

FTA

FEDERAL TRANSIT ADMINISTRATION

Delaware Department of Transportation

Title VI Compliance Review

Final Report

June 2019



U.S. Department of Transportation
Federal Transit Administration

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Executive Summary

Objective and Methodology – This report details the findings of a Compliance Review of the Delaware Department of Transportation’s (DelDOT) Title VI program implementation. The Compliance Review examined this agency’s Title VI program procedures, management structures, actions, and documentation. The review team collected documents and information from the Federal Transit Administration (FTA) and DelDOT. In addition, the review team interviewed the following entities as part of this review: NAACP Delaware State Conference, African American Chamber of Commerce, Mid-Atlantic Hispanic Chamber of Commerce, Scott Spencer (Transit Consultant), Newark Senior Center (FTA Section 5310 subrecipient), and toured two minority bus routes (Route 15 and Route 46) and two non-minority routes (Route 2 and Route 64). The three-day review included interviews, assessments of data collection systems, and review of program documents.

DelDOT’s Title VI Program includes the following positive program elements –

Positive Program Elements

- **Title VI Notice to Beneficiaries** – DelDOT’s Title VI Notice was posted on its website and throughout its transit system in English and Spanish.
- **Providing Assistance to Subrecipients** – DelDOT did a good job providing assistance to its FTA Section 5310 subrecipients on the development and implementation of their Title VI plans.
- **Distribution of Transit Amenities** – The review team observed no discrimination or disparate impact related to persons protected by Title VI in DelDOT’s distribution of transit amenities.
- **Staffing** – DelDOT finance and planning staff (some new) were very interested in and capable of making improvements to DelDOT’s Title VI program implementation.

The Program has the following deficiencies –

Deficiencies

- **Inclusive Public Participation** – DelDOT did not address linguistic barriers in its public participation plan and did not document procedures for periodically evaluating the effectiveness of its Title VI public outreach efforts.
- **Title VI Complaint Procedures** – DelDOT's Title VI complaint procedures required updating.
- **List of Title VI Investigation, Complaint, and Lawsuits** – DelDOT did not adequately identify and record complaints, as required.
- **Requirement to Provide Meaningful Access to LEP Persons** – DelDOT's LEP Four-Factor Analysis did not sufficiently address FTA Circular 4702.1B, Sec.III.9 requirements, and DelDOT did not develop a Language Assistance Plan, as required.
- **Monitoring Subrecipients** – DelDOT did not adequately monitor FTA Section 5310 subrecipient Title VI compliance.
- **Minority Representation on Planning or Advisory Bodies** – DelDOT did not describe how it encouraged minority participation on its nonelected advisory committees in its most recent Title VI Plan, as required.
- **Determination of Site or Location of Facilities** – DelDOT did not conduct Title VI Analyses when planning to locate operations and maintenance facilities, as required.
- **Demographic Data** – DelDOT did not develop demographic profile maps, as required.
- **System-wide Service Standards and Policies** – DelDOT's service standards for vehicle load and vehicle headway did not reflect current practice. DelDOT did not include its service policy for the distribution of certain transit amenities in its Title VI Program Plan.
- **Evaluation of Service and Fare Changes** – DelDOT did not conduct equity analyses for service changes as required by FTA Circular 4702.1B(IV)(7). DelDOT did not correctly evaluate disparate impact.
- **Monitoring Transit Service** – DelDOT did not conduct Title VI monitoring as required by FTA Circular 4702.B(IV)(6). DelDOT did not correctly define minority routes. DelDOT did not evaluate system performance against established service standards and policies.
- **Program Administration** – DelDOT did not describe how it assured minority populations were not being denied the benefits of or excluded from participation in its FTA-funded 5310 program.

I. General Information

This chapter provides basic information concerning this compliance review of the Delaware Department of Transportation (DeIDOT). Information on DeIDOT, the review team, and the dates of the review are as follows:

Grant Recipient:	Delaware Department of Transportation (DeIDOT)
City/State:	Wilmington, DE
Recipient Number:	1396
Executive Official:	Jennifer Cohan
On-site Liaison:	Bonnie Hitch
Report Prepared By:	The DMP Group, LLC
Dates of On-site Visit:	November 6–8, 2018
Compliance Review Team Members:	John Potts Donald Lucas Khalique Davis

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2. Jurisdiction and Authorities

The Secretary of Transportation authorized the Federal Transit Administration (FTA) Office of Civil Rights to conduct civil rights compliance reviews. DelDOT 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)
- U.S. Department of Transportation (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”
- FTA Circular 4702.1B “Title VI Requirements and Guidelines for Federal Transit Administration Recipients”
- FTA Circular 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients”
- DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons (December 14, 2005)
- Executive Order 13166: “Improving Access to Services for Persons with Limited English Proficiency”
- Section 12 of FTA’s Master Agreement 24 (October 1, 2017)

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3. Purpose and Objectives

3.1 Purpose

The Federal Transit Administration (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 DelDOT's Title VI Program was necessary.

The Office of Civil Rights authorized The DMP Group, LLC, to conduct the Title VI compliance review of DelDOT. The primary purpose of this compliance review was to determine the extent to which DelDOT has met its General Reporting and Program-Specific Requirements and Guidelines, in accordance with FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients." Members of the review team also discussed with DelDOT the requirements of the DOT "Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons" (70 FR 74087). 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 DelDOT.

3.2 Objectives

The objectives of FTA's Title VI Program, as set forth in FTA Circular 4702.1B, dated October 1, 2012, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients" are to:

- Ensure that the level and quality of public transportation service is provided in a nondiscriminatory manner;
- Promote full and fair participation in public transportation decisionmaking without regard to race, color, or national origin;
- Ensure meaningful access to transit-related programs and activities by persons with limited English proficiency.

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4. Introduction to the Delaware Department of Transportation

The Delaware Department of Transportation (DelDOT) was established in 1917 and is responsible for managing transportation throughout the State of Delaware, including approximately 90 percent of the State's public roadways, overseeing the "Adopt-A-Highway" program, overseeing E-ZPass Delaware, the Department of Motor Vehicles, and the Delaware Transit Corporation (known as DART First State). DelDOT was the State of Delaware's designated recipient of FTA funds and the recipient of state transit funding. It provided these funds to the Delaware Transit Corporation (DTC), a public benefit corporation created by the State of Delaware as a subsidiary corporation of the Delaware Transportation Authority, to operate and manage its transit service in each of the State's three counties: New Castle, Kent, and Sussex.

4.1 DelDOT Description and Organizational Structure

The Secretary of Transportation administered DelDOT, which was comprised of 10 divisions, including: Office of the Secretary, DTC, Finance, Human Resources, Maintenance and Operations, Motor Vehicles, Planning, Community Relations, Technology and Innovation Services, and Transportation Solutions. The Office of the Secretary was further divided into the following functional units: Policy and Performance, Audit, Deputy Attorney General, and Civil Rights. DTC was responsible for the day-to-day management of FTA grants.

DTC was comprised of seven divisions, including: Civil Rights, Human Resources, Performance, Finance, Customer Experience/Customer Relations, Marketing, and Operations. The DTC Chief Executive Officer reported directly to the Secretary. DTC operated DART First State transit service, which served approximately 900,000 residents over a 1,949-square mile service area. In FY 2017, DTC provided more than 8.5 million passenger trips and operated more than 16 million passenger miles on its fixed-route bus, ADA complementary paratransit, and demand response transit system. DTC's bus fleet included over 500 buses and 70 bus routes including 8 Resort Transit seasonal routes. In addition to operating a statewide bus system, DTC was responsible for administering FTA Section 5310 and Section 5311 formula funds for the State of Delaware. DTC awarded Section 5310 funds to 44 subrecipients throughout the State, monitored 5310 subrecipient compliance with FTA Title VI requirements, and provided assistance to 5310 subrecipients to help them comply. DTC was also responsible for administering FTA Section 5311 funds. At the time of the site visit, DTC used all Section 5311 funding to operate its intercounty and rural bus service operations and to purchase vehicles for its rural service. Accordingly, DTC did not pass through Section 5311 funds and had no Section 5311 subrecipients.

DelDOT also received FTA Section 5304 planning funds. Unlike FTA Section 5310 and Section 5311 funds, DelDOT combined its FTA Section 5304 funds with Federal Highway Administration (FHWA) funds to be used for statewide transportation planning purposes. DelDOT assigned responsibility for administering FTA Section 5304 funds to the DelDOT Office of Civil Rights, which operated separately from the DTC Office of Civil Rights. In addition to administering FTA Section 5304 program funds, the DelDOT Office of Civil Rights managed Title VI compliance for

DelDOT's FHWA-funded programs, and the DTC Office of Civil Rights managed Title VI compliance for DelDOT's FTA-funded programs.

The DTC Office of Civil Rights was staffed by a Director and an EEO/AA Compliance Specialist who were dedicated to Title VI implementation. The DTC Office of Civil Rights shared the responsibility of managing Title VI compliance with multiple divisions and offices (DTC and DelDOT). Customer Relations assisted with Title VI complaint handling and reporting and some Title VI-related outreach. DTC had recently hired a new CFO who, along with DTC's Budget Manager, was in the process of evaluating processes, procedures, and staffing levels necessary to support DTC's Title VI compliance requirements related to fare policy. Marketing was responsible for all public outreach and received support from Planning. Planning substantially supported DTC's Title VI implementation by providing demographic analysis and support, travel pattern analyses, mapping, and service and fare change analyses. Fleet Services and Contract Services within the Operations Division managed vehicle purchasing and inventory and subrecipient assistance and monitoring, respectively. Facilities, also within the Operations Division, was responsible for construction management and transit amenities (i.e., bus stops, shelters, benches, and bike racks) installation and maintenance.

DTC's future plans include the upgrading of bus stops and passenger shelters, adding more hybrid electric buses to its fleet, providing real time bus information, developing new services for persons with disabilities, and expanding its current system of fixed-route bus services.

DTC's service area demographics were as follows:

Racial/ Ethnic Group	State of Delaware			
	Number	Percent	Number	Percent
	2000 U.S. Census		2010 U.S. Census	
White	584,773	75.0	618,617	68.9
Black	150,666	19.2	191,814	21.4
American Indian and Alaska Native	2,731	0.3	4,181	0.5
Asian	16,259	2.1	28,549	3.2
Hawaiian/Pacific Islander	283	0.0	400	0.0
Other Race	15,855	2.0	30,519	3.4
Two or More	13,033	1.7	23,854	2.7
Hispanic Origin ¹	37,277	4.8	73,221	8.2
Total Population	783,600	100%	897,934	100%

Limited English Proficiency*	4,201	0.6%	39,010	4.4%
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*Source: American Community Survey 2017 data (total population estimate = 943,732).

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

From 2000 to 2010, DelDOT's service area population increased 14.6 percent. The White population increased 5.8 percent, the Black population increased 27.3 percent, the Hispanic population increased 96.4 percent, the Asian population increased 75.5 percent, the American Indian/Alaskan Native population increased 53 percent, and the Hawaiian/Pacific Islander population increased 41.3 percent. In 2010, 68.9 percent of the total population was White, 21.4 percent was Black, 8.2 percent was Hispanic, 3.2 percent was Asian, 0.5 percent was American Indian/Alaskan Native, and Hawaiian/Pacific Islanders represented less than 1 percent.

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5. Scope and Methodology

5.1 Scope

The Title VI compliance review of DelDOT examined the following requirements and guidelines as specified in FTA Circular 4702.1B:

General Reporting Requirements and Guidelines – All applicants, recipients, and subrecipients shall maintain and submit the following:

- Annual Title VI Certification and Assurance
- Title VI Complaint Procedures
- Record of Title VI Investigations, Complaints, and Lawsuits
- Information on Language Access to LEP Persons
- Notice to Beneficiaries of Protections under Title VI
- Information on Monitoring Subrecipients
- Title VI Program
- Determination of Site or Facilities Location
- Minority Representation on Planning or Advisory Bodies
- Information on Inclusive Public Participation

Requirements and Guidelines for Fixed-Route Transit Providers – All providers of fixed-route public transportation that receive Federal financial assistance shall also submit the following:

- System-wide Service Standards and Policies

Requirements and Guidelines for Fixed-Route Transit Providers that Operate 50 or More Fixed-Route Vehicles in Peak Service and Are Located in a UZA of 200,000 or More in Population:

- Demographic Data
- Evaluation of Service and Fare Changes
- Monitoring Transit Service

Requirements for States:

- Planning
- Program Administration

5.2 Methodology

The review team conducted initial interviews with the FTA Headquarters Civil Rights staff and the FTA Region III Civil Rights Officer to discuss specific Title VI issues and concerns regarding DelDOT. FTA sent an agenda letter covering the compliance review to DelDOT advising it of the site visit and indicating additional information requests and issues to discuss. The review team

focused on the General Reporting Requirements and Guidelines and the applicable Requirements and Guidelines for Fixed-Route Transit Providers and States contained in FTA Title VI Circular 4702.1B that became effective on October 1, 2012. The General Reporting Requirements and Guidelines included implementation of the Limited English Proficiency (LEP) Executive Orders.

FTA requested DelDOT to provide the following documents in advance of the site visit:

- Description of DelDOT's public transit service area, including general population and other demographic information using the most recent Census data.
- Current description of DelDOT's public transit service, including system maps, public timetables, transit service brochures, etc.
- Roster of DelDOT's current revenue fleet, to include acquisition date, fuel type, seating configurations, vehicle assignment, and other amenities.
- Description of transit amenities maintained by DelDOT for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.
- DelDOT's Organization Chart, including public transit staff.
- A narrative that describes the individuals and resources dedicated to implementing the Title VI requirements, handling any Title VI inquiries, and educating the agency's staff on Title VI.
- List of any subrecipients, how they are monitored to ensure Title VI compliance, and when their Title VI programs were collected by DelDOT.
- Any studies or surveys conducted by DelDOT, its consultants, or other interested parties (colleges or universities, community groups, etc.) regarding information on the race, color, national origin, English proficiency, language spoken at home, household income, travel patterns, and fare usage by fare type amongst minority users and low-income users, during the past five years.
- Current Title VI Program.
- A list of any siting, locating, and/or constructing of facilities, and any associated Title VI equity analyses within the last three (3) years.
- DelDOT'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.

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- List of any investigations, lawsuits, or complaints naming DelDOT that alleges discrimination on the basis of race, color, or national origin during the past three (3) years.
 - Summary of DelDOT's current efforts to engage the public, with special emphasis on the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities.
 - Copy of DelDOT four factor analysis of the needs of persons with Limited English Proficiency.
 - Copy of DelDOT's Language Assistance Plan (LAP) for persons with limited English proficiency that is based on the USDOT LEP Guidance.
 - Copy of DelDOT's Notice to Beneficiaries of Protections under Title VI.
 - Documentation of efforts made by DelDOT to notify members of the public of the protections against discrimination afforded to them by Title VI.
 - Documentation that shows the racial breakdown of minority representation on planning and advisory bodies, non-elected policy boards or committees, or similar committees.
 - List of any monitoring or technical assistance provided to subrecipient(s).
 - Summary of subrecipient(s) and their respective Title VI program status.
 - Quantitative system-wide service standards and qualitative system-wide service policies adopted by DelDOT to guard against discriminatory service design or operations decisions.
 - Copy of DelDOT's demographic analysis of its beneficiaries, including demographic maps and charts, customer surveys conducted since the last Title VI submittal that contain demographic information on ridership, or DelDOT's locally developed demographic analysis of its customer's travel patterns.
 - Any service and fare equity analyses conducted in the past three (3) years, including analyses conducted since the submission of DelDOT's FY2016-2019 Title VI Plan.
 - DelDOT's statewide transportation planning process that identifies the needs of minority populations.
 - DelDOT's analytical process that identifies the benefits and burdens of the State's transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.

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- A copy of the procedures used for certifying that the statewide planning process complies with Title VI.
 - A description of how DelDOT develops its competitive selection process or annual program of projects for Section 5310 and 5311 programs, as applicable, submitted to FTA as part of its grant applications. This description should emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority populations, including Native American tribes, where present.
 - A description of DelDOT's use and administration of FTA Section 5310 and Section 5311 funds and its criteria for selecting transit providers to participate in any FTA grant program.
 - A record of requests for Section 5310 and 5311 funding, as applicable. The record should identify those applicants that would use grant program funds to provide assistance to predominantly minority populations. The record should also indicate whether those applicants were accepted or rejected for funding.
 - Names, titles, telephone numbers, and email addresses of interested parties (external organizations) with which DelDOT has interacted on Title VI issues.
 - Other pertinent information determined by DelDOT staff to be pertinent and demonstrative of its Title VI compliance efforts, as applicable.

DelDOT assembled the documents prior to the site visit and provided them to the review team for advanced review. The review team then developed a detailed schedule for the three-day site visit.

The site visit to DelDOT occurred on November 6–8, 2018. Section 10 of this report lists the individuals participating in the compliance review. The review team conducted an Entrance Conference at the beginning of the compliance review with DelDOT senior management, DelDOT staff, and FTA headquarters and regional staff. During the Entrance Conference, the review team explained the goals of the compliance review and the needed cooperation of DelDOT staff members. The review team also discussed a detailed schedule for conducting the on-site portion of the review.

Following the Entrance Conference, the review team met with DelDOT transportation planning and other staff responsible for Title VI compliance. During this meeting, discussions focused on a detailed examination of documents submitted in advance of the site visit and documents provided at the site visit by DelDOT. The review team then met with DelDOT staff to discuss how DelDOT incorporated FTA Title VI requirements into its public transportation program.

During the Compliance Review, the review team toured two minority bus routes (Route 15 and Route 46) and two non-minority routes (Route 2 and Route 64). During the bus route tours, the review team compared ridership, vehicle condition, and distribution of transit amenities (i.e., shelters, benches, bike racks, and trashcans) along the routes. The review team observed no

discrimination or disparate impact related to persons protected by Title VI in DelDOT's distribution of transit amenities.

The individuals participating in the Compliance Review are listed below.

Delaware Department of Transportation

John Sisson, Chief Executive Officer
Bonnie Hitch, Director of Civil Rights
Julie Theyerl, Chief Customer Experience Officer
Uma Ganesan, Chief Financial Officer
Kathleen Maguire, Contract Specialist
Stephen Ottinger, Planner
Bill Thatcher, Deputy Chief Operating Officer
Jared Kauffman, Planner
Corey S. Burris, Customer Service Manager
Paul Kulesza, Fixed Route Director
Charles H. Megginson, Vehicle Maintenance Director
Marcella Brainard, Mobility Manager
Vincent Damiani, Senior Facilities Coordinator
Catherine Smith, Planning & Development Manager
Elijah Wilson, Deputy Chief Financial Officer
Richard Paprcka, Chief Operating Officer

Newark Senior Center

Carla Grygiel, Executive Director

The DMP Group

John Potts, Lead Reviewer
Donald Lucas, Reviewer
Khalique Davis, Reviewer

5.3 Stakeholder Interviews

During the Compliance Review, the review team conducted interviews with four representatives from the minority community served by DelDOT. The interviewees generally felt the frequency of service, assignment of vehicles and fare policies were equitable. There was a consensus that there was not an issue of overcrowding or longer travel times on minority routes versus the nonminority routes. DART's efforts to provide language assistance to limited English speakers were considered adequate. One individual felt the distribution of the amenities in minority areas was not proportionate to that in nonminority areas. Interviewees communicated concern about access to service for minorities as a result of recent changes on several of the minority routes. There had been several route changes around the downtown Wilmington area that resulted in longer travel distances to connecting routes. Interviewees were aware of riders missing connections on occasion as a result of these longer distances between connections. There was a general concern that neither DelDOT nor DART had made adequate efforts to consider the

impact of its service or route changes on minority riders. Interviewees were aware of DART's frequent service and route changes. A majority of the interviewees acknowledged there had been public meetings regarding service changes and major projects; however, they believed DART gave little to no consideration to public input and feedback on proposed service changes. Interviewees also communicated their belief that DART management usually had already made the decision to move forward on projects regardless of public comment. One interviewee communicated that several minority riders had filed complaints with DART about service changes, and neither DART or DelDOT responded. Some of the interviewees communicated their belief that service changes were racially motivated and intended to eliminate minority riders from some areas of downtown Wilmington.

At the end of the site visit, the review team held an Exit Conference with DelDOT staff and FTA headquarters and regional staff. The review team discussed initial observations with DelDOT during the Exit Conference.

6. Findings of the General Reporting Requirements and Guidelines

6.1 Annual Title VI Certification and Assurance

Requirement

FTA recipients shall submit their annual Title VI certification and assurance as part of their Annual Certifications and Assurances submission to FTA in the FTA Web-based Transportation Award Management System (TrAMS) grants management system.

Discussion

During this compliance review, no deficiencies were found with this requirement. DelDOT pinned the required Title VI Certification and Assurance in TrAMS on July 12, 2018.

Corrective Actions and Schedules

FTA requires no corrective actions for the Annual Title VI Certification and Assurance requirement at this time.

6.2 Submit Title VI Program

Requirement

All direct and primary recipients must document their compliance with DOT's Title VI regulations by submitting a Title VI program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. For all recipients (including subrecipients), the Title VI program must be approved by the recipient's board of directors or appropriate governing entity or officials responsible for policy decisions prior to submission.

Discussion

During this compliance review, no deficiencies were found with this requirement. FTA issued an advisory comment regarding this requirement. According to TrAMS, DelDOT submitted its most recent Title VI Program Plan (dated October 2016) timely on September 30, 2016. The Title VI Plan was approved by the Chief Executive Office of the Delaware Transit Corporation and the Secretary of the Delaware Department of Transportation. At the time of the site visit, FTA had not concurred with DelDOT's Title VI Program Plan. In form, DelDOT's plan contained all required elements. The substance of DelDOT's plan is addressed in this report by requirement area.

Advisory Comment

DelDOT was advised to implement the corrective actions and advisory comments in this report and update its Title VI Plan accordingly. DelDOT should submit its updated plan to FTA for final review and concurrence.

6.3 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. Furthermore, notices will detail a recipient's Title VI obligations into languages other than English, as needed and consistent with the DOT LEP Guidance and the recipient's LAP.

Discussion

During this compliance review, no deficiencies were found with this requirement. DelDOT's Title VI Notice to Beneficiaries included all required elements as described in FTA Circular 4702.1B(III)(A)(1-3). In its 2016 Title VI Plan, DelDOT stated it posted its Notice on its website, on all DART revenue vehicles, the DTC Administration & Training building, the DTC Administration & Maintenance building, and at two DART transit stores in Wilmington, Delaware. During the site visit, the review team confirmed DelDOT posted its Title VI Notice on its website, on DART revenue vehicles, and at the Delaware Transit Corporation Administration & Training building. DelDOT's Notice was posted in English and Spanish.

Corrective Actions and Schedules

FTA requires no corrective actions for the Title VI Notice to Beneficiaries requirement at this time.

6.4 Title VI Complaint Procedures

Requirement

FTA recipients and subrecipients 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.

Discussion

During this compliance review, deficiencies were found with this requirement. FTA also issued advisory comments regarding this requirement. In general, DelDOT's Title VI complaint procedures provided a method for filing discrimination complaints based on race, color, or national origin. However, DelDOT did not demonstrate that its procedures reflected actual practice. DelDOT did not confirm that its complaint procedures reflected actual practice when asked about the use of three customer service letters referenced in its Title VI Complaint Procedures. According to its procedures, DelDOT stated that upon receiving a complaint it would send the complainant an acknowledgement letter. After investigating a complaint, DelDOT would send the complainant a closure letter or a "Letter of Finding." During the site visit, when asked to describe the complaint process, DelDOT did not initially mention the use of

the aforementioned letters. In addition, when asked to provide samples of the letters, the requested samples were not provided.

DelDOT's complaint procedures also stated that complaints "may" be filed "by completing and submitting the DTC Title VI Complaint Form" and submitting it to the Office of Civil Rights at the mailing address provided. DELDOT's Title VI Notice to Beneficiaries stated that information on filing complaints could be obtained by calling DTC's Customer Relations Section. During the site visit, DelDOT confirmed complaints could be filed verbally with its Customer Relations Section over the phone and did not have to be submitted on its complaint form. Although DelDOT's complaint procedures provided the option to submit complaints by U.S. mail or in person, and its Title VI Notice to Beneficiaries stated that information about filing complaints could be obtained over the phone, neither the procedures nor the Notice communicated the ability to file complaints verbally over the phone, which appeared to be the way most complaints (Title VI and otherwise) were filed.

Although FTA Circular 4702.1B(III)(6) does not address requirements related to appealing initial complaint determinations, DelDOT included an appeals process in its complaint procedures. DelDOT stated "If the complainant wishes to appeal the decision, she/he has 30 days after the date of the closure letter or the letter of finding to do so." DelDOT's procedures did not describe its appeals process or provide instructions on how to file an appeal. During the site visit, DelDOT stated its Elderly and Disabled Technical Advisory Committee (EDTAC) reviewed and made final decisions on appeals on behalf of the agency. DelDOT did not demonstrate that EDTAC, responsible for advising DelDOT on transit issues affecting the elderly and disabled communities, was trained on Title VI requirements and related protections and, therefore, able to make qualified decisions on Title VI discrimination matters.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes Title VI Complaint Procedures that describe in detail all methods for filing a Title VI complaint and reflects actual practice with respect to process and the use of related administrative tools (e.g., forms, letters, logs, etc.).

Advisory Comments

DelDOT was advised to include in its updated Title VI Program Plan updated and detailed procedures for filing appeals that are decided on at the recipient agency level. DelDOT was advised to identify any individuals in its Office of Civil Rights to make initial Title VI complaint determinations on behalf of the agency, and to identify any individuals higher up in the agency to review appeals and make final agency determinations.

6.5 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 based on 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.

Discussion

During this compliance review, deficiencies were found with this requirement. DelDOT did not implement procedures to reliably identify, record, and report Title VI complaints. Although DelDOT reported two Title VI complaints in its 2016 Title VI Plan and its report included all required information, when asked about Title VI complaints received since 2016, DelDOT stated it had not received any such complaints. When asked to describe its process for identifying and recording Title VI complaints, DelDOT described a process by which customer service representatives (sometimes with the assistance of Customer Relations supervisory staff and staff from the Office of Civil Rights) make initial determinations on whether a complaint, as communicated by the complainant, was based on race, color, or national origin discrimination. If so, DelDOT stated it recorded the complaint in its customer service database, accordingly.

The review team requested a report of all complaints since 2016 from DelDOT's customer service database, regardless of type, to review the volume and nature of complaints DelDOT received. The purpose of the request was to determine if DelDOT properly recorded complaints registered by complainants who believed they were subjected to discrimination on the basis of race, color, or national origin. During the site visit, DelDOT's Office of Civil Rights reviewed the requested report prior to submitting it to the review team and verbally reported that at least two complaints listed were not categorized as Title VI complaints when they should have been based on the complainants' claims. The review team explained that if an individual filed a complaint and, in some way, communicated that they were discriminated against based on race, color, or national origin, DelDOT must record and report the complaint as a Title VI complaint, regardless if the ensuing investigation determined otherwise. If after its investigation DelDOT determined the complaint to not be covered by Title VI, the review team advised DelDOT to note its determination and disposition in its report.

During the site visit, it was also determined that DTC was only reporting complaints registered through its Customer Relations representatives. For example, a Title VI complaint related to service changes at Rodney Square, a major downtown transfer point, was not included on DTC's complaint report. This complaint was not originally registered with DTC customer relations; however, it was a Title VI complaint and should be recorded on its Title VI complaint report to FTA. In addition, DelDOT must ensure it is tracking, recording, and reporting Title VI complaints filed with its subrecipients.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DTC must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes procedures for ensuring all Title VI complaints filed directly with DTC and DelDOT subrecipients are identified, recorded, and reported, as required.

6.6 Inclusive Public Participation

Requirement

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.

Discussion

During this compliance review, deficiencies were found with this requirement. FTA issued advisory comments regarding this requirement. In its 2016 Title VI Program Plan, DTC stated that it followed the DelDOT Public Participation Plan and additionally “ensure[d] meaningful access for minority and low-income groups through community participation and ensuring that the public involvement activities are accessible to minority and low-income groups.” DelDOT's Publication Participation Plan included the following framework:

1. Early and continuing public involvement opportunities throughout the transportation planning and programming process;
2. Timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs, and projects;
3. Reasonable public access to technical and policy information used in the development of the plan and STIP [the State Transportation Improvement Program or as it is known in Delaware, the Capital Improvement Program (CIP)];
4. Adequate public notice of public involvement activities and time for public review and comment at key decision points, including but not limited to action on the plan and STIP;
5. A process for demonstrating explicit consideration and response to public input during the planning and program development process;
6. A process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households which may face challenges accessing employment and other amenities;

7. Periodic review of the effectiveness of the public involvement activities to ensure that the process provides full and open access to all and revision of the process as necessary.

Although the plan included in its framework “A process for seeking out and considering the needs of those traditionally under-served by existing transportation systems, such as low-income and minority households which may face challenges accessing employment and other amenities,” it did not include in its framework, or in its inclusive public participation implementation, measures to consider and address linguistic barriers for LEP persons. DelDOT’s Public Participation Plan also mostly detailed DelDOT’s required public hearing process associated with its Statewide Long-Range Transportation Plan, State Transportation Improvement Plan, Capital Improvement Plan, and semi-annual service and fare change process. With the exception of the semi-annual service and fare changes planning process, these major planning initiatives were managed by the DelDOT Office of Civil Rights and not the DTC Office of Civil Rights, as described in Section 4.1 of this report. Accordingly, for the purposes of this review, the review team focused primarily on DTC’s Title VI public participation efforts associated with its semi-annual service and fare change planning process. Although Title VI public participation compliance associated with DelDOT’s statewide planning initiatives was reviewed by FHWA, the review team also provides comments on DelDOT’s efforts to engage minority and LEP persons in the statewide planning process.

In summary, DTC’s Title VI public participation efforts when planning for semi-annual service and fare changes included a review of prior service changes, budgets, and current regulations by DTC’s internal planning stakeholders; the development of a service or fare change proposal; and an initial review by DTC’s EDTAC, other DTC staff, and in some cases, local government officials and other interested stakeholders that could result in an updated proposal. Next, DTC held a series of “public hearing workshops” to allow for public comment on the proposed schedule. In its 2016 Title VI Plan, DTC required that legal notices be posted “in two newspapers of general circulation, usually the primary paper for the area being impacted and a local community paper (which in some instances is also a minority newspaper).”

The Delaware Code on Delaware Transit Corporation Actions requires that DTC publish a legal notice in two newspapers of general circulation announcing the opportunity for a public hearing or public meeting at least 20 days prior to any such proposed public hearing or meeting, as well as post on-board passenger notices of the proposed changes, directing those interested to the location where the details of the proposals can be reviewed. The two newspapers of general circulation used are The News Journal and the Delaware State News. The information is also included in their digital formats.

In addition, DTC stated that it communicates to the public and riders in the following ways to make them aware of the proposed changes and of information on public hearing workshops to provide comments and input:

- Posters on all buses announcing the workshops; passenger flyers of the proposal summary
- Notices posted at major bus stops, hubs, and shelters

- Online posting of service proposal available for review at public hearing locations, major libraries, and DTC Administration Offices
- News releases, rider alerts, DART website, State of Delaware calendar, *Delaware.gov* and social media channels, including DelDOT's pages
- Emails and legislative briefings to Legislators
- DART webpage dedicated to public hearing workshops that includes proposal summaries, schedule proposals in accessible format, related maps, and form for submitting comments
- DART Ambassadors stationed at downtown bus stops at key times in efforts to further assist customers with changes in days prior to and after a service change

DTC provided a list of 20 public hearing workshops held between October 29, 2013, and April 28, 2016, in its 2016 Title VI Program Plan. After the site visit, DTC provided its *News Release Distribution List* that included several Hispanic media recipients (e.g., El Tiempo Hispano, Hoy en Delaware, and Unidad Latina) recognizable by name; however, it could not be determined from the list if any of the media outlets represented Black media that would presumably reach DTC's largest minority group.

DTC did not include a description of how it periodically reviewed the effectiveness of its public involvement activities to ensure that the process provided full and open access to all and revision of the process as necessary, as it said it would in its plan. This was a recommended best practice in the FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," incorporated by reference in FTA Circular 4702.1B(III)(8). In addition, DTC could enhance its Title VI public participation efforts by implementing other FTA C. 4703.1 recommended best practices, including non-traditional outreach such as informal group meetings, use of digital media, and partnership with community groups.

DelDOT's Title VI inclusive public participation measures associated with its statewide planning activities described in DelDOT's Title VI Program Plan, dated November 2017 and submitted to FHWA, lacked sufficient description and detail. Essentially, the plan included a statement by DelDOT that it would comply with federal Environmental Justice requirements, including inclusive public participation, and a general description of the Planning and Project departments' roles in developing public participation strategies. The plan references DelDOT's oversight of federal subrecipients, the Wilmington Area Planning Council (WILMAPCO) and Dover/Kent County Metropolitan Planning Organization (MPO), which received FTA Section 5304 planning funds and other FHWA funds to conduct statewide transportation planning. At the time of the site visit, WILMAPCO's most recent Title VI Program Plan was dated 2013 and had not been updated, as required. Nevertheless, a review of WILMAPCO's plan confirmed implementation of recommended Title VI inclusive public participation best practices through 2013. Conversely, the Dover/Kent County MPO was more recently updated in 2016; however, its plan did not provide any description or details on its Title VI inclusive public participation efforts.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes procedures for addressing linguistic barriers for LEP persons and procedures for periodically evaluating the effectiveness of DTC's public participation efforts.

Advisory Comments

DelDOT was advised to enhance its inclusive public participation efforts in the following ways:

- Coordinate with community- and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out specifically to members of affected minority and/or LEP communities and document coordination.
- Implement recommended public engagement strategies described in FTA Circular 4703.1(III), including non-tradition strategies.
- Update its Title VI Program Plan to describe in detail when and how DTC “engages local governments” early in the Title VI transportation planning process.

6.7 Language Access to LEP Persons

Requirement

FTA recipients shall take responsible steps to ensure meaningful access to all benefits, services, information, and other important portions of its programs and activities for individuals who are limited English proficient (LEP).²

Discussion

During this compliance review, deficiencies were found with this requirement. FTA also issued advisory comments regarding this requirement. DelDOT’s LEP Four-Factor Analysis did not meet FTA Circular 4702.1B, Chap. III-6, Part 9 requirements. In addition, DelDOT did not sufficiently develop its Language Assistance Plan (LAP).

Four-Factor Analysis

LEP Factor 1 The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient.

DelDOT used a combination of U.S. Census decennial and American Community Service (ACS) five-year estimate data to determine that, in 2016, its statewide LEP population was 4.53 percent, an increase of approximately 0.7 percent from 2000 (3.8 percent). Delaware further identified LEP-speaking populations by county (New Castle, Kent, and Sussex). In 2016, LEP populations in New Castle County, Kent County, and Sussex County were 4.87 percent, 3.29 percent, and 4.63 percent, respectively. From 2000 to 2016, the largest LEP-speaking population percentage increase occurred in Sussex County where the LEP population increased by 1.23 percent, followed by increases of .67 percent in New Castle County, and .29 percent in Kent County. DelDOT further determined that the languages most spoken by LEP persons in the State in order of magnitude were Spanish and Chinese.

² Language access to LEP persons is not limited to only fixed-route services, but will also include paratransit service and any other demand response services the grantee makes available to the public.

DelDOT used U.S. Census and ACS data to help determine the number and proportion of LEP persons in its service area. U.S. DOT LEP Guidance states:

In conducting this analysis, it is important to...consult additional data, for example, from the census, school systems and community organizations, and data from state and local governments, community agencies, school systems, religious organizations, and legal aid entities.

During the site visit, DelDOT acknowledged that although the U.S. Census and ACS are good resources for beginning to understand its LEP-speaking populations, other sources as mentioned in the U.S. DOT LEP guidance can help to more accurately identify said populations. In addition, during the site visit, DelDOT stated it was aware of a growing population of French LEP-speaking persons in Sussex County, the size of which was unknown. The referenced U.S. DOT LEP guidance could be useful in determining the extent to which this population exists for the purposes of determining if language assistance is warranted and necessary.

LEP Factor 2 The frequency with which LEP persons come into contact with the program.

In its Title VI Plan, DelDOT stated that “Based on the LEP assessment, the majority of the LEP population speaks Spanish,” but did not analyze the frequency with which this or any other group of LEP-speaking persons came into contact with its transit service. The review team provided technical assistance on how DelDOT could conduct the required analysis, as recommended by U.S. DOT LEP Guidance. Suggestions included reviewing language line statistics, DelDOT website translation statistics, conducting operator surveys, and tracking requests for translation during public outreach events.

LEP Factor 3 The nature and importance of the program, activity, or service provided by the program to people’s lives.

DelDOT recognized its services were important to its riders for getting to and from work, school, medical appointments, recreation, and shopping. DelDOT further identified that schedule-, route-, and fare-related inquiries made up the majority of its customer service requests. During the site visit, the review team recommended considering other elements of its service likely to be important to its riders that its riders may not have expressed themselves. For example, important to most transit systems and the riders they serve is information on safety and security. DelDOT did not consider providing safety and security information in its analysis.

LEP Factor 4 The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.

DelDOT included a list of statewide fixed route services in this section of its Four Factor Analysis but did not otherwise analyze its language assistance resources or the cost associated with the continued provision of those resources. DelDOT did provide its list of language assistance measures and related costs in its LAP (discussed below).

Language Assistance Plan

DelDOT’s compliance with FTA Circular 4702.1B(III)(9)(b) LAP requirements is described by requirement, as follows:

Include the results of the Four Factor Analysis, including a description of the LEP population(s) served.

DelDOT did not summarize the results of its Four Factor Analysis or describe its LEP populations in its LAP, as required.

Describe how the recipient provides language assistance services by language.

DelDOT included the following measures in its LAP: translated written and printed material (i.e., website translation, “How to Ride” Guide, route schedules, and pictograms); verbal language assistance (i.e., bilingual staff interpretation, language line, and an Integrated Voice Recognition System for its paratransit service); and advertising, marketing, and agency-related media production in Spanish.

Describe how the recipient provides notice to LEP persons about the availability of language assistance.

Although DelDOT provided notice of the availability of language assistance on its website and through its Title VI Notice, it did not list either means of notification in its LAP.

Describe how the recipient monitors, evaluates and updates the language access plan.

Although DelDOT stated in its LAP that it monitored on an ongoing basis the needs of LEP-speaking persons through rider surveys, community outreach services, customer service line, and community meetings, it did not confirm that it had a process in place for documenting and analyzing the results of its monitoring efforts to determine if and when periodic changes to its LAP were necessary. Per U.S. DOT LEP Guidance, DelDOT must establish and document in its LAP the frequency with which it would conduct Four Factor Analyses to assess possible changes in the following:

- Current LEP populations in the service area or population affected or encountered
- Frequency of encounters with LEP language groups
- Nature and importance of activities to LEP persons
- Availability of resources, including technological advances and sources of additional resources, and the costs imposed
- Whether existing assistance is meeting the needs of LEP persons
- Whether staff knows and understands the LEP plan and how to implement it
- Whether identified sources for assistance are still available and viable.

During the site visit, the review team recommended that DelDOT monitor and update its LAP once every three to five years.

Describe how the recipient trains employees to provide timely and reasonable language assistance to LEP populations

In its LAP, DelDOT stated that during operator training it prepared “employees to handle situations where communication is challenging. DTC’s workforce is educated in diversity and sensitivity; the training equips staff with the necessary resources required to work effectively with the diverse customers we serve. Employees are encouraged to practice these skills daily on the job.” DelDOT also stated that “trainers are continuously assessing and identifying training opportunities for existing staff, and provide meaningful access to information and services for LEP persons and all employees in public contact positions.” During the site visit, DelDOT did not provide documentation confirming how or that staff were trained on LEP requirements and related language assistance resources made available by the agency. During route tours, the review team asked operators if they were aware of the language assistance resources made available by the agency and if they ever had to use the resources to assist a rider. None of the operators interviewed indicated they received training on LEP, but most were aware of some translated materials.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit the following to the FTA Office of Civil Rights:

- An updated LEP Four Factor Analysis that includes an analysis of the frequency with which LEP persons come into contact with DelDOT’s transit service.
- An updated Language Assistance Plan that summarizes the results of its Four Factor Analysis or describes its LEP populations, describes how it provides notice of the availability of language assistance, establishes a frequency with which it will monitor and update its LAP, and describes in detail how staff are trained on DelDOT’s language assistance procedures and resources.

Advisory Comments

DelDOT was advised to research LEP population data reported by school systems throughout the state in addition to U.S. Census and ACS demographic data when analyzing the number and proportion of LEP persons in its service area. In its Factor 3 analysis, DelDOT was advised to consider safety and security information as an important element of its transit service. DelDOT was advised to include or reference in Factor 4 of its Four Factor Analysis the language assistance measures and related costs currently described in its LAP.

6.8 Minority Representation on Planning or Advisory Bodies

Requirement

FTA recipients shall not deny an individual on the basis of race, color, or national origin the opportunity to participate as a member of a transit-related, nonelected planning, advisory, committee, or similar body. FTA recipients shall provide a table depicting the racial breakdown of the membership of those bodies, and a description of the efforts made to encourage the participation of minorities on such committees.

Discussion

During this compliance review, deficiencies were found with this requirement. In its 2016 Title VI Program Plan, DeIDOT reported the demographic makeup of the following nonelected advisory bodies:

	Number				Percentage			
	Total	Black	Hispanic	Asian and Other	Black	Hispanic	Asian	Total Minority
Elderly and Disabled Transit Advisory Committee	11	1	0	1	9%	0%	9%	18%
NCC Advisory Committee	16	1	0	0	6%	0%	0%	6%
Council on Transportation	9	0	0	0	0%	0%	0%	0%

During the site visit, DeIDOT reported the following additional nonelected advisory bodies.

	Number				Percentage			
	Total	Black	Hispanic	Asian and Other	Black	Hispanic	Asian	Total Minority
Resort Advisory Committee	30	2	0	0	7%	0%	0%	18.2%
Sussex Transit Working Group*	-	-	-	-	-	-	-	-

**Information requested but not provided at the time of the draft report*

DeIDOT's nonelected advisory bodies did not reflect its service area demographics. DeIDOT did not describe how it encouraged minority participation on its nonelected advisory committees in its most recent Title VI Plan, as required. In addition, during the site visit, DeIDOT did not provide documentation confirming efforts to encourage minority participation on its nonelected advisory bodies.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DeIDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes a detailed description of how it

encourages minority participation on its nonelected advisory bodies. DelDOT must document future efforts to encourage minority participation on its nonelected advisory bodies.

6.9 Providing Assistance to Subrecipients

Requirement

FTA recipients shall assist their subrecipients in complying with the general reporting requirements in Chapter IV. The State DOT or other administering agency should provide assistance at the request of a subrecipient or as deemed necessary and appropriate.

Discussion

During this compliance review, no deficiencies were found with this requirement. DelDOT primarily provided assistance to its 5310 subrecipients through the dissemination and use of a Title VI Program template. The template outlined all applicable and required elements of a Title VI Program and included detailed instructions on how to comply. The template also included a sample Title VI Notice to Beneficiaries, Title VI Complaint Form, Title VI Complaint Log, Staff LEP Survey, and Outside Organization LEP Survey.

During the site visit, DelDOT stated it provided additional assistance when requested by subrecipients and after reviewing subrecipient Title VI Plans, as needed. During a subrecipient site visit to the Newark Senior Center (NSC), the NSC staff confirmed DelDOT provided initial and ongoing assistance to help NSC comply with Title VI.

Corrective Actions and Schedules

FTA requires no corrective actions for the Providing Assistance to Subrecipients requirement at this time.

6.10 Monitoring Subrecipients

Requirement

Primary recipients must monitor their subrecipients for compliance with the regulations. Importantly, if a subrecipient does not comply with Title VI requirements, then the primary recipient is also not in compliance.

Discussion

During this compliance review, deficiencies were found with this requirement. FTA also issued an advisory comment with this requirement. DelDOT received FTA Section 5303, 5304, 5310, 5311, and 5339 formula program funds. The FTA Section 5303 and 5304 funds were transferred by FTA to FHWA and administered through a FHWA grant for statewide transportation planning purposes. The DelDOT Planning Division, which was a DelDOT (not DelDOT/DTC) functional division, passed-through combined FHWA and FTA planning funds to area MPOs to conduct coordinated, short-term, and long-term transit planning throughout the state. Accordingly, DelDOT confirmed during the site visit that it reported its Title VI subrecipient

monitoring procedures and related activities to FHWA for review and approval. Therefore, compliance with 4702.1B(III)(12)(a)(1-3) requirements for FTA Section 5303 and 5304 subrecipients was not reviewed during this FTA compliance review.

DelDOT's 5310, 5311, and 5339 program funds were administered by (DelDOT/DTC). DelDOT/DTC operated FTA Section 5311 funded transportation throughout the state and did not pass-through Section 5311 funds to subrecipients, and therefore, did not have Section 5311 subrecipients to monitor. DelDOT/DTC passed-through FTA Section 5310 funds to eligible subrecipients for the purchase of transit vehicles, and therefore, the subrecipient monitoring requirements applied for this compliance review.

In its 2016 Title VI Plan, DelDOT reported the collection and review of 44 Section 5310 subrecipient Title VI plans, all dated 2013. During the site visit, DelDOT acknowledged that it was behind on collecting updated plans due to staff turnover. DelDOT stated it was in the process of collecting updated subrecipient plans in preparation for its 2019 Title VI plan submittal. A review of five subrecipient Title VI plans revealed varying levels of compliance. For example, the Milford Senior Center included a non-compliant Title VI Notice in its Title VI Plan. In addition, the CHEER organization included several classes not protected by Title VI in its Notice (e.g., religion, religion dress practices, mental condition, sex and sexual orientation, and political affiliation) and included a non-compliant complaint log.

During the site visit, DelDOT submitted a blank copy of its *Delaware Transit Corporation Section 5310 Sub-recipient Site Visit* checklist; however, completed checklists were requested but not received at the time of the draft report. The checklist included three Title VI questions related to complaints, complaint procedures, and Title VI Notice to Beneficiaries.

A review of 13 DelDOT subrecipient websites revealed that only three contained a Title VI Notice to Beneficiaries. The notices posted on two of the three websites did not comply with FTA Circular 4702.1B(III)(A)(1-3).

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit the following to the FTA Office of Civil Rights:

- A current list of 5310 subrecipients and a schedule for collecting and approving current Title VI plans for each subrecipient.
- Procedures for reviewing subrecipient Title VI plans for compliance. Procedures should also be included in DelDOT's 2019 Title VI Plan.
- Procedures for conducting subrecipient site visits and the use of the *Delaware Transit Corporation Section 5310 Sub-recipient Site Visit* checklist. Procedures should also be included in DelDOT's 2019 Title VI Plan.
- Confirmation that all current 5310 subrecipients have posted a compliant Title VI Notice to Beneficiaries on their websites. Confirmation must include screenshots taken of each subrecipient Title VI Notice posted on the Internet.

Advisory Comment

Because FTA planning funds were transferred to FHWA and managed in an FHWA grant, and MPOs were the recipient of those planning funds, DelDOT MPO Title VI compliance was monitored by the DelDOT Office of Civil Rights and reported in its FHWA Title Plan submitted to FHWA. Accordingly, DTC was advised to include a short explanation of why it does not monitor subrecipient MPOs in future DTC Title VI plans submitted to FTA, as applicable.

6.1 I Determination of Site or Location of Facilities

Requirement

FTA recipients shall complete a Title VI equity analysis during the planning stage with regard to race, color, or national origin. A recipient shall also engage in outreach to persons potentially impacted by the siting of facilities. The analysis shall compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site. This requirement will mostly focus on certain facilities, due to the National Environmental Policy Act (NEPA) process evaluating the other types of projects. If, however, the project did not trigger the NEPA process, the normally exempted projects will undergo a Title VI equity analysis.

Discussion

During this compliance review, deficiencies were found with this requirement. DelDOT did not have documented procedures for conducting Title VI Analyses as required in 4702.1B(III)(13) and had not conducted equity analyses for three operations and maintenance facility projects.

In its 2016 Title VI Program Plan, DelDOT reported it had begun work on its Lewes Transit Center, a project that included the phase one construction of a 248-space Park & Ride with passenger amenities and the phase two construction of an operations and maintenance facility. Initial planning and engineering for the project began prior to the release of FTA Circular 4702.1B on October 1, 2012, which introduced this specific requirement to conduct a Title VI equity analysis during the planning stages of all FTA-funded operations or maintenance facility construction project. Prior to the release of FTA Circular 4702.1B, Title VI concerns were required to be addressed per the NEPA process. Accordingly, this Lewes Transit Center project received a Categorical Exclusion.

Since 2016, DelDOT initiated the following operations or maintenance construction projects for which it had not conducted the required Title VI equity analysis: Wilmington Operations Center Bus Wash, Beech Street Maintenance Facility, and the Dover Maintenance and Administration Facility. During the site visit, DelDOT confirmed neither of the three projects required the acquisition of new real property and all facilities were planned for construction on existing DelDOT property. The review team noted that although there was likely no Title VI impact associated with the Wilmington and Dover projects, the land on which DelDOT planned to construct the Beech Street facility was situated on approximately one city block adjacent to its existing administration building. Erecting a new facility on this land could result in a cumulative adverse effect on the surrounding community. During the site visit, DelDOT was informed that it must address the Title VI operations and maintenance facility equity analysis requirement even if it appears no adverse effect exists.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DeIDOT must submit the following to the FTA Office of Civil Rights:

- An updated Title VI Program Plan that includes procedures for conducting Title VI equity analyses, as required by 4702.1B(III)(13).
- Title VI Equity Analyses for its Wilmington Operations Center Bus Wash, Beech Street Maintenance Facility, and Dover Maintenance and Administration Facility construction projects.

7. Findings of the Program-Specific Requirements for Large Fixed-Route Transit Providers

7.1 System-wide Service Standards and Policies

Requirement

FTA recipients that provide fixed-route service shall set service standards and policies for each specific fixed-route mode of service they provide. Fixed-route modes of service include but are not limited to, local bus, express bus, commuter bus, bus rapid transit, light rail, subway, commuter rail, passenger ferry, etc. These standards and policies must address how a recipient distributes its service across the transit system, and must ensure that the manner of the distribution affords users access to these assets.

Discussion

During this compliance review, deficiencies were found with this requirement. Included in its most recent Title VI plan and at the time of the site visit, DelDOT's system-wide service standards were as follows:

Vehicle Load

- Core – 1.2
- Express – 1.0
- Community Circulator – 1.3

Vehicle Headway

DelDOT stated in its 2016 Title VI Program Plan that it implemented the policy headways in the following table.

	Weekday			Weekend	
	Peak	Mid-Day	Night	Saturday	Sunday
Core	36	71	53	53	65
Express	33	90	1 Bus	1 Bus	None
Community Circulator	34	47	41	71	60

On-Time Performance

85 percent of all trips made within 0-5 minutes of scheduled time.

Service Availability

One-quarter mile walking distance to a transit route for 80 percent of the citizens in New Castle County.

DelDOT's Vehicle Load standard did not include distinct standards for peak and off-peak service. DelDOT's vehicle headway standards were out of date and inconsistent with the clock headways currently used by DelDOT, as confirmed onsite and per review of public route timetables. DelDOT's service availability standard did not address service provide in Kent County or Sussex County.

DelDOT's system-wide service policies were as follows:

Vehicle Assignment

DelDOT assigned vehicles to routes on a random basis with the following exceptions:

- Routes/blocks with heavy ridership – required high seating capacity vehicles
- Express, commuter service, and community shuttle service – required vehicles specifically designed for these types of service.

Distribution of Transit Amenities

During the site visit, DelDOT confirmed it developed policies for the distribution of bus stops, bus shelters, and benches. DelDOT explained in detail its policy for the placement of bus stops in its 2016 Title VI Plan, however, it did not describe its policy for bus shelter and bench distribution in its plan. In its 2016 Title VI Plan, DelDOT described the following policy regarding the placement of bus stops:

- Local Bus Service with High Transit Density – Bus stops should be placed approximately 750 feet apart or 7 bus stops per mile. Within urban areas, this guideline may translate into a bus stop interval spacing of approximately 3 blocks between stops. Typically, an area will have high transit density if it is primarily commercial, has a high concentration of employment, or the population densities are greater than 3,000 people/square mile.
Express and Intercounty Bus Service – Routes will have intervals of several miles between stops. Stops will generally be located at major destinations, transfer points, or park-and-ride lots. Most riders will use transfer buses or park-and-ride rather than walking to their originating stop. Express/Intercounty buses will make frequent stops only in major urban or commercial districts.
- Local and Intercounty Bus Service with Low Transit Density: Generally, this type of environment lacks the compact street network, land use patterns, and concentrated population commonly associated with high density locations. Stop locations will generally be based on activity centers rather than distance. Intercounty and local bus service within a lower density area may function as collector/feeder services. Typically, an area has a low transit density if its population densities are less than 900 people per square mile. In rural areas, designated bus stops must be clearly marked to be visible during times of poor visibility. A preference may be given to locating bus stops at highly visible locations such as commercial areas, convenience stores, or schools.

During this compliance review, DelDOT provided a separate Bus Stop and Passenger Facilities Policy (P.I. Number : DTC-05.01) that contained the same policies for bus stop placement included in its 2016 Title VI Plan, as well as the following quantitative policies for the distribution of bus shelters and benches, which were not included in the 2016 Title VI Plan:

	Bus Shelters	Benches
High Transit Density	40 or more boardings per day	20 or more boardings per day
Moderate Transit Density	20 or more boardings per day	10 or more boardings per day
Low Transit Density	10 or more boardings per day	5 or more boardings per day

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes the following:

- Updated vehicle load, vehicle headway, and service availability service standards. DelDOT's updated vehicle load standard must include standards for peak and off-peak service. DelDOT's updated vehicle headway standard must reflect current headway policies. DelDOT's service availability standard must address service in Kent County and Sussex County.
- Policies for the distribution of all transit amenities, including bus shelters and benches.

7.2 Demographic Data

Requirement

FTA recipients that provide fixed-route transit service, operate 50 or more vehicles in peak service, and are located in a UZA of 200,000 or more in population shall collect and analyze racial and ethnic data to determine the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance from FTA.

Discussion

During this compliance review, deficiencies were found with this requirement. FTA also issued advisory comments regarding this requirement. In its 2016 Title VI Program Plan, DelDOT included the following demographic maps:

- *DART First State Transit Service Area African-American Population* – depicted the distribution of African Americans statewide distinguishing areas equal to or less than the statewide average from areas greater than the statewide average.
- *DART First State Transit Service Area Hispanic Population* – depicted the distribution of Hispanics statewide distinguishing areas equal to or less than the statewide average from areas greater than the statewide average.
- *Kent County Transit Services* – depicted the Kent County service area along with major trip generators

- *Sussex County Transit Services* – depicted the Kent County service area along with major trip generators.

DelDOT did not create the demographic maps required by FTA Circular 4702.1B(IV)(5)(a)(1-3), as follows:

- No base map depicting transit service and major trip generators that also identified minority populations by Census tract, block, block group or Traffic Analysis Zone (TAZ).
- No base map as described above that identifies Census tracts, block groups or TAZs where the percentage of the total minority population residing in these areas exceeds the average percentage of minority populations for the service area as a whole.
- No map depicting those Census tracts, blocks, block groups, TAZs, or other geographic zones where the percentage of the total low-income population residing in these areas exceeds the average percentage of low-income populations for the service area as a whole.

Although DelDOT provided transit service statewide, transit service characteristics in the three Delaware counties (New Castle, Kent, and Sussex) differ substantially. Accordingly, for Title VI purposes, DelDOT would benefit from designing demographic maps, charts, and surveys per FTA Circular 4702.1B(VI)(5)(a)(b) for each county. For example, DelDOT included maps depicting the distribution of Black and Hispanic populations throughout the state that also showed areas where the two minority populations exceeded their respective statewide averages rather than their respective countywide averages.

During the site visit, DelDOT provided the following passenger surveys conducted within the last five years:

	Passenger Travel Patterns	Title VI Information		
		Minority	Income	LEP
Mobility in Motion Survey	Yes	Yes	Yes	Yes
New Castle County Origin-Destination Survey	Yes	No	No	No
I-95 Service Plaza Commute Survey	Yes	Yes	No	No
Kent/Sussex Counties Rider Survey	Yes	Yes	Yes	Yes
Newark Transit Improvement Partnership	Yes	No	No	No
Route 59 On-Board Survey	Yes	No	No	No

As depicted in the table above, DelDOT's inclusion of Title VI information in its passenger surveys varied. DelDOT collected information on the race, color, national origin, English proficiency, language spoken at home, household income and travel patterns of their riders systemwide, which could be used to analyze experiential disparities between minority and non-minority and low-income and non-low-income riders. As indicated in its 2016 Title VI Plan, DelDOT used survey results from surveys that included ridership demographics when conducting fare change analyses.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit to the FTA Office of Civil Rights demographic profile maps, as required by FTA Circular 4702.1B(VI)(5)(a)(b).

Advisory Comment

DelDOT was advised to develop demographic profile maps, charts, and surveys per FTA Circular for each county (i.e., New Castle, Kent, and Sussex). DelDOT was advised to use survey results for other aspects of its Title VI program implementation (e.g., public participation and language assistance planning and evaluation).

7.3 Monitoring Transit Service

Requirement

FTA recipients shall monitor the transit service provided throughout their service areas. Recipients shall undertake periodic service monitoring activities to compare the level and quality of service provided to predominantly minority areas with service provided in other areas to ensure that the result of policies and decisionmaking is equitable service. Recipients shall conduct monitoring 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.

Discussion

During this compliance review, deficiencies were found with this requirement. In its 2016 Title VI Plan, DelDOT stated it monitored Title VI equity on a triennial basis per FTA Circular 4702.1B(IV)(6) and when conducting bi-annual service change and fare change equity analyses. The findings discussed in this section are limited to DelDOT's response to FTA Circular 4702.1B(IV)(6) Monitor Transit Service requirements and do not address DelDOT's efforts to monitor or ensure equity when making bi-annual service and fare changes.

Although DelDOT stated it conducted Title VI monitoring triennially, its last Title VI monitoring effort occurred five years ago in 2013. In its 2013 Title VI Monitoring Report, DelDOT described detailed monitoring procedures that included the grouping of routes into "quartiles," with the first quartile including routes that traversed Census block groups with the highest minority populations and the fourth quartile including routes that traversed Census block groups with the lowest minority populations. DelDOT then compared the performance of routes in quartiles one and two to the performance of routes in quartiles three and four by service standard. When measuring performance, DelDOT compared the routes' performance to the overall system average and the extent to which routes in quartiles one and two deviated from the average compared to the extent to which routes in quartiles three and four deviated from the average. DelDOT calculated a standard deviation and quartile performance that exceeded the standard deviation represented potentially disparate circumstances.

DelDOT's Title VI monitoring procedures did not comply with FTA Circular 4702.1B(IV)(6) requirements. Although DelDOT identified and ranked routes that traversed minority areas, it did

not identify minority routes based on the minority route definition in the Circular. FTA Circular 4702.1B(IV)(6)(a) defines a minority route as follows:

A minority transit route is one in which at least one-third of the revenue miles are located in a Census block, Census block group, or traffic analysis zone where the percentage minority population exceeds the percentage minority population in the service area.

In addition, DelDOT's methodology measured route performance against system averages, not against the system-wide service standards DelDOT established in its Title VI Program Plan. FTA Circular 4702.1B(IV)(6)(b-c) requires the following:

- b. Transit providers shall assess the performance of each minority and non-minority route in the sample for each of the transit provider's service standards and service policies.
- c. Transit providers shall compare the transit service observed in the assessment to the transit provider's established service policies and standards.

DelDOT's 2013 system-wide service policies included policies for bus stop placement, vehicle assignment, and the distribution of transit amenities (i.e., bus shelters and benches). DelDOT's 2013 Title VI Monitoring Report included a vehicle assignment analysis that did not identify any vehicle assignment disparities between quartile one and two routes and quartile three and four routes. DelDOT included maps in its 2013 Title VI Monitoring Report that identified minority and non-minority areas and plotted transit amenities, however, DelDOT did not discuss how it analyzed the maps to determine equitable distribution or state whether disparities existed or not. DelDOT did not include Title VI monitoring of bus stop placements.

Finally, in its most recent Title VI monitoring effort, DelDOT only monitored Title VI performance in New Castle County. DelDOT's Title VI monitoring did not include Kent County or Sussex County.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes detailed procedures for conducting Title VI monitoring in accordance with FTA Circular 4702.1B(IV)(6) requirements wherever DelDOT provides transit service, and documentation that it has conducted a new Title VI monitoring effort according to its updated procedures.

7.4 Evaluation of Service and Fare Changes

Requirement

FTA recipients that provide fixed-route transit service, operate 50 vehicles or more during peak service, and operate within a UZA of 200,000 persons shall evaluate any fare change and all major service changes at the planning and programming stages to determine whether those changes have a discriminatory impact. Recipients shall have established policies and

procedures that specify how an agency will undertake the analysis associated with fare and major service changes.³

Discussion

During this compliance review, deficiencies were found with this requirement. FTA also issued advisory comments regarding this requirement. DelDOT had not implemented a recent fare change, however, it regularly implemented semi-annual system-wide service changes. In its 2016 Title VI Plan, DelDOT included procedures for conducting service and fare changes and reported 83 service changes (26 of which met DelDOT's definition a "major service change" requiring a service change equity evaluation) that occurred between October 2013 and October 2016. In preparation for this compliance review, DelDOT submitted 109 service changes (50 of which met DelDOT's definition a "major service change" requiring a service change equity evaluation) implemented since June 2016. The procedures included in DelDOT's 2016 Title VI Plan and the service changes implemented since June 2016 were reviewed for compliance with FTA service change requirements described in FTA Circular 4702.1B(IV)(7).

The following table describes DelDOT's service change procedures and related compliance with FTA Circular 4702.1B(IV)(7) requirements:

FTA Requirement	DelDOT Procedure/Response	Meets Requirement (Comments)
Major Service Change Policy (FTA C 4702.1b(IV)(7)(a)(1)(a)) - The transit provider must first identify what constitutes a "major service change" for its system, as only "major service changes" are subject to a service equity analysis. The transit provider must conduct a service equity analysis for those service changes that meet or exceed the transit provider's "major service change policy."	<i>Any service change affecting 15 percent or more of the ridership within the county for which the reduction is proposed, or at least 15 percent of the service miles currently operating in the affected county, or at least 25 percent of the revenue service trips of any 1 route including new routes (Note: Delaware Code Title 2, Chapter 13, Section 1309(28)(b)(1), defines a Major Service Change but FTA has required that DTC amend its policy to include new or increased services)</i>	Yes

³ Transit providers that have implemented or will implement a New Start, Small Start, or other new fixed guideway capital project shall conduct a service and fare equity analysis. The service and fare equity analysis will be conducted six months prior to the beginning of revenue operations, whether or not the proposed changes to existing service rise to the level of "major service change" as defined by the transit provider. All proposed changes to parallel or connecting service will be examined. The service equity analysis shall include a comparative analysis of service levels pre- and post- the New Starts/Small Starts/new fixed guideway capital project. The transit provider shall also conduct a fare equity analysis for any and all fares that will change as a result of the capital project.

FTA Requirement	DelDOT Procedure/Response	Meets Requirement (Comments)
Adverse Effects (FTA C 4702.1b(IV)(7)(a)(1)(b)) - The transit provider shall define and analyze adverse effects related to major changes in transit service.	<i>A geographical or temporal reduction in service including, but is not limited to elimination of a route, short lining a route, rerouting an existing route and an increase in headways.</i>	Partial. DelDOT defined “adverse impacts,” as required. However, DelDOT did not analyze adverse effects (see discussion on determining disparate impact below).
Disproportionate Impact Policy (FTA C 4702.1b(IV)(7)(a)(1)(c)) - The transit provider shall develop a policy for measuring disparate impacts. The policy shall establish a threshold for determining when adverse effects of service changes are borne disproportionately by minority populations.	<i>A disparate impact will occur when the minority population adversely affected by a major service change is twenty percent (20%) more than the non-minority population adversely affected by the major service change</i>	Yes
Public Participation (FTA C 4702.1b(IV)(7)(a)(1)(d)) - The transit provider shall engage the public in the decisionmaking process to develop the major service change policy and disparate impact policy.	<i>Delaware code establishes the Major Service Change policy and cannot be changed without action by the General Assembly. The Service Standards, Disparate Impact and Disproportionate Burden policies have been drafted by DTC staff and are the subject of five public meetings held during September 24th through 26th, 2013. Utilizing DTC's Public Participation Plan, meeting notices have been placed on the DART First State web site, on DART First State buses, emailed to customers in the customer data base, and mailed to approximately 14,000 paratransit riders, community groups and affected agencies.</i>	Yes

FTA Requirement	DelDOT Procedure/Response	Meets Requirement (Comments)
Data Analysis (FTA C 4702.1b(IV)(7)(a)(1)(e)) - The transit provider shall describe the dataset(s) the transit provider will use in the service equity analysis, i.e., whether the provider is using American Community Survey (ACS), Census blocks, block groups, traffic analysis zone (TAZ) level, or using ridership data.	<i>For major service changes, the most recent and available census [block] data will be used along with route level operating data. For major fare changes ridership data from the most recent on-board survey will be used by DTC to estimate the ridership impacts and the number of minority and low-income riders impacted.</i>	Yes
Assessing Service Impacts/Comparison (FTA C 4702.1b(IV)(7)(a)(1)(f)(i)) – Comparing the proportion of persons in the protected class who are adversely affected by the service or fare change and the proportion of persons not in the protected class who are adversely affected.	DelDOT did not clearly describe whether and/or when it compared the affected population to the service area population or system-wide population in its 2016 Title VI Program Plan. However, in the Introduction of its <i>Service Equity Analysis Form</i> , DelDOT stated that it compared the affected population to the population in the State of Delaware.	Yes. DelDOT should update its 2016 Title VI Plan to include the language in its <i>Service Equity Analysis Form</i> describing population comparison. Because its transit service and rider populations are substantially different in the three Delaware counties, DelDOT was advised to compare the affected population to the population in the county in which the change occurs.
Assessing Service Impacts/Ridership Data (FTA C 4702.1b(IV)(7)(a)(1)(f)(ii)) - When the transit provider determines that the correct population base is ridership, the transit provider shall document the reasons for selecting this population base and analyze any available information generated from ridership surveys to determine the minority and non-minority population ridership of the affected route(s) and the minority and non-minority ridership of the entire system.	In its 2016 Title VI Program, DelDOT explained that it used Census data when conducting service changes and ridership data from surveys when conducting fare changes.	Yes. DelDOT must ensure that when using ridership data to conduct fare change equity evaluations it is comparing minority ridership data collected from the survey(s) to overall ridership data collected from the same survey(s).

FTA Requirement	DelDOT Procedure/Response	Meets Requirement (Comments)
Assessing Service Impacts/GIS or Alternative Maps (FTA C 4702.1b(IV)(7)(a)(1)(f)(iii)) - When the transit provider determines that the correct population base is Census blocks or block groups, the transit provider shall document the reasons for selecting this population base and shall prepare maps of the routes that would be reduced, increased, eliminated, added, or restructured, overlaid on a demographic map of the service area, in order to study the affected population. Transit providers may also find it helpful to prepare these maps when doing an analysis based on ridership.	DelDOT did not address its use of demographic maps when conducting service change equity evaluations in its 2016 Title VI Program Plan, however, DelDOT did use demographic maps when evaluating service changes. DelDOT's <i>Service Equity Analysis Form</i> required the development and use of demographic maps when evaluating service changes that met DelDOT's "major service change" threshold.	Partial. A review of the 50 service change evaluation forms completed by DelDOT between June 2016 and May 2018, showed that DelDOT did not use (or document the use of) demographic maps in all cases. For example, 20 of the 50 service changes conducted did not include documentation of the use of demographic maps.
Assessing Service Impacts/Determination of Disparate Impact (FTA C 4702.1b(IV)(7)(a)(1)(f)(iv)) - Each service change analysis must compare existing service to proposed changes, and calculate the absolute change as well as the percent change. The transit provider shall use its adverse effects definition and disparate impact threshold to determine whether the proposed major service change will result in adverse effects that are disproportionately borne by minority populations, by comparing the proportion of minorities adversely affected to the proportion of non-minorities adversely affected.	In its 2016 Title VI Program Plan, DelDOT stated that " <i>A disparate impact will occur when the minority population adversely affected by a major service change is twenty percent (20%) more than the non-minority population adversely affected by the fare increase. A disproportionate burden will occur when the low-income riders adversely affected by a fare increase is twenty percent (20%) more than non-low income riders adversely affected by the major service change.</i> "	No. Although DelDOT's disparate impact definition in its 2016 Title VI Program Plan complied with Circular requirements, DelDOT did not apply its disparate impact definition when evaluating service changes between June 2016 and May 2018. For evaluations conducted during this period, DelDOT determined disparate impact had occurred when minority populations in the affected service change area were equal to or greater than 20 percent of the total population in the same area,

FTA Requirement	DelDOT Procedure/Response	Meets Requirement (Comments)
		thereby not comparing the impact of the changes on the minority population to the impact of the changes on the non-minority population, as required.
Assessing Service Impacts/Analysis of Modifications (FTA C 4702.1b(IV)(7)(a)(1)(f)(v)) - If the transit provider finds potential disparate impacts and then modifies the proposed changes in order to avoid, minimize, or mitigate potential disparate impacts, the transit provider must reanalyze the proposed changes in order to determine whether the modifications actually removed the potential disparate impacts of the changes.	Not addressed by DelDOT in its 2016 Title VI Program Plan, however, DelDOT discussed findings and alternatives in its <i>Service Equity Analysis Form</i> . Although in some cases DelDOT made changes based on rider feedback, it did not reanalyze the proposed changes, as required.	No
Assessing Service Impacts/Finding a Disparate Impact on the Basis of Race, Color, or National Origin (FTA C 4702.1b(IV)(7)(a)(1)(f)(vi)) - If a transit provider chooses not to alter the proposed service changes despite the potential disparate impact on minority populations, or if the transit provider finds, even after the revisions, that minority riders will continue to bear a disproportionate share of the proposed service change, the transit provider may implement the service change <i>only</i> if: <ul style="list-style-type: none"> the transit provider has a substantial legitimate 	Not addressed by DelDOT in its 2016 Title VI Program Plan, however, DelDOT discussed findings, alternatives, revisions, and final determinations in its <i>Service Equity Analysis Form</i> . Although in some cases DelDOT made changes based on rider feedback, it did not reanalyze the proposed changes, as required, nor did it provide substantial legitimate justification for the change in most cases.	No. The review team noted that an older version of DelDOT's <i>Service Equity Analysis Form</i> (used in 2013) included a discussion of findings, alternatives, and related adjustments based on rider feedback and other factors at the end of each form (one form per service change). Forms completed between June 2016 and May 2018 included a discussion of findings, alternatives, and final determination at the

FTA Requirement	DelDOT Procedure/Response	Meets Requirement (Comments)
<p>justification for the proposed service change, and</p> <ul style="list-style-type: none"> the transit provider can show that there are no alternatives that would have a less disparate impact on minority riders but would still accomplish the transit provider's legitimate program goals. <p>It is important to understand that in order to make this showing, the transit provider must consider and analyze alternatives to determine whether those alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.</p>		<p>end of the "batch" of changes made in a particular semi-annual period. Including a findings section after each evaluation, as DelDOT did in 2013, made it easier to relate the findings and final determinations to each analysis included in the "batch" of analyses.</p>
<p>Assessing Service Impacts/Examining Alternatives (FTA C 4702.1b(IV)(7)(a)(1)(f)(vii)) - If the transit provider determines that a proposed service change will have a disparate impact, the transit provider shall analyze the alternatives (identified in the second bullet above) to determine whether alternatives exist that would serve the same legitimate objectives but with less of a disparate effect on the basis of race, color, or national origin. In addition, if evidence undermines the legitimacy of the transit provider's asserted justification - that is, that the justification is not supported by demonstrable evidence - the disparate effects will violate Title VI, as the lack of factual support will indicate that there is not a substantial legitimate justification for the</p>	<p>Not addressed by DelDOT in its 2016 Title VI Program Plan, however, DelDOT discussed findings, alternatives, revisions, and final determinations in its <i>Service Equity Analysis Form</i>. DelDOT also provided for public feedback and input and made revisions accordingly.</p>	<p>Partial. Although DelDOT examined alternatives based on customer feedback, it did not provide substantial legitimate justification for the change in most cases.</p>

FTA Requirement	DelDOT Procedure/Response	Meets Requirement (Comments)
disparate effects. Where disparate impacts are identified, the transit provider shall provide a meaningful opportunity for public comment on any proposed mitigation measures, including the less discriminatory alternatives that may be available.		

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit the following to the FTA Office of Civil Rights:

- An updated Title VI Program Plan that includes procedures for conducting service and fare change equity analyses that address all of the requirements in FTA Circular 4702.1B(IV)(7).
- Documentation that it has reanalyzed all service changes made between June 2016 and May 2018 that met the “major service change” threshold for disparate impact per its 2016 Title VI Program Plan and FTA Circular 4702.1B(IV)(7)(a)(1)(c).
- Updated *Service Equity Analysis Forms* that include demographic maps for all service changes made between June 2016 and May 2018 for which demographic maps were not used or for which DelDOT’s documentation of its use of demographic maps was not provided.

Advisory Comments

DelDOT was advised to compare the population affected by a service change to the population in the county in which the change occurs, rather than compare affected populations to the population in the entire state. DelDOT was advised to update its *Service Equity Analysis Form* to include a discussion of findings, alternatives, justifications, and final determinations and to complete this updated section of its form for all future service changes that meet its “major service change” criteria. DelDOT was advised to change its *Service Equity Analysis Form* Section C heading from “Section C: Title VI Monitoring Measure of Disproportionate Burden” to “Section C: Title VI Monitoring Measure of Disparate Impact.”

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8. Findings of the Program-Specific Requirements for States

8.1 Statewide Planning Activities

Requirement

All States are responsible for conducting planning activities that comply with 49 U.S.C. Section 5304, Statewide Transportation Planning, as well as Subpart B of 23 CFR Part 450, Statewide Transportation Planning and Programming. Since States “pass through” planning funds to the MPO, the State as primary recipient is responsible for collecting Title VI Programs from MPOs on a schedule to be determined by the State. Collection and storage of subrecipient Title VI Programs may be electronic at the option of the State. The State is thus responsible for monitoring the Title VI compliance of the MPO for those activities for which the MPO is a subrecipient.

Discussion

During this compliance review, no deficiencies were found with this requirement. FTA issued advisory comments regarding this requirement. During the site visit, DTC stated that FTA Section 5304 planning funds were transferred from FTA to FHWA and administered by a FHWA grant, and related statewide planning activities were accordingly managed by the DelDOT Office of Civil Rights. (As described in Section 4.1. of this report, the DelDOT Office of Civil Rights operated separately from the DelDOT/DTC Office of Civil Rights. The DelDOT Office of Civil Rights was primarily responsible for FHWA-related Title VI compliance and the DelDOT/DTC Office of Civil Rights was primarily responsible for FTA-related Title VI compliance.) Under this arrangement, all DelDOT Title VI statewide planning activities were considered the responsibility of the DelDOT Office of Civil Rights, which developed its own Title VI Plan that was submitted to FHWA for review and approval.

In its 2016 Title VI Program Plan submitted to FTA by the DelDOT/DTC Office of Civil Rights, DelDOT described its statewide planning process as follows:

WILMAPCO, Dover Kent County MPO, Salisbury Wicomico MPO (S/WMPO), DelDOT and DTC cooperatively participate in the planning process. They determine their mutual responsibilities in carrying out the metropolitan transportation planning process through a Memorandum of Agreement (MOA). These responsibilities are clearly identified in written agreements among the WILMAPCO, Dover Kent County MPO, S/WMPO, DelDOT and DTC. DTC is a voting member for WILMAPCO and Dover Kent County MPO's in Delaware for both the Technical Advisory Committees (TAC) and Council Meetings (that serves as the MPO Policy Board). DTC is a participating member for the SWMPO Technical Advisory Committee along with DelDOT; however, DTC is not a voting member of the TAC. DTC Staff are also members of various subcommittee's for each MPO's, for example Data and Demographics; Congestion Management; Environmental Justice; Transportation Justice; Non-Motorized and Pedestrian; Air Quality and the Interagency State Consultation

Group that meets to discuss Air Quality conformity analyses and grants for congestion mitigation air quality programs statewide.

This description above described the involvement of DelDOT/DTC staff in the Title VI statewide planning process, which seemed to contradict what was described by DelDOT/DTC during the site visit.

The review team requested documentation confirming DelDOT's handling of FTA planning funds and related Title VI planning compliance activities, including the MOA referenced in its DelDOT/DTC Title VI Program Plan. In response, DelDOT provided the most recent Title VI Program Plan (November 2017) prepared by the DelDOT Office of Civil Rights and submitted to FHWA along with Title VI Program Plans submitted by the Wilmington Area Planning Council (WILMAPCO) and the Dover/Kent County Metropolitan Planning Organization (MPO), subrecipients of DelDOT FTA Section 5304 and FHWA planning funds. At the time of this report, DelDOT had not submitted the requested MOA or other documentation memorializing its handling of FTA planning funds.

The DelDOT Office of Civil Rights demonstrated compliance with the requirement to collect subrecipient Title VI Program Plans. The review team reviewed the WILMAPCO and Dover/Kent County MPO Title VI Program Plans and determined them to substantially comply with FTA Circular 4702.1B(V)(3)(a-d) requirements. DelDOT's Title VI Program Plan submitted to FHWA described its oversight and monitoring of its planning subrecipients pursuant to compliance with the Title VI statewide planning requirement.

Advisory Comments

DTC was advised to update its 2016 Title VI Program Plan submitted to FTA to more clearly describe its procedures for managing FTA planning funds and related efforts to comply with FTA Circular 4702.1B(V)(3)(a-d) requirements. DTC was advised to submit its MOA and other documentation, as applicable, describing its handling of FTA planning funds.

8.2 Program Administration

Requirement

States shall document that they pass through FTA funds under the Enhanced Mobility for Seniors and Individuals with Disabilities (Section 5310) program, the Formula Grants for Rural Areas (Section 5311) program, and any other FTA funds, to subrecipients without regard to race, color, or national origin, and assure that minority populations are not being denied the benefits of or excluded from participation in these programs.

Discussion

During this compliance review, deficiencies were found with this requirement. DelDOT did not pass through FTA Section 5311 funds, and instead used these funds to operate eligible service throughout the state with its own fleet. DelDOT passed through FTA Section 5310 funds to eligible program subrecipients. DelDOT described its competitive selection process and award criteria for 5310 subrecipients in its *Delaware Transportation Corporation State Management*

Plan Enhanced Mobility of Seniors and Individuals with Disabilities Program. DelDOT's 5310 State Management Plan (SMP) included statements affirming DelDOT's compliance with FTA civil rights requirements, including Title VI, however, it did not address in detail the requirements in FTA Circular 4702.1B(V)(4)(a-c).

DelDOT's Section 5310 Program SMP described a competitive selection process that required applications to be derived from a locally developed, coordinated public transit-human services transportation plan for the State of Delaware, and for applications to be responsive to one or more priorities described in the SMP, as follows:

Priority One: To provide vehicle replacement to current Section 5310 organizations needed to maintain current programs; to contract with providers of previously funded organizations which will allow new service to be implemented in an area not adequately represented by the Program and to contract with providers who demonstrate a need for transportation, but currently have limited transportation options available.

Priority Two: Acquisition of service in order to promote use of private sector providers and coordination with other human service agencies and public transit providers.

Priority Three: Additional public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA-complimentary transit service; or provide alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

DelDOT's evaluation criteria for award under the 5310 program were as follows:

1. Transportation needs of the clientele to be served as stated in the organization's application;
2. The year and mileage of the vehicle if an Organization is asking for a replacement vehicle;
3. Organization's use of existing transportation providers;
4. Coordination efforts with other nonprofit and public transportation services;
5. Proposed utilization of requested vehicle(s) and/or proposed transportation as well as, past utilization of previously funded equipment, if appropriate;
6. Fiscal and management capabilities;
7. If the applicant is the current Program participant, whether or not that applicant is in full compliance with Program objectives. Any applicant currently participating in the Program, and who is not in full compliance, will not be funded until full compliance is achieved;
8. Contributed capital for the purchase of the vehicles or equipment.

DelDOT's process for award was as follows:

STEP ONE: After all applications are ranked by DTC and allocations of funds has been made by FTA, DELDOT will approved organization applications for funding. DTC reserves the right to partially fund applications. Approval of applications is contingent upon verification of all information submitted and completion of all required documents, DTC will notify all organizations of the results, by mail.

STEP TWO: Awards are subject to approval by the Secretary of Transportation. Organization applications that have successfully completed Step 1 will be brought before the Secretary of review and approval.

STEP THREE: Applications that have been approved will be incorporated into DTC's annual grant application to FTA for Section 5310 funding. DTC will keep organizations advised of the progress of federal grant approvals and will notify each organization when the actual award has been made. Upon the federal award of funds, DTC will begin the procurement process for equipment.

Although DelDOT's program administration procedures appeared neutral with respect to race, color, or national origin, nowhere in its procedures (including in its 2016 Title VI Program Plan) did DelDOT describe how it assured minority populations were not being denied the benefits of or excluded from participation in its FTA-funded 5310 program. Neither DelDOT's Title VI Plan, nor its Section 5310 SMP, specifically addressed minority considerations. It was also unclear how DelDOT related its program administration procedures to the Title VI statewide planning process vis-à-vis the use of demographic maps and other demographic data produced during the statewide planning process. Finally, during the site visit, DelDOT confirmed it did not maintain a record of requests as described and required in FTA Circular 4702.1B(V)(4)(a).

The review team noted that at the end of the *Delaware Transit Corporation FY 2018 Application for FTA Section 5310 Program*, ridership ethnicity information was requested, however, DelDOT staff could not confirm if or describe how the information was used in the selection of projects.

Corrective Actions and Schedules

Within 60 days of the issuance of the final report, DelDOT must submit the following to the FTA Office of Civil Rights:

- An updated Title VI Program Plan that describes in detail how Title VI concerns are addressed in the administration of FTA program funds, as required by FTA Circular 4702.1B(V)(4).
- A record of funding requests as required by FTA Circular 4702.1B(V)(4)(a) and an analysis of the extent to which minority agencies were denied benefits.

9. Summary of Findings and Corrective Actions

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
6.1	Annual Title VI Certification and Assurance	DeIDOT filed its Title VI Certification and Assurance in accordance with FTA Circular 4702.1B(II)(2) requirements.	ND	No action required.	
6.2	Submit Title VI Program	DeIDOT's 2016 Title VI Program Plan has not received concurrence from FTA.	AC	DeIDOT was advised to implement the corrective actions and advisory comments in this report and update its Title VI Plan accordingly. DeIDOT should submit its updated plan to FTA for final review and concurrence.	
6.3	Notice to Beneficiaries of Protection under Title VI	DTC's Notice to Beneficiaries complied with FTA Circular 4702.1B(II)(5) requirements.	ND	No action required.	
6.4	Title VI Complaint Procedures	DeIDOT's Title VI complaint procedures did not reflect actual practice and required changes to how appeals and final complaint determinations were made.	<p>D</p> <p>AC</p>	<p>DeIDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes Title VI Complaint Procedures that describe in detail all methods for filing a Title VI complaint and reflects actual practice with respect to process and the use of related administrative tools (e.g., forms, letters, logs, etc.).</p> <p>DeIDOT was advised to include in its updated Title VI Program Plan updated and detailed procedures for filing appeals that are decided on at the recipient agency level. DeIDOT was advised to identify an</p>	60 Days

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
				individual(s) in its Office of Civil Rights to make initial Title VI complaint determinations on behalf of the agency, and to identify an individual(s) higher-up in the agency to review appeals and make final agency determinations.	
6.5	List of Title VI Investigations, Complaints, and Lawsuits	DelDOT did not adequately identify, record, and report Title VI Complaints, as required.	D	DTC must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes procedures for ensuring all Title VI complaints filed directly with DTC and DelDOT subrecipients are identified, recorded, and reported, as required.	60 Days
6.6	Inclusive Public Participation	DelDOT did not address linguistic barriers in its public participation plan and did not document procedures for periodically evaluating the effectiveness of its Title VI public outreach efforts.	D AC	<p>DelDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes procedures for addressing linguistic barriers for LEP persons and procedures for periodically evaluating the effectiveness of DTC's public participation efforts</p> <p>DelDOT was advised to enhance its inclusive public participation efforts in the following ways:</p> <ul style="list-style-type: none"> • Coordinate with community- and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach 	60 Days

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
				<p>out specifically to members of affected minority and/or LEP communities and document coordination.</p> <ul style="list-style-type: none"> • Implement recommended public engagement strategies described in FTA Circular 4703.1(III), including non-tradition strategies. • Update its Title VI Program Plan to describe in detail when and how DTC “engages local governments” early in the Title VI transportation planning process. 	
6.7	LEP Language Assistance Plan	DeIDOT’s LEP Four-Factor Analysis and Language Assistance Plan did not meet FTA Circular 4702.1B(III)(9) requirements.	D	<p>DeIDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> • An updated LEP Four Factor Analysis that includes an analysis of the frequency with which LEP persons come into contact with DeIDOT’s transit service. • An updated Language Assistance Plan that summarizes the results of its Four Factor Analysis and describes its LEP populations, describes how it provides notice of the availability of language assistance, establishes a frequency with which it will monitor and update its LAP, and describes in detail how 	60 Days

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
			AC	<p>staff are trained on DeIDOT's language assistance procedures and resources.</p> <p>DeIDOT was advised to research LEP population data reported by school systems throughout the state in addition to U.S. Census and ACS demographic data when analyzing the number and proportion of LEP persons in its service area. In its Factor 3 analysis, DeIDOT was advised to consider safety and security information as an important element of its transit service. DeIDOT was advised to include or reference in Factor 4 of its Four Factor Analysis the language assistance measures and related costs currently described in its LAP.</p>	
6.8	Minority Representation on Planning or Advisory Bodies	DeIDOT did not describe how it encouraged minority participation on its nonelected advisory committees in its most recent Title VI Plan, as required by FTA Circular 4702.1B(III)(10).	D	DeIDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes a detailed description of how it encourages minority participation on its nonelected advisory bodies. DeIDOT must document future efforts to encourage minority participation on its nonelected advisory bodies.	60 Days
6.9	Providing Assistance to Subrecipients	DeIDOT provided assistance to subrecipients as required by FTA Circular 4702.1B(III)(11).	ND	No action required.	

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
6.10	Monitoring Subrecipients	DeIDOT's did not monitor subrecipients, as required by 4702.1B(III)(12).	D AC	<p>DeIDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> A current list of 5310 subrecipients and a schedule for collecting and approving current Title VI plans for each subrecipient. Procedures for reviewing subrecipient Title VI plans for compliance. Procedures should also be included in DeIDOT's 2019 Title VI Plan. Procedures for conducting subrecipient site visits and the use of the <i>Delaware Transit Corporation Section 5310 Sub-recipient Site Visit</i> checklist. Procedures should also be included in DeIDOT's 2019 Title VI Plan. Confirmation that all current 5310 subrecipients have posted a compliant Title VI Notice to Beneficiaries on their websites. Confirmation must include screenshots taken of each subrecipient Title VI Notice posted on the Internet. <p>Because FTA planning funds were transferred to FHWA and managed in an</p>	60 Days

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
				FHWA grant, and MPOs were the recipient of those planning funds, DelDOT MPO Title VI compliance was monitored by the DelDOT Office of Civil Rights and reported in its FHWA Title Plan submitted to FHWA. Accordingly, DTC was advised to include a short explanation of why it does not monitor subrecipient MPOs in future DTC Title VI plans submitted to FTA, as applicable.	
6.11	Determination of Site or Location of Facilities	DelDOT did not conduct Title VI Analyses when planning to locate operations and maintenance facilities as required by FTA Circular 4702.1B(III)(13).	D	DelDOT must submit the following to the FTA Office of Civil Rights: <ul style="list-style-type: none"> An updated Title VI Program Plan that includes procedures for conducting Title VI equity analyses, as required by 4702.1B(III)(13). Title VI Equity Analyses for its Wilmont Operations Center Bus Wash, Beech Street Maintenance Facility, and Dover Maintenance and Administration Facility construction projects. 	60 Days
Fixed Route Transit Provider Requirements (Chapter 4)					
7.1	System-wide Service Standards and Policies	DelDOT's service standards for vehicle load and vehicle headway did not reflect current practice. DelDOT did not include its service policy for the distribution of transit amenities in its Title VI Program Plan.	D	DelDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes the following: <ul style="list-style-type: none"> Updated vehicle load, vehicle headway, and service availability service standards. DelDOT's updated vehicle load standard must 	60 Days

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
				<p>include standards for peak and off-peak service. DelDOT's updated vehicle headway standard must reflect current headway policies. DelDOT's service availability standard must address service in Kent County and Sussex County.</p> <ul style="list-style-type: none"> • Policies for the distribution of all transit amenities, including bus shelters and benches. 	
7.2	Demographic Data	DelDOT did not develop demographic profile maps as required by FTA Circular 4702.1B(VI)(5)(a)(b).	<p>D</p> <p>AC</p>	<p>DelDOT must submit to the FTA Office of Civil Rights demographic profile maps, as required by FTA Circular 4702.1B(VI)(5)(a)(b).</p> <p>DelDOT was advised to develop demographic profile maps, charts, and surveys per FTA Circular) for each county (New Castle, Kent, and Sussex). DelDOT was advised to use survey results for other aspects of its Title VI program implementation (e.g., public participation and language assistance planning and evaluation).</p>	60 Days
7.3	Monitoring Transit Service	DelDOT did not conduct Title VI monitoring as required by FTA Circular 4702.B(IV)(6). DelDOT did not correctly define minority routes. DelDOT did not evaluate	D	DelDOT must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes detailed procedures for conducting Title VI monitoring in accordance with FTA Circular	60 Days

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
		system performance against established service standards and policies.		4702.1B(IV)(6) requirements wherever DelDOT provides transit service, and documentation that it has conducted a new Title VI monitoring effort according to its updated procedures.	
7.4	Evaluation of Service and Fare Changes	DelDOT did not conduct equity analyses for service changes implemented between June 2016 and May 2018, as required by FTA Circular 4702.1B(IV)(7). DelDOT did not evaluate disparate impact correctly for equity analysis conducted during the same period.	D	<p>DelDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> An updated Title VI Program Plan that includes procedures for conducting service and fare change equity analyses that address all of the requirements in FTA Circular 4702.1B(IV)(7) and analyzes the impacts of service changes on protected classes by county rather than statewide. Documentation that it has reanalyzed all service changes made between June 2016 and May 2018 that met the “major service change” threshold for disparate impact per its 2016 Title VI Program Plan and FTA Circular 4702.1B(IV)(7)(a)(1)(c). Updated <i>Service Equity Analysis Forms</i> that include demographic maps for all service changes made between June 2016 and May 2018 for which demographic maps were 	60 Days

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
			AC	<p>not used or for which DelDOT's documentation of its use of demographic maps was not provided.</p> <p>DelDOT was advised to update its <i>Service Equity Analysis Form</i> to include a discussion of findings, alternatives, justifications, and final determinations and to complete this updated section of its form for all future service changes that meet its "major service change" criteria. DelDOT was advised to change its <i>Service Equity Analysis Form</i> Section C heading from "Section C: Title VI Monitoring Measure of Disproportionate Burden" to "Section C: Title VI Monitoring Measure of Disparate Impact."</p>	
State DOT Requirements (Chapter 5)					
8.1	Statewide Planning Activities	DelDOT's FTA planning funds were transferred to a FHWA grant and managed accordingly.	AC	DTC was advised to update its 2016 Title VI Program Plan submitted to FTA to more clearly describe its procedures for managing FTA planning funds and related efforts to comply with FTA Circular 4702.1B(V)(3)(a-d) requirements. DTC was advised to submit its MOA and other documentation, as applicable, describing its handling of FTA planning funds.	

Item	Title VI Requirements	Review Finding	Deficiencies and Advisory Comments	Corrective Action(s)	Response Days or Date*
8.2	Program Administration	DelDOT did not describe how it assured minority populations were not being denied the benefits of or excluded from participation in its FTA-funded 5310 program. Neither DelDOT's Title VI Plan, nor its Section 5310 SMP, specifically addressed minority considerations.	D	<p>DelDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> • An updated Title VI Program Plan that describes in detail how Title VI concerns are addressed in the administration of FTA program funds, as required by FTA Circular 4702.1B(V)(4). • A record of funding requests as required by FTA Circular 4702.1B(V)(4)(a) and an analysis of the extent to which minority agencies were denied benefits. 	60 Days

Findings at the time of the site visit: ND = No Deficiencies Found; D = Deficiency; NA = Not Applicable; AC = Advisory Comment, *Within the date of the "Final Transmittal"

ATTACHMENT A – FTA NOTIFICATION LETTER TO DELDOT



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

Headquarters

East Building, 5th Floor, TCR
1200 New Jersey Ave., SE
Washington, D.C. 20590

September 6, 2018

Jennifer Cohan
Secretary
Delaware Department of Transportation
800 Bay Road
Dover, DE 19903

Dear Ms. Cohan:

The Federal Transit Administration (FTA) Office of Civil Rights is responsible for ensuring compliance with 49 CFR Part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation (DOT)—Effectuation of Title VI of the Civil Rights Act of 1964 (Title VI)” by its grant recipients and subrecipients. As part of its ongoing oversight efforts, the FTA Office of Civil Rights conducts a number of on-site Title VI compliance reviews of these grant recipients. For this reason, the Delaware Department of Transportation (DelDOT) has been selected for a review of its overall Title VI program to take place on November 6-9, 2018.

The purpose of this review will be to determine whether DelDOT is honoring its commitment, as represented by certification to FTA, to comply with all applicable provisions of 49 CFR Part 21 and FTA Title VI Circular 4702.1B.

The review process includes data collection before the on-site visit, an opening conference, an on-site review of Title VI program implementation (including, but not limited, to discussions to clarify items and matters previously reviewed, and interviews with staff), interviews with external interested parties, and an exit conference. FTA has engaged the services of The DMP Group, LLC (DMP) to conduct this compliance review. The DMP team and FTA representatives will participate in the opening and exit conferences, with FTA participating by telephone.

We request your attendance at an opening conference scheduled for November 6, 2018 at 9:00 a.m. to introduce the DMP team and FTA representatives to DelDOT staff. Attendees should include you and other key staff. During the opening conference, the review team members will present an overview of the on-site activities.

Because review team members will spend considerable time on site during the week, please provide them with temporary identification and a workspace within or near your offices for the duration of their visit. Please let us know if you will designate a member of your staff to serve as a point of contact for the review team and to coordinate the on-site review and address questions that may arise during the visit.

So that we may properly prepare for the site visit, we request that you provide the information described in Enclosure 1, which consists of items that the review team must receive within 21 days of the date of this letter. Please forward these materials, via email or other electronic data transfer method (e.g., FTP, Dropbox, or USB Drive sent by U.S. Mail), to the following contact person:

Donald Lucas
The DMP Group, LLC
2233 Wisconsin Avenue, NW Suite 228
(202) 726-2630
donald.lucas@thedmpgroup.com

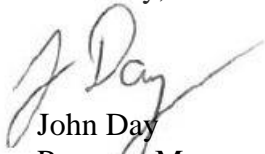
We request the exit conference be scheduled for November 9, 2018 at 11:00 a.m. to afford an opportunity for the reviewers to discuss their observations with you and your agency. We request that you and other key staff attend the exit conference.

The FTA Office of Civil Rights will make findings and will provide a Draft Report. You will have an opportunity to correct any factual inconsistencies before FTA finalizes the report. The Draft and Final Reports, when issued to DelDOT, will be considered public documents subject to release under the Freedom of Information Act, upon request.

DelDOT representatives are welcome to accompany the review team during the on-site activities, if you so choose. If you have any questions or concerns before the opening conference, please contact me at 202-366-1671, or via e-mail at *john.day@dot.gov*.

Thank you in advance for your assistance and cooperation as we undertake this process. We look forward to working with your staff.

Sincerely,



John Day
Program Manager for Policy
and Technical Assistance
Office of Civil Rights

Enclosure

cc: Terry Garcia Crews, Regional Administrator, FTA Region 3
Lynne Bailey, Regional Civil Rights Officer, FTA Region 3
Shavon Nelson, Equal Opportunity Specialist, FTA Headquarters
Bonnie Hitch, Director of Civil Rights, Delaware Transit Corporation
John Potts, Lead Reviewer, The DMP Group, LLC

Delaware Department of Transportation

Title VI Program Compliance Review

Enclosure 1

You must submit the following information to the DMP Group contact person within 21 calendar days from the date of this letter.

1. Description of DelDOT's public transit service area, including general population and other demographic information using the most recent Census data.
2. Current description of DelDOT's public transit service, including system maps, public timetables, transit service brochures, etc.
3. Roster of DelDOT's current revenue fleet, to include acquisition date, fuel type, seating configurations, vehicle assignment, and other amenities.
4. Description of transit amenities maintained by DelDOT for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.
5. DelDOT's Organization Chart, including public transit staff.
6. A narrative that describes the individuals and resources dedicated to implementing the Title VI requirements, handling any Title VI inquiries, and educating the agency's staff on Title VI.
7. List of any subrecipients, how they are monitored to ensure Title VI compliance, and when their Title VI programs were collected by DelDOT.
8. Any studies or surveys conducted by DelDOT, its consultants or other interested parties (colleges or universities, community groups, etc.) regarding information on the race, color, national origin, English proficiency, language spoken at home, household income, travel patterns, and fare usage by fare type amongst minority users and low-income users, during the past five years.
9. Current Title VI Program.
10. A list of any siting, locating, and/or constructing of facilities, and any associated Title VI equity analyses within the last three (3) years.
11. DelDOT'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.
12. List of any investigations, lawsuits, or complaints naming DelDOT that alleges discrimination on the basis of race, color, or national origin during the past three years.
13. Summary of DelDOT's current efforts to engage the public, with special emphasis on the viewpoints of minority, low-income, and LEP populations in the course of conducting

Delaware Department of Transportation

Title VI Program Compliance Review

public outreach and involvement activities.

14. Copy of DelDOT four factor analysis of the needs of persons with Limited English Proficiency.
15. Copy of DelDOT's Language Assistance Plan (LAP) for persons with limited English proficiency that is based on the USDOT LEP Guidance.
16. Copy of DelDOT's Notice to Beneficiaries of Protections under Title VI.
17. Documentation of efforts made by DelDOT to notify members of the public of the protections against discrimination afforded to them by Title VI.
18. Documentation that shows the racial breakdown of minority representation on planning and advisory bodies, non-elected policy boards or committees, or similar committees.
19. List of any monitoring or technical assistance provided to subrecipient(s).
20. Summary of subrecipient(s) and their respective Title VI program status.
21. Quantitative system-wide service standards and qualitative system-wide service policies adopted by DelDOT to guard against discriminatory service design or operations decisions.
22. Copy of DelDOT's demographic analysis of its beneficiaries, including demographic maps and charts, customer surveys conducted since the last Title VI submittal that contain demographic information on ridership, or DelDOT's locally developed demographic analysis of its customer's travel patterns.
23. Any service and fare equity analyses conducted in the past three years, including analyses conducted since the submission of DelDOT's FY2016-2019 Title VI Plan.
24. DelDOT's statewide transportation planning process that identifies the needs of minority populations.
25. DelDOT's analytical process that identifies the benefits and burdens of the State's transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.
26. A copy of the procedures used for certifying that the statewide planning process complies with Title VI.
27. A description of how DelDOT develops its competitive selection process or annual program of projects for Section 5310 and 5311 programs, as applicable, submitted to FTA as part of its grant applications. This description should emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly

Delaware Department of Transportation

Title VI Program Compliance Review

minority populations, including Native American tribes, where present.

28. A description of DelDOT's use and administration of FTA Section 5310 and Section 5311 funds and its criteria for selecting transit providers to participate in any FTA grant program.
29. A record of requests for Section 5310 and 5311 funding, as applicable. The record should identify those applicants that would use grant program funds to provide assistance to predominantly minority populations. The record should also indicate whether those applicants were accepted or rejected for funding.
30. Names, titles, telephone numbers, and email addresses of interested parties (external organizations) with which DelDOT has interacted on Title VI issues.
31. Other pertinent information determined by DelDOT staff to be pertinent and demonstrative of its Title VI compliance efforts, as applicable.

ATTACHMENT B – DELDOT’S RESPONSE TO DRAFT REPORT

DelDOT provided the following additions to Section 6.6 Public Participation:

The Delaware Code on Delaware Transit Corporation Actions requires that the Corporation publish a legal notice in 2 newspapers of general circulation announcing the opportunity for a public hearing or public meeting at least 20 days prior to any such proposed public hearing or meeting, as well as post on-board passenger notices of the proposed changes, directing those interested to the location where the details of the proposals can be reviewed. The two newspapers of general circulation used are The News Journal and the Delaware State News. The information is also included in their digital formats.

In addition, DTC communicates to the public and riders to make them aware of the proposed changes and information on public hearing workshops to provide comments and input.

Posters on all buses announcing the workshops; passenger flyers of the proposal summary

- Notices posted at major bus stops, hubs and shelters
- Service proposal posted online and available for review at public hearing locations, major libraries, and DTC Administration Offices
- News releases, rider alerts, DART website, State of Delaware calendar, Delaware.gov and social media channels, including DelDOT's pages.
- Emails to Legislators and at times, Legislative briefings
- DART's website has a page dedicated to public hearing workshops which includes proposal summary, schedule proposals in accessible format, related maps and form for submitting comments.
- In the days prior to and after a service change, , DTC often has DART Ambassadors stationed at downtown bus stops at key times in efforts to further assist customers with the changes



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

Headquarters

5th Floor – East Bldg., TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

June 6, 2019

Jennifer Cohan
Secretary
Delaware Department of Transportation
800 Bay Road
Dover, DE 19903

RE: Title VI Compliance Review Final Report

Dear Secretary Cohan:

This letter concerns the Federal Transit Administration's (FTA) Title VI Review of the Delaware Department of Transportation (DelDOT), conducted on November 6-9, 2018. Enclosed is a copy of the Final Report, which will be posted on FTA's website on our Title VI page. As of the date of this letter, the Final Report is a public document and is subject to dissemination under the Freedom of Information Act of 1974.

FTA's Office of Civil Rights is responsible for ensuring compliance with 49 CFR Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation (DOT)—Effectuation of Title VI of the Civil Rights Act of 1964 (Title VI)" by its grant recipients and subrecipients. As part of our ongoing oversight efforts, FTA conducts a number of onsite compliance reviews to ensure compliance with the Title VI and the applicable departmental regulations. FTA utilizes the findings from these reviews to provide technical assistance to transit agencies in order to achieve compliance with Title VI.

Unless otherwise noted, all corrective actions identified in the Final Report must be undertaken within 60 days of the date of this letter. Once we have reviewed your submissions, we will either request clarification or additional corrective action, or will close out the finding if your response sufficiently addresses the Title VI requirements. Please submit your responses to me at john.day@dot.gov.

We appreciate the cooperation and assistance that you and your staff have provided us during this review, and we are confident DelDOT will take steps to correct the deficiencies. If you have any questions about this matter, please contact Shavon Nelson at 202-366-0635, or via email at shavon.nelson@dot.gov.

Sincerely,

John Day
Program Manager for Policy
and Technical Assistance

cc: Terry Garcia Crews, Regional Administrator, FTA Region 3
Lynn Bailey, Regional Civil Rights Officer, FTA Region 3