/poverty/</a>.</p>   |
| <p>Is it necessary for FTA to approve an agency’s disparate impact/disproportionate burden policies?</p>   | <p>No, FTA does not need to approve these policies. The policies must be included in the agency’s Title VI Program.</p>   |
| <p>Some parts of the circular state that the disparate impact policy should have thresholds that compare effects on minority and non-minority populations (see p. IV-11). Other parts and Appendix K state that the threshold should compare minority populations to overall users. One comparison may be for service changes and the other for fare changes; however, the statement on p. IV-11 applies to both. Is it up to the FTA grantee’s discretion to use either type of</p> | <p>The language used generally says the same thing and is geared toward the goal of identifying disproportionate impacts and avoiding them when possible. For example, on p. K-7, the percent minority in the overall population is 21%; it is expected that minorities would bear 21% of the adverse effects of a route change. However, the percent minority impacted by the discontinuation of Route 7 is 26%, so, in this case, minorities bear 26%. The comparison may be more apparent when using ridership</p> |

|   |   |
|---|---|
| <p>threshold?</p>   | <p>rather than population (if available). The chart on p. K-5 shows overall population (ridership on all bus lines) and identifies the minority population on each line as well as the impacts on minority populations. For fares, data based on actual use are used rather than population data. In the chart on p. K-12, overall users of fare media (analogous to ridership all bus lines) are shown, and the minority and non-minority users of each fare media (analogous to ridership of each bus line) and the impacts on minority users are identified.</p> |
| <p>The new circular requires reviewing the literacy skills of Limited English Proficiency (LEP) populations in their native languages. Where is information available on LEP populations?</p> | <p>Information can be obtained through several sources: American Community Survey (U.S. Census data), review of information from other local entities; outreach with local nonprofit/community groups, religious groups, faith-based organizations, community centers, regular media outlets, or social media. The approach must be reasonable and documented.</p>  |
| <p>Is it allowable to ask a person if he/she is a member of a minority population or what his/her income level is?</p>  | <p>Yes, grantees can inquire about a person's race or national origin and their income as part of a ridership survey. In addition, grantees may inquire about a person's race or national origin in order to comply with the circular requirement to provide a table in the Title VI Program depicting the racial breakdown of planning and advisory committees, the membership of which is selected by the grantee.</p>  |
| <p>What is the difference between LEP and LAP?</p>  | <p>LAP is a Language Assistance Plan; LEP is Limited English Proficiency. For more information, visit <a href="http://www.lep.gov">www.lep.gov</a>.</p>   |
| <p>Can FTA provide an example of an LEP Four Factor Analysis as a template for satisfying the Chapter III 9 a, b and c requirements?</p>  | <p>FTA does not have a template for Four Factor Analysis; however, DOT guidance includes excellent examples to guide the process, available at <a href="https://www.civilrights.dot.gov/page/dots-lep-guidance">https://www.civilrights.dot.gov/page/dots-lep-guidance</a>.</p>   |
| <p>How can a grantee determine if LEP persons are underserved?</p>  | <p>Conducting outreach to human service and other agencies that serve immigrant populations can be a good start. In addition,</p>   |

|  |  |
|--|--|
|  | identifying the locations of the LEP communities and their travel patterns will provide you with information regarding whether the service provided is sufficient. Outreach to LEP communities during the planning process will give these communities the opportunity to express their views on the services available to them. |
| Is the Title VI fixed-route grantee list on FTA's website the final word on those that must meet requirements for 200,000 population and 50+ vehicles?   | Yes. The list is available <a href="#">here</a> . FTA reserves the right to update the list based on NTD data.   |
| Related to the fixed-route Title VI requirements, three systems are in 200K+UZAs, but two of them operate fewer than 50 vehicles. Are these systems required to comply with the more comprehensive reporting requirements? | If a grantee is in a large urbanized area but has fewer than 50 vehicles in peak service, it does not meet the threshold. However, to be certain, please check the list on the website by clicking <a href="#">here</a> .  |
| Does the 50 peak fixed-route vehicles requirement include demand response?   | No, it does not include demand response. Providers of public transportation that operate fixed route and demand response service are responsible for the reporting requirements in chapter IV, but these requirements only apply to the fixed route service.   |
| Must an equity analysis be conducted if a system operates only ADA complementary paratransit service?  | No. Please see chapter IV, page I. Providers that only operate demand response service (including ADA paratransit) are only responsible for the Title VI requirements in chapter III.  |
| How many days are required for a public participation comment period?  | A comment period for public participation should be reasonable and of a duration that allows for meaningful public engagement. Best judgment should be used, and additional time should be allowed if requested by the public. State or local law may provide a minimum comment period.  |
| Is there a requirement for transit providers to document how a contractor is following its Title VI Program?   | There is no explicit requirement to document; however, the agency is responsible for making sure the contractor is following the approved Title VI program. It is a good policy to document how the contractor is following the Title VI program.  |

|   |   |
|---|---|
| <p>Are there plans for a Title VI conference to disseminate more information?</p>                       | <p>The National Transit Institute (NTI) is working with FTA to develop a Title VI course. Look for it in early 2013!</p>  |
| <p>Who may an entity contact at FTA for assistance with specific questions on its Title VI Program?</p> | <p>Questions on Title VI programs can be referred to <a href="mailto:FTATitleVItraining@dot.gov">FTATitleVItraining@dot.gov</a> or the Regional Civil Rights Officer (RCRO) in a region. For more information, visit <a href="http://www.fta.dot.gov/about/12926.html">http://www.fta.dot.gov/about/12926.html</a>.</p> |