

# FTA

FEDERAL TRANSIT ADMINISTRATION

## **New Jersey Transit Corporation**

### Title VI Compliance Review

Final Report  
September 2017



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 New Jersey Transit Corporation's (NJ Transit) 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 NJ Transit. In addition, the review team interviewed the following entities as part of this review: National Association for the Advancement of Colored People (NAACP) New Jersey, Urban League of Hudson City, and Social Community Activities Network. The review team also visited one FTA Section 5310 subrecipient, JFK Adult Medical Program, and one FTA Section 5311 subrecipient, Special Citizen Area Transportation (SCAT) operated by the Monmouth County Division of Transportation. The three-day review included interviews, assessments of data collection systems, and review of program documents.

**NJ Transit's Title VI Program includes the following positive program elements –**

### Positive Program Elements

- **Monitoring Subrecipients** – NJ Transit did an excellent job monitoring its FTA Section 5310 and 5311 subrecipients for Title VI compliance.
- **Providing Assistance to Subrecipients** - NJ Transit did an excellent job providing assistance to subrecipients on the development and implementation of their Title VI plans.
- **Evaluation of Service and Fare Changes** – NJ Transit's procedures for evaluating service and fare changes met FTA requirements.
- **Statewide Planning Activities** – NJ Transit conducted statewide planning activities for its FTA Section 5310 and FTA Section 5311 programs, as required.
- **Program Administration** - NJ Transit's procedures for administering FTA Section 5310 and FTA Section 5311 program funds met FTA requirements.

**The Program has the following substantive deficiencies –**

### Substantive Deficiencies

- **Requirement to Provide Meaningful Access to LEP Persons** – NJ Transit's LEP Four-Factor Analysis did not sufficiently address FTA Circular 4702.1B, Chap. III-6, Part 9 requirements, and NJ Transit did not develop a Language Assistance Plan based on the results of its LEP Four-Factor Analysis.
- **Title VI Notice to Beneficiaries** – NJ Transit did not translate hard copies of its Notice in languages other than Spanish and Portuguese.
- **Demographic Data** - NJ Transit's demographic profile maps did not show minority concentrations in the aggregate or by race, as required by FTA Circular 4702.1B, Chap. IV-7, Part 5.
- **System-wide Service Standards and Policies** - NJ Transit's service policy for the distribution of transit amenities was lacking.
- **Monitoring Transit Service** - NJ Transit did not define its minority routes per FTA Circular 4702.1B, Chap. IV-9, Part 6 guidance.

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## I. General Information

This chapter provides basic information concerning this compliance review of the New Jersey Transit Corporation (NJ Transit). Information on NJ Transit, the review team, and the dates of the review are as follows:

<b>Grant Recipient:</b>	New Jersey Transit Corporation
<b>City/State:</b>	Newark, NJ
<b>Grantee Number:</b>	1414
<b>Executive Official:</b>	Steven H. Santoro, Executive Director
<b>On-site Liaison:</b>	Leotis Sanders, VP Office of Civil Rights and Diversity Programs
<b>Report Prepared By:</b>	The DMP Group, LLC
<b>Dates of On-site Visit:</b>	May 9–12, 2017
<b>Compliance Review Team Members:</b>	John Potts, Lead Reviewer Donald Lucas, Reviewer Khalique Davis, Reviewer Danielle Slattery, Reviewer



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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. NJ Transit 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 13 of FTA’s Master Agreement 22 (October 1, 2016)

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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 NJ Transit's Title VI Program was necessary.

The Office of Civil Rights authorized The DMP Group, LLC, to conduct the Title VI compliance review of NJ Transit. The primary purpose of this compliance review was to determine the extent to which NJ Transit 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 NJ Transit the requirements of the DOT "Guidance on Special Language Services to Limited English Proficient (LEP) Beneficiaries" contained in Circular 4702.1B. 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 NJ Transit.

#### 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 decision-making 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 New Jersey Transit Corporation

NJ Transit is New Jersey's statewide public transportation corporation, serving over 8.7 million residents over a 5,325-square mile service area. In FY 2016, NJ Transit provided 277 million passenger trips and operated 3.5 billion passenger miles on its multi-modal transit system that included bus, light rail, and commuter rail service. In addition to operating one of the nation's five largest transit systems, NJ Transit is responsible for administering FTA Section 5310 and Section 5311 formula funds for the State of New Jersey. NJ Transit's responsibilities include awarding Section 5310 and Section 5311 funds to subrecipients throughout the State, monitoring subrecipient compliance with FTA Title VI requirements, and providing assistance to subrecipients to help them comply.

### 4.1 NJ Transit Description and Organizational Structure

The New Jersey Public Transportation Act of 1979 established NJ Transit in the executive branch of the state government. The Act constituted NJ Transit as an instrumentality of the state exercising public and essential governmental functions and deemed the powers exercised by NJ Transit as an essential state governmental function. The Act placed NJ Transit within the New Jersey Department of Transportation but stated that the corporation should operate independently from the department. The governor designated NJ Transit as the recipient for FTA funds, established to "acquire, operate and contract for transportation service in the public interest."

A nine-member Board of Directors governs NJ Transit. The Board of Directors is comprised of the Governor and eight members appointed by the Governor: the NJ Transit Executive Director, Commissioner of the Department of Transportation, Governor's representative, Acting State Treasurer, and four members from the public. The Commissioner of the Department of Transportation serves as the Board Chair.

NJ Transit's bylaws give the Executive Director, who answers to the Board, the requisite authority to act on behalf of the Board of Directors. Annually, the Board of Directors authorizes the Executive Director to apply for FTA funds.

Several transit advisory committees provide the agency with input from the public. These advisory committees include the North Jersey Transit Advisory Committee (NJTAC), South Jersey Transit Advisory Committee (SJTAC), and the Senior Citizen Disabled Resident Transportation Advisory Committee (SCDRTAC). NJTAC and SJTAC are comprised of 14 unsalaried members, each appointed by the Governor with the support of State Senators. Members of NJTAC served four-year terms, and members of SJTAC served three-year terms. SCDRTAC had 13 members who served three-year terms.

NJ Transit provides commuter rail, light rail, fixed-route bus, and Americans with Disabilities Act (ADA) complementary paratransit service and administers community mobility programs.

Commuter Rail - NJ Transit operates a fleet of 711 trains on a commuter rail network of 11 lines that served 166 stations in 137 communities. Seven of the 11 lines provide service to New York.

One line, the Atlantic City Line, serves Philadelphia's 30th Street Station. NJ Transit maintains its fleet of over 170 diesel and electric locomotives and over 1,100 rail cars at the Meadows Maintenance Complex located near Newark. NJ Transit performs light maintenance at the end of the lines. In addition to operating its own service, NJ Transit provides contracted commuter rail service to the New York Metropolitan Transit Authority from Hoboken Terminal to Port Jervis in New York State on the Main/Bergen County Line.

Light Rail - NJ Transit's three light rail networks, Newark Light Rail, Hudson-Bergen Light Rail, and River LINE, use a fleet of 93 light rail vehicles. The 6.5-mile Newark Light Rail has two lines that serve 17 stations. Both lines serve downtown Newark and terminate at Newark's Penn Station. The 20-mile Hudson-Bergen Light Rail, which links the growing cities of the Hudson Waterfront, has three lines serving 23 stations. The 34-mile River LINE, which operates between Trenton and Camden, has 20 stations. NJ Transit directly operates the Newark Light Rail and contractors operate the Hudson-Bergen Light Rail and River LINE.

Fixed-Route Bus - NJ Transit, through direct service, private carrier support, and contracted bus service, provides an extensive network of intrastate and interstate bus service. Each year, the fleet of 3,172 buses travels over 164 million miles on 264 routes. The network serves the region's commercial centers with commuter runs to and from Manhattan, Newark, Jersey City, Trenton, Camden, Atlantic City, and Philadelphia. NJ Transit operates out of 15 garages and contracts with 12 private contractors.

ADA Complementary Paratransit Service - NJ Transit contracts for the provision of Access Link, its curb-to-curb ADA complementary paratransit service. The State is divided into six regions with an Access Link contractor assigned to each one. NJ Transit determines eligibility and operates the trip reservation center.

Private Carriers - NJ Transit administers programs to provide buses and bus-related equipment to private carriers, as follows:

- **Bus Allocation Program.** NJ Transit leases 751 buses to 30 private carriers at no cost. The carriers provide interstate service under authority provided by the Federal Surface Transportation Board and intrastate service under authority provided by the New Jersey DOT. NJ Transit uses FTA (Sections 5307 and 5309) and State funds to purchase the buses. The buses display the carrier's logo and a statement that NJ Transit owns the buses. Carriers that participate in the program filed separate National Transit Database reports.
- **Private Carrier Capital Improvement Program.** NJ Transit leases support equipment, such as radios, fare boxes, computers, portable lifts, support vehicles, fuel management systems, and bus washers, at no cost to private carriers. Only carriers that lease buses were eligible for the program. This program does not involve any FTA funding.
- **Reduced Fare Reimbursement Program.** NJ Transit reimbursed carriers that provided reduced fares to elderly persons, persons with disabilities, and students.

Community Mobility - NJ Transit passes FTA funds (Sections 5307, 5309, 5310, 5311, 5316, and 5317) and Congestion Mitigation Air Quality (CMAQ) funds to subrecipients to support a

range of public transportation and mobility programs that include demand response and deviated fixed-route public transportation, transportation for elderly persons and persons with disabilities, feeder service to commuter rail stations, and access to jobs for low-income persons.

Over the next three to five years, NJ Transit plans to implement the following noteworthy projects:

- **Raritan River Drawbridge Replacement** – This project involves the complete replacement of the Raritan River Bridge, which spans the Raritan River between Perth Amboy and South Amboy, with a bridge that will be used for daily passenger and freight rail service on NJ Transit's North Jersey Coast Line. The project includes civil and track work on the approaches to the new bridge and the removal of the existing bridge. To the extent feasible, NJ Transit will design and build the new movable bridge to better withstand ocean surge and lateral forces due to wave action with critical machinery and controls for the bridge above the Federal Emergency Management Agency's base flood elevation.
- **Lackawanna Cut-Off Project** – This project involves the conceptual planning and engineering work associated with the restoration of passenger rail along the Northwest New Jersey and Southeast Pennsylvania corridor by using existing and abandoned rail right-of-way between Port Morris, New Jersey, and Scranton, Pennsylvania. NJ Transit is considering constructing stations at Scranton, Tobyhanna, Mount Pocono, Analink, East Stroudsburg, and Delaware Water Gap in Pennsylvania and at Blairstown and Andover in New Jersey. NJ Transit is planning to construct a yard site in Scranton. The project consists of a single-track commuter rail line with passing sidings between Scranton and Port Morris, where it will connect with NJ Transit's Montclair and Boonton/Morristown Lines. The 60 miles in Pennsylvania are currently used for freight service. The 28-mile stretch from the Delaware River Bridge to Port Morris, over the Lackawanna Cut-Off, is currently abandoned. Train service will operate over the 45 miles from Port Morris to Hoboken and serve New Jersey stations.

Another ongoing initiative included the 8th Street Station Project in Bayonne, a 1-mile southern extension of Hudson-Bergen Light Rail. NJ Transit is advancing the civil engineering portion of the project with a design/build contractor and the systems work with the current operator of Hudson-Bergen Light Rail. Concept planning for the project began in December 2005.

NJ Transit's service area consists of the State of New Jersey, which is divided into 21 counties and further divided into 566 municipalities, including 52 cities, 250 boroughs, 15 towns, 246 townships, and three villages. The State covers approximately 7,417 square miles and had a 2000 population of 8,414,350. The population increased by 2010 to 8,791,894. The following table represents a demographic profile of the State. The table shows the 2000 and 2010 population by racial/ethnic group, the increase (or decrease) in population from 2000 to 2010, and the percentage of the racial/ethnic group population relative to the total population in both 2000 and 2010. The table also shows the 2000 and 2010 population of individuals below the poverty level (low-income) and individuals who speak English less than "very well" (limited English).



Racial/ Ethnic Group	State of New Jersey			
	Number	Percent	Number	Percent
	2000 U.S. Census		2010 U.S. Census	
White	6,104,705	72.6	6,029,248	68.6
Black	1,141,821	13.6	1,204,826	13.7
American Indian and Alaska Native	19,492	0.2	29,026	0.3
Asian	480,276	5.7	725,726	8.3
Hawaiian/Pacific Islander	3,329	0.0	3,043	0.0
Other Race	450,972	5.4	559,722	6.4
Two or More	213,755	2.5	240,303	2.7
Hispanic Origin <sup>1</sup>	1,117,191	13.3	1,555,144	17.7
<b><u>Total Population</u></b>	<b><u>8,414,350</u></b>	<b><u>100%</u></b>	<b><u>8,791,894</u></b>	<b><u>100%</u></b>

Limited English Proficiency*	873,088	11.1%	1,028,981	11.5%
Low-Income*	699,668	8.5%	966,003	10.8%

\*Source: American Community Survey 2015 data (total population estimate = 8,944,469).

From 2000 to 2010, NJ Transit's service area population increased 4.5 percent. The White population decreased 1.2 percent, the Black population increased 5.5 percent, the Hispanic population increased 39 percent, the Asian population increased 51 percent, the American Indian/Alaskan Native population increased 49 percent, and the Hawaiian/Pacific Islander population decreased 8.6 percent. In 2010, 68.6 percent of the total population was White, 13.7 percent was Black, 17.7 percent was Hispanic, 8.3 percent was Asian, 0.3 percent was American Indian/Alaskan Native, and Hawaiian/Pacific Islanders represented less than 0.1 percent.

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

## 5. Scope and Methodology

### 5.1 Scope

The Title VI compliance review of NJ Transit 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 Protection 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 II Civil Rights Officer to discuss specific Title VI issues and concerns regarding NJ Transit. FTA sent an agenda letter covering the compliance review to NJ Transit 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 NJ Transit to provide the following documents in advance of the site visit:

- Description of NJ Transit's public transit service area, including general population and other demographic information using the most recent Census data.
- Current description of NJ Transit's public transit service, including system maps, public timetables, transit service brochures, etc.
- Roster of NJ Transit's current revenue fleet, to include acquisition date, fuel type, seating configurations, vehicle assignment, and other amenities.
- Description of transit amenities maintained by NJ Transit for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.
- NJ Transit's Organization Chart, including public transit staff.
- A narrative describing the individuals and resources dedicated to implementing 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 NJ Transit.
- Any studies or surveys conducted by NJ Transit, 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 among 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 years.
- NJ Transit'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.
- List of any investigations, lawsuits, or complaints naming NJ Transit that allege discrimination on the basis of race, color, or national origin during the past three years.
- Summary of NJ Transit'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 NJ Transit's Four-Factor Analysis of the needs of LEP persons.
- Copy of NJ Transit's Language Assistance Plan (LAP) for persons with limited English

proficiency that is based on the U.S. DOT LEP Guidance.

- Copy of NJ Transit's Notice to Beneficiaries of Protections under Title VI.
- Documentation of efforts made by NJ Transit 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, nonelected 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 NJ Transit to guard against discriminatory service design or operations decisions.
- Copy of NJ Transit'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 NJ Transit's locally developed demographic analysis of its customers' travel patterns.
- Any service and fare equity analyses conducted in the past three years.
- Names, titles, telephone numbers, and email addresses of interested parties (external organizations) with which NJ Transit has interacted on Title VI issues.
- Other information determined by NJ Transit staff to be pertinent and demonstrative of its Title VI compliance efforts, as applicable.

NJ Transit assembled the documents prior to the site visit and provided them to the review team for advance review. The review team then developed a detailed schedule for the four-day site visit.

The site visit to NJ Transit occurred on May 9–12, 2017. 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 NJ Transit senior management, NJ Transit 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 NJ Transit 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 NJ Transit 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 NJ Transit. The review team then met with NJ Transit staff to discuss how NJ Transit incorporated FTA Title VI requirements into its public transportation program.

During the Compliance Review, the review team toured two similar bus routes, one minority (Route 87) and one non-minority (Route 126). During the bus route tours, the review team compared ridership, vehicle condition, and distribution of transit amenities (shelters, benches, bike racks, and trashcans) on the routes. The review team observed no discrimination or disparate impact related to persons protected by Title VI in NJ Transit's provision of transit

service, except in its distribution of transit amenities. The review team observed that NJ Transit distributed more shelters and buses along the non-minority route than the minority route. For example, the review team counted six shelters and nine benches on the non-minority route, compared to one shelter and two benches on the minority route. Also, while touring the minority route, the review team stopped at the Broadway bus terminal and observed a fleet of approximately 10 to 15 body on chassis vehicles with signage that read “Express Service.” The vehicles appeared to be over 10 years old and in poor condition. The review team learned that the vehicles supplemented capacity for Route 190, a minority route. The review team also learned that the service was referred to as the “Spain Bus,” because of its high Hispanic ridership. Moreover, the review team learned that the Department of Transportation often pulled these vehicles and cited for violations.

In addition, the review team toured NJ Transit’s light rail line to observe conditions at stations in minority and nonminority areas. The review team compared the conditions at the 2nd and 9th street stations (minority) versus the conditions at the 22nd and 34th street stations (nonminority). Each station had an equal number of benches, trash cans, and ticket-vending machines; however, the review team observed that only the nonminority stations had park-and-ride lots.

The review team also observed conditions along NJ Transit’s commuter rail line that traversed both minority and nonminority areas. The review team observed conditions at the Patterson (minority), Clifton (nonminority), and Passaic (nonminority) stations. Each station had an equal number of benches, trash cans, and ticket-vending machines; however, the review team observed that only the nonminority stations had restrooms. In addition, the Clifton Station had a parking lot with 1,100 parking spaces.

During the compliance review, the review team interviewed three minority representatives of the community served by NJ Transit. The interviewees were aware of efforts made by NJ Transit to notify the public about service changes, construction projects, and other disruptions to service. However, they were not aware of any efforts targeted at addressing minority communities. NJ Transit posted notices in English and some in Spanish and advertises in local newspapers. Interviewees stated that NJ Transit did not publish notices in any other languages or include notices in minority newspapers or on minority radio stations. The interviewees further stated there was a need to translate information in languages other than Spanish. The interviewees also commented that NJ Transit could improve its notification to its riders of their options related to travel discounts, particularly those related to seniors. Interviewees stated that NJ Transit seemed to concentrate its service in the more densely populated areas (e.g., North Jersey) and to distribute amenities in a manner consistent with the level of ridership. Interviewees had experienced overcrowding during peak times in busy areas across the service area and expressed concern that NJ Transit’s equipment and infrastructure were aging and neglected. Riders were experiencing more frequent breakdowns and malfunctioning equipment; however, these problems were system-wide and not observed to impact minority riders in a discriminatory or disparate manner.

At the end of the site visit, the review team held an Exit Conference with NJ Transit staff and FTA headquarters and regional staff. The review team discussed initial findings and corrective actions with NJ Transit at the Exit Conference.

## 6. Findings of the General Reporting Requirements and Guidelines

### 6.1 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, no deficiencies were found with this requirement. An advisory comment, however, is made regarding the use of African American and Asian media outlets. NJ Transit provided early and continuous opportunities to minorities and LEP persons in its transportation decision-making process through a coordinated effort on the part of its Office of Government and Community Relations. NJ Transit afforded minorities and LEP persons opportunities to provide input during monthly Board of Directors meetings, advisory group meetings (North Jersey Advisory Group and South Jersey Advisory Group), meetings advertised with and held by municipalities and elected officials throughout the State, and when planning for service and fare changes. Methods used by NJ Transit to engage minority and LEP persons included holding meetings in locations and at times that facilitated participation. For example, NJ Transit held nine public hearings throughout the State when planning a FY2016 service and fare adjustment proposal. NJ Transit held meetings in community centers located in areas populated by minorities and LEP persons, municipal buildings, and transit centers. All meetings, with the exception of the monthly Board meetings, occurred in the late afternoon and early evening.

Other methods used by NJ Transit included the periodic use of targeted customer surveys (e.g., Scorecard Customer Satisfaction Surveys, which included questions about the riders' experience); focus groups to discuss communications campaigns, seating options for vehicles, ticketing application enhancements, and other service-related issues; "We are Listening" Customer Forums held at major rail stations and bus terminals that provide customers the opportunity to interact with senior management and operations personnel; Saturday afternoon information sessions, which were similar to public hearings but were not legally public hearings in accordance with NJ Transit's statute because NJ Transit did not hold the meetings in the evening; and media notices (minority newspaper, radio, and television).

NJ Transit only used Spanish and Portuguese media outlets in addition to its non-minority English media outlets to inform the public about community engagement opportunities, even though the State was nearly 14 percent African American and over 8 percent Asian.

## Advisory Comment

NJ Transit should consider using African American and Asian media outlets, where available, to further direct its outreach efforts to those populations as it does with Spanish- and Portuguese-speaking populations.

## 6.2 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).<sup>2</sup>

### Discussion

During this compliance review, deficiencies were found with this requirement. In addition, an advisory comment is made concerning NJ Transit's Factor 2 analysis. NJ Transit's LEP Four-Factor Analysis did not meet FTA Circular 4702.1B, Chap. III-6, Part 9 requirements. In addition, NJ Transit 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.*** NJ Transit used a combination of U.S. Census decennial and American Community Service (ACS) five-year estimate data to determine that in 2012 its statewide LEP population was 12.38 percent, an increase of 24.4 percent from 2000. NJ Transit further determined that the languages most spoken by LEP persons in the State in order of magnitude were Spanish, Chinese, Korean, Portuguese, Polish, Gujarati, Italian, Tagalog, Arabic, and French Creole. NJ Transit used only 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.*

Because the U.S. Census and ACS data indicated the existence of significant LEP populations who speak languages other than Spanish or Portuguese, NJ Transit must consult additional data as described in the DOT LEP Guidance to determine whether those LEP populations were underserved due to language barriers. In addition, when consulting other data sources, NJ Transit must analyze the literacy skills of LEP populations in their native languages in order to determine whether the translation of documents will be an effective practice, as required in FTA Circular 4702.1B, Chap. III-6, Part 9.a(1).

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<sup>2</sup> 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.

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

NJ Transit analyzed ACS data through 2012 to determine the frequency with which LEP persons came into contact with its services. However, NJ Transit limited the scope of its analysis to those patrons who used its service to get to and from work. Accordingly, NJ Transit reported that although 13.1 percent of the employed population in New Jersey is LEP, 30.1 percent of the people who use public transportation for work were LEP.

NJ Transit did not perform additional analyses, as recommended by FTA Circular 4702.1B, Chap. III-7, Part 9.a(2), to determine, for example, LEP rider use by mode. In addition, although NJ Transit referenced its language line usage in its LAP, it did not consider the same in its Factor 2 analysis, which is appropriate and can be useful to identify frequency of contact. Finally, the Circular also recommends agencies such as NJ Transit track participation by LEP persons in public meetings, customer service interactions, ridership surveys, and operator surveys to more fully assess major points of contact LEP persons had with its service.

**LEP Factor 3 The nature and importance of the program, activity, or service provided by the program to people's lives.** NJ Transit stated in general terms that its front-line personnel regularly encountered LEP persons. The review team recommended NJ Transit substantiate its statement with periodic operator surveys. NJ Transit should include this activity and its outcomes in future LEP Factor 2 analyses.

NJ Transit also conducted community outreach to determine what language assistance was most important to LEP persons. NJ Transit met with the following organizations:

- Puertorriquenos Asociados for Community Organization, Jersey City
- La Casa de Don Pedro, Newark
- Korean-American Association of New Jersey, Palisades Park
- Ironbound Professional and Business Association, Newark

In summary, NJ Transit reported that language barriers did not prevent LEP persons from using its service. In addition, the organizations interviewed by NJ Transit indicated the language assistance measures considered most useful to LEP persons to be schedules, brochures, and website information, as well as bilingual customer service representatives.

NJ Transit stated its Government and Community Relations staff continued to conduct outreach to community organizations representing LEP populations. FTA advised NJ Transit to continue expanding the scope of its outreach to include outreach to the other LEP communities in its service area and to discuss topics that will help in its Factor 1 and Factor 2 analyses. NJ Transit should include the results of its expanded outreach in future LEP Four-Factor Analyses.

**LEP Factor 4 The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.** NJ Transit described its language assistance measures and stated their costs were, and will continue to be, included in its budget. The measures included translation of vital documents, emergency communications, rider information, and media releases and corporate communications; interpreters at community meetings and public hearings; language line assistance; pictograms; and quick reference Spanish phrasebooks for



vehicle operators. In its current plan, NJ transit included full descriptions of each of these measures and a description of how and under what circumstances each was used. In its LAP, NJ Transit essentially duplicated this information. In the future, rather than duplicate the description of its language access measures, FTA recommended NJ Transit list its measures by name only in its Factor 4 analysis description and include full descriptions of each in the Language Measures section of its LAP.

Finally, NJ Transit included in its Factor 4 analysis information that was more relevant to other sections of its LEP Four-Factor Analysis or LAP. For example, NJ Transit referenced and included in its Factor 4 analysis language line data that would have been more useful in its Factor 2 analysis.

### **Language Assistance Plan**

NJ Transit's LAP, "Communications and Customer Service Language Assistance Plan Standard Operating Procedures Updated 8/18/14," did not include all required elements. In addition, NJ Transit did not fully develop its LAP based on the results of its LEP Four-Factor Analysis. Although NJ Transit's LAP included an adequate description of its language assistance measures, it inadequately addressed staff training and how it monitored, evaluated, and updated its LAP. NJ Transit's LAP did not include a summary of the results of its Four-Factor Analysis, a description of the LEP populations it served, or a description of how NJ Transit provided notice to LEP persons of the availability of language assistance. NJ Transit limited its language assistance staff training to Google Translate and language line training for new hires. There was no mention of training on translated documents or the use of Spanish phrasebooks. In addition, NJ Transit did not address how it trained existing staff when updates were made to its LAP. Regarding LAP updates, NJ Transit stated it regularly monitored and updated training programs and standard operating procedures as new resources and technologies come online. NJ Transit must monitor and evaluate its LAP by periodically conducting a Four-Factor Analysis to ensure that its LAP is not out of date with respect to the makeup and language assistance needs of its LEP populations. Given the population and diversity of the State of New Jersey, During the site visit, the Review team advised NJ Transit to monitor and update its LAP at least once every three years.

FTA Circular 4702.1B, Chap. III-8, Part B also requires agencies such as NJ Transit to develop its LAP based on the results of its Four-Factor Analysis. With the exception of Google Translate, NJ Transit's LAP provided for limited, if any, translated information in languages other than Spanish and Portuguese, even though its Four-Factor Analysis showed there were more Chinese- and Korean-speaking LEP persons in its service area.

In summary, NJ Transit's Factor 1 analysis did not address all requirements. NJ Transit's LAP did not include all required elements. NJ Transit did not summarize the results of its Four-Factor Analysis in its LAP, nor did it develop its LAP based on the results of its LEP Four-Factor Analysis, as required by FTA Circular 4702.1B, Chap. III-6, Part 9 and DOT LEP Guidance.

## Corrective Actions and Schedules

No later than November 1, 2017, NJ Transit must submit to the FTA Office of Civil Rights an updated LEP Four-Factor Analysis and Language Assistance Plan prepared in accordance with FTA Circular 4702.1B, Chap. III-6, Part 9 and DOT LEP Guidance. In its next Title VI submission, NJ Transit must develop its LAP based on the results of its LEP Four-Factor Analysis.

## Advisory Comments

NJ Transit should incorporate more of the measures recommended in FTA Circular 4702.1B, Chap. III-7, Part 9.a(2) in its LEP Factor 2 analysis. NJ Transit should also expand its outreach to other LEP communities identified in its service area in its LEP Factor 1 analysis and to discuss topics that will help in its Factor 1 and Factor 2 analyses. NJ Transit should include the results of its expanded outreach in future LEP Four-Factor Analyses. NJ Transit should better organize its Four-Factor Analysis and LAP content so that information is located in the most relevant and appropriate sections of both documents.

## 6.3 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, advisory comments were made regarding this requirement. At the time of the site visit, NJ Transit stated it was updating its current Title VI complaint procedures and provided a draft of its updated procedures for review. In its current procedures, NJ Transit categorized complaints as either informal or formal based on how it received a complaint. If NJ Transit received a complaint through its Customer Service Department (usually by phone), it considered the complaint informal. If a complainant filed a complaint in writing (usually by letter or complaint form) to the NJ Transit Office of Civil Rights, NJ Transit considered the complaint formal. In both cases, NJ Transit's Office of Equal Opportunity and Affirmative Action investigated and resolved the complaint. In the case of informal complaints, NJ Transit contacted the complainant by phone to explain any findings and action taken. In the case of formal complaints, NJ Transit provided the complainant with an official *Closure Letter* if it determined no Title VI discrimination had occurred or a *Letter of Finding* in cases when it determined Title VI discrimination had occurred. With respect to appealing NJ Transit complaint investigation determinations, informal complainants could escalate their complaint to the formal process, and NJ Transit referred formal complainants to the FTA for final resolution.

NJ Transit's updated draft complaint procedures required complainants to file all Title VI complaints with the NJ Transit Customer Service Department, and NJ Transit did not make distinctions between informal and formal complaints. The updated procedures did not address whether complainants could file complaints in writing, on a complaint form (online or hard copy),

in person, or over the phone. The updated procedures did not address the use of NJ Transit's online complaint form or whether a complainant could complete a hard copy version of the form. The updated procedures did not address the timeframe for filing complaints. (NJ Transit's current procedures stated complainants must file complaints within 180 days.) The updated procedures did not address how NJ Transit's Office of Civil Rights and Diversity (OCRD) closed complaints with complainants (e.g., written notification), nor did they include an appeals process. Finally, the updated procedures included a process by which NJ Transit Customer Service Department representatives received discrimination complaints and routed them to OCRD for follow-up and investigation via a biweekly report. OCRD determined whether complaints were based on circumstances involving race, color, or national origin discrimination and investigated the complaints that met the Title VI standard. This process could result in OCRD not investigating a complaint for nearly two weeks after NJ Transit originally received the complaint. The updated procedures did not address setting complainant expectations related to timeframes for investigation, resolution, and closure.

NJ Transit's updated procedures lacked the following:

- A description of all the ways the public can file a complaint (i.e., online, over the phone, in person, in writing).
- A description of what constitutes an "informal" and "formal" complaint and any differences in their treatment.
- A description of how and when complainants use its complaint form and whether complainants can complete and submit a hard copy version of the form.
- A description of the timeframe in which complainants must file complaints (e.g., 180 days).
- A description of its investigation and complaint closure process.
- A description of its appeal process. FTA encourages grantees to handle appeals internally.
- A description of what complainants can expect after they file a complaint.

### **Corrective Actions and Schedules**

No later than November 1, 2017, NJ Transit must submit to the FTA Office of Civil Rights updated Title VI complaint procedures that more clearly and comprehensively describe how it receives, investigates, and resolves complaints.

### **Advisory Comment**

NJ Transit should update its website, Title VI Notice to Beneficiaries, and any other media that communicate information on its Title VI complaint procedures to reflect its updated procedures once implemented.

## **6.4 Record of Title VI Investigations, Complaints, and Lawsuits**

### **Requirement**

FTA recipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipients that allege discrimination 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, no deficiencies were found with this requirement. An advisory comment, however, was made regarding this requirement. During the review, NJ Transit provided a report of its Title VI complaints, lawsuits, and investigations. The report included all elements required in FTA Circular 4702.1B, Chap. III-5, Part 7. NJ Transit's report did not identify which complaints were "informal" or "formal."

### **Advisory Comment**

If NJ Transit continues to distinguish between "informal" and "formal" complaints, it should identify which complaints were "informal" and which were "formal" in all future reports.

## **6.5 Notice to Beneficiaries of Protection under Title VI**

### **Requirement**

FTA recipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients shall disseminate this information to the public through measures that can include but shall not be limited to a posting on its Web site. 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, a deficiency was found and an advisory comment is made regarding this requirement. NJ Transit's Title VI Notice to Beneficiaries contained all required elements, and NJ Transit translated its Title VI Notice into Spanish for hard copy distribution and into several other languages via Google Translate on its website. It was noted that Google Translate is not sufficient to meet Title VI requirements. NJ Transit posted its Title VI Notice on its website; on posters in the primary headquarter locations; on rail maps, commuter rail and light rail schedules, and bus rider guides; and on ADA Paratransit AccessLink comment cards.

NJ Transit's Title VI Notice on its main website was slightly different than the Notice included in its Title VI plan, on hard copy material, and posited on its AccessLink website. On its main

website, NJ Transit included Title VI program objectives and personnel responsibilities, which NJ Transit did not include in the other versions of its Title VI Notice. In addition, the Notice on its main website stated that the public could file complaints online (via NJ Transit's online complaint form) or in writing by U.S. Mail addressed to the NJ Transit Office of Civil Rights. All other versions of its Notice stated the public may file complaints in writing to NJ Transit Customer Service. During the site visit, NJ Transit described its complaint handling process, which included the public's ability to file a complaint with NJ Transit Customer Service verbally over the phone.

In summary, NJ Transit did not translate hard copy versions of its Title VI Notice to Beneficiaries into languages other than Spanish and Portuguese. NJ Transit developed and distributed a Title VI Notice to Beneficiaries in accordance with FTA Circular 4702.1B, Chap. III-4, Part 5 requirements. NJ Transit's Title VI Notice on its website, however, was inconsistent with versions of NJ Transit's Title VI Notice published elsewhere. NJ Transit's various Notices were inconsistent with regard to how the public could file a complaint.

### **Corrective Actions and Schedules**

No later than November 1, 2017, NJ Transit must submit to the FTA Office of Civil Rights documentation confirming it translates and distributes in all mediums its Title VI Notice to Beneficiaries into languages other than Spanish and Portuguese, per the results of its LEP Four-Factor Analysis.

### **Advisory Comments**

NJ Transit should publish a consistent Title VI Notice to Beneficiaries across all media that reflected NJ Transit's current procedures with respect to how the public can file a Title VI complaint.

## **6.6 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, FTA found no deficiencies with this requirement. NJ Transit filed the required Title VI Certification and Assurance in TrAMS on February 8, 2017.

## **6.7 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 administrating agency should provide assistance at the request of a subrecipient or as deemed necessary and appropriate.

### **Discussion**

During this compliance review, FTA found no deficiencies with this requirement. In 2014, NJ Transit engaged a consultant to develop subrecipient assistance processes and resources on its behalf. During the site visit, the review team reviewed several of the resources developed by NJ Transit in coordination with its consultant and made available to its subrecipients. The resources included a sample Title VI plan, Notice to Beneficiaries, LEP Four-Factor Analyses and LAP, Title VI complaint procedures and related forms, and State demographic data. During the subrecipient site visits to SCAT and JFK Adult Medical Program, both subrecipients commented on how helpful the NJ Transit Section 5310 and Section 5311 program managers were with respect to helping them comply with FTA Title VI requirements.

## **6.8 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, FTA found no deficiencies with this requirement. NJ Transit monitored its subrecipients per FTA Circular 4702.1B, Chap. III-10, Part 12 requirements. During the site visit, NJ Transit provided subrecipient Title VI compliance documentation confirming its collection, review, and approval of subrecipient Title VI plans. In addition, annually NJ Transit Section 5310 and Section 5311 program managers conducted subrecipient site visits during which they reviewed, observed, and documented subrecipients' implementation of FTA Title VI requirements. NJ Transit visited and reviewed 10 percent of its subrecipients each year. The review team reviewed subrecipient Title VI plan tracking logs, subrecipient Title VI compliance review reports that included findings and corrective actions, and reviewed a sample of 25 subrecipient websites, confirming each included the required Title VI information.

## 6.9 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, no deficiencies were found with this requirement. An advisory comment, however, was made regarding this requirement. In its most recent Title VI plan, NJ Transit listed the following nonelected planning and advisory bodies:

- North Jersey Transportation Advisory Committee (NJTAC)
- South Jersey Transportation Advisory Committee (SJTAC)
- ADA Task Force
- Private Carrier Advisory Committee (PCAC)
- Senior Citizen and Disabled Resident Transportation Advisory Committee (SCDRTAC)

At the time of the site visit, NJ Transit confirmed the ADA Task Force was no longer functioning and PCAC comprised bus company owners and executives. NJ Transit reported that NJTAC comprised 15 members (two minority or 13.3 percent), SJTAC comprised 15 members (one minority or 6.7 percent), and SCDRTAC comprised 13 members (no minority or 0 percent).

NJ Transit's minority representation on its nonelected planning and advisory committees was not proportionate to its service area demographics. NJ Transit explained that the Governor, with the support of local State Senators, appointed members to NJTAC and SJTAC and that it had ongoing efforts underway to encourage the participation of minorities on NJTAC and SJTAC. NJ Transit stated it was working through local State representatives, the Governor's office, and local transportation organizations, advocacy groups, and community organizations to encourage minority participation on these committees. During the site visit, NJ Transit provided documentation of its recent efforts to recruit new members to SCDRTAC that included the recruitment of minority participants. NJ Transit provided a copy of a recent public notice soliciting participation on SCDRTAC. NJ Transit distributed the notice in Spanish and Portuguese with the intention of encouraging participation and representation from the Spanish- and Portuguese-speaking communities. With the exception of its general public notices, NJ Transit did not provide documentation confirming outreach to African American, Asian, or other prevalent minority groups in its service area.

In summary, NJ Transit was aware of the lack of minority representation on its nonelected planning and advisory bodies, however, it had made some efforts to address the disparity.

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## Advisory Comments

NJ Transit should remove the ADA Task Force and the Private Carrier Advisory Committee from its list of nonelected planning and advisory bodies. NJ Transit should document its efforts to facilitate membership on its North Jersey and South Jersey Transportation Advisory Committees that is demographically representative of their respective service areas. As it has done with Spanish- and Portuguese-speaking communities, NJ Transit should take steps to proactively and specifically solicit the participation of African American, Asian, and other minority groups represented throughout the State, as appropriate.

## 6.10 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, no deficiencies were found with this requirement. NJ Transit did not have any recent transit facility construction projects underway or recently completed. During the site visit, the review team discussed FTA's requirements for site determination and facility location with NJ Transit.

## 6.11 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. Advisory comments, however, were made regarding this requirement. NJ Transit's most recent Title VI Program Plan was due on November 1, 2014. NJ Transit submitted its plan on October 30, 2014. FTA concurred with NJ Transit's plan on March 6, 2015. NJ Transit functioned as a fixed-route transportation provider in an urbanized area with a population of more than 200,000



people and more than 50 fixed-route peak service vehicles. While New Jersey DOT is not the State DOT, NJ Transit fulfills some responsibilities typically performed by State DOTs.

**Advisory Comments**

Considering the overlap of responsibilities for state management between NJ Transit and New Jersey DOT, FTA advises that NJ Transit document this gray area in responsibilities for fulfilling the State requirements of FTA Circular 4702.1B, Chapter V in its next Title VI Program submission due November 1, 2017. Specify which of the Chapter V requirements NJ Transit fulfills based on its planning and grant management (as a recipient of 5310 and 5311 funds) tasks it fulfills for the state. These items will be expected from NJ Transit moving forward.

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

### 7.1 Demographic Data

#### Requirement

FTA recipients that provide fixed-route transit, 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. NJ Transit provided race-specific statewide service area demographic profile maps and charts separately depicting the distribution of Black, Latino, and Asian populations throughout the State. The statewide maps included NJ Transit's commuter rail, light rail, and bus route networks. NJ Transit did not provide statewide demographic profile maps and charts showing the distribution of minorities as a whole. In addition, in the development of its race-specific statewide maps, NJ Transit highlighted those census tracts in which the subject population exceeded the average aggregate minority population in the State. NJ Transit did not identify concentrations of a subject population by highlighting those census tracts in which the subject population exceeded the statewide average for that particular population.

In addition to developing demographic profile maps separately showing the distribution of racial minority groups, NJ Transit developed a statewide map showing the distribution of household poverty throughout the State. This map included NJ Transit's commuter rail, light rail, and bus route networks.

NJ Transit also divided the State into five regions and developed demographic profile maps for each minority group (Black, Latino, and Asian) by region (Asian demographic maps were only developed for three of the five regions) for a total of 13 regional demographic maps. NJ Transit explained it created these maps to more clearly show trip generators and other information as required by FTA Circular 4702.1B, Chap. IV-7, Part 5. (The inclusion of transit system networks, major trip generators, and other useful information on statewide maps made the maps difficult to read.) These regional maps also compared subject populations to average aggregate statewide demographic totals rather than the statewide average for the subject population. The regional maps also included poverty demographics and accompanying demographic charts.

In response to the requirement to collect demographic ridership and travel patterns, from 2012 to 2017 NJ Transit developed and conducted 36 ridership surveys. The following is a sample of the most recent NJ Transit ridership surveys from that period:

<b>Title</b>	<b>Travel Data</b>	<b>Fare Type</b>	<b>Race</b>	<b>Ethnicity</b>	<b>Language Spoke at Home</b>	<b>English Proficiency</b>	<b>Income</b>
Score Card FY17 Q3 February 13 – March 3, 2017	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Score Card FY17 Q2 November 21 – December 11, 2016	Yes	Yes	Yes	Yes	Yes	Yes	Yes
HBLR Origin & Destination Survey – 2016	Yes	Yes	Yes	Yes	Yes	No	Yes
Mercer County Local Bus Survey DVRPC – 2016	Yes	Yes	Yes	Yes	No	No	Yes
Score Card FY17 Q1 September 15 – October 2, 2016	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Score Card FY16 Q4 May 16 – June 6, 2016	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Score Card FY16 Q3 February 15 – March 7, 2016	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Rail O&D – Morris & Essex – 2016	Yes	Yes	Yes	Yes	No	Yes	Yes
Camden County Local Bus Survey DVRPC – 2016	Yes	Yes	Yes	Yes	No	No	Yes
Bus Route Survey NJDOT/Rutgers – 2016	Yes	Yes	Yes	Yes	No	No	Yes
Score Card FY16 Q2 November 16 – December 8, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Score Card FY16 Q1 September 10 – October 1 – 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes
JARC WAVE Survey – 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes
CMAQ North Jersey Coast Line Rail Survey – 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Rail O&D – Montclair Boonton – 2015	Yes	Yes	Yes	Yes	No	No	Yes

In summary, NJ Transit's demographic profile maps did not show minority concentrations in the aggregate preventing it from conducting required Title VI analyses that depend on such maps (e.g., statewide planning), or correctly identify concentrations of minority populations by race.

### Corrective Actions and Schedules

No later than November 1, 2017, NJ Transit must submit to the FTA Office of Civil Rights updated demographic profile maps for its service area developed in accordance with FTA Circular 4702.1B requirements.

## 7.2 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, a deficiency was found and an advisory comment is made regarding this requirement. Included in its most recent Title VI plan and at the time of the site visit, NJ Transit's system-wide service standards and service policies were as follows:

Service Standards	Bus	Light Rail	Rail
Vehicle Load	<ul style="list-style-type: none"> <li>Interstate – 1.0 peak</li> <li>Local Bus – 1.25 peak</li> <li>All off-peak – 1.0</li> </ul>	<ul style="list-style-type: none"> <li>Peak – 1.25 (all lines)</li> <li>Off-peak – 1.0</li> <li>Or no more than 15 min standing</li> </ul>	<ul style="list-style-type: none"> <li>Single-Level trains – 0.92</li> <li>Double-Level trains – 0.95</li> </ul>
Vehicle Headway	<p>Local/Intrastate</p> <ul style="list-style-type: none"> <li>North – 15-30 peak/30 off-peak, 30 Sat, 30-60 Sun</li> <li>South – 30 peak/30-60 off-peak, 30-60 Sat, 60 Sun</li> </ul> <p>Interstate/Commuter</p> <ul style="list-style-type: none"> <li>North – 20-30 peak/60-120 off-peak, 30-60 Sat, 60 Sun</li> <li>South – 30 peak/60-120 off-peak, 30-60 Sat, 60 Sun</li> </ul>	<p><i>River Line (by station)</i></p> <ul style="list-style-type: none"> <li>Peak – 15 min</li> <li>Off-peak/weekends – 30 min</li> </ul> <p><i>Hudson-Bergen (by station)</i></p> <ul style="list-style-type: none"> <li>Peak – 4.3-10 min</li> <li>Off-peak/weekends – 10-20 min</li> </ul>	<p>Stations categorized by ridership volume</p> <ul style="list-style-type: none"> <li>A – 10-15 min</li> <li>B – 15-20 min</li> <li>C – 20-25 min</li> <li>D – 30-35 min</li> <li>E – hourly</li> </ul>

Service Standards	Bus	Light Rail	Rail
		<i>Newark Line (by station)</i> Main Line <ul style="list-style-type: none"> <li>• Peak – 3.5-7 min</li> <li>• Off-peak/weekends – 10-25 min</li> </ul> <i>Broad Street Extension</i> <ul style="list-style-type: none"> <li>• Peak – 15-20 min</li> <li>• Off-peak/weekends – 30 min</li> </ul>	
On-Time Performance	On-Time Performance <ul style="list-style-type: none"> <li>• 90% peak (as measured during weekday PM peak-hour periods at six major bus terminals, statewide) <ul style="list-style-type: none"> <li>○ 0-0.99 min early to 0-5.99 min late</li> </ul> </li> <li>• Off-peak is not measured at this time</li> </ul> Timepoint Schedule Adherence <ul style="list-style-type: none"> <li>• Data are now collected for all 262 bus routes for each of the more than 2,500 scheduled timepoints in the system <ul style="list-style-type: none"> <li>○ 0-0.99 min early to 0-5.99 min late</li> <li>○ Goals/standards not yet set for timepoint schedule adherence as a full year of data to analyze and set parameters for goals is not available</li> <li>○ After one year of data collection/evaluation, standards will be established</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• 97.3%</li> </ul> <i>River Line</i> – 0 min early to 6 min late  <i>Hudson-Bergen</i> – 0 min early to 5 min late  <i>Newark Broad Street Extension</i> – 0 min early to 4 min late	Approximately 95%  Specific goal developed annually for each division in Scorecard process  Arrives at revenue destination within 5:59 min of scheduled trains

<b>Service Standards</b>	<b>Bus</b>	<b>Light Rail</b>	<b>Rail</b>
Service Availability	80% of all residents in the service area are within a ½ mile of bus or light rail service or 1 mile from rail service.  Notes: Determined through GIS using data at Census block group level. Set standard for State as a whole. Included NJ Transit directly operated and contract-carrier routes only.		

<b>Service Policies</b>	<b>Bus</b>	<b>Light Rail</b>	<b>Rail</b>
Transit Amenities	NJ Transit will provide amenities such as seating, shelters, schedules, and waste receptacles at bus terminals where NJ Transit has decision-making authority. (NJ Transit owns bus terminals but not stops or shelters.)	Each station has a standard set of amenities included in design guidelines.	2005 Stations Standards Manual
Vehicle Assignment	Vehicles should not exceed useful life, and average fleet age by garage should be comparable. Vehicles are replaced when they meet useful life and are assigned based on service needs. Bus batches are kept together. Bus types include transit buses/suburban, cruiser (over-the-road bus), and articulated. Average age of the bus fleet not to exceed 12 years. Fleet age at any of the 16 garages not to exceed 15 years.	All vehicles are the same and used in similar manner.	Rail car assignment driven by technical issues

NJ Transit's system-wide service standards and service policies were consistent with those recommended in FTA Circular 4702.1B, Chap. IV-5, Part 4.a. However, NJ Transit did not have an adequate service policy for the distribution of its bus amenities (i.e., bus shelters). During the site visit, NJ Transit described a process by which it purchased bus shelters with FTA funds and then turned over the ownership and management of those shelters to subrecipients (typically New Jersey townships and other local municipalities). NJ Transit distributed bus system-related amenities (i.e., shelters) based on subrecipient requests and available funding. NJ Transit did not consider the equitable distribution of these amenities, as required by FTA Circular 4702.1B. For example, NJ Transit did not distribute amenities based on daily passenger boarding counts (often used by other transit systems) or some other objective policy. NJ Transit is expected to work collaboratively with local jurisdictions to establish bus shelters reflecting its Service Policy on bus amenities as well. This policy can note the barriers that NJ Transit may face in establishing bus shelters in each location or jurisdiction, but the policy must still lay out NJ

Transit's plan for ensuring equitable distribution of transit amenities, in this case bus shelters, across its bus system.

During the site visit, the review team discussed with NJ Transit the status of its use of automatic vehicle locator (AVL) and automatic passenger counter (APC) data to measure on-time performance based on timepoint schedule adherence (TSA). TSA was a measure that plotted the difference between scheduled and actual departure times for stops on a route and tracked the percentage of time buses were late, early, and on-time over the route. As stated in its 2014 Title VI plan, NJ Transit's use of TSA to measure on-time performance was aspirational at the time. During the site visit, NJ Transit confirmed it had not yet implemented TSA as an on-time performance measure due to the inability to reliably collect the necessary AVL/APC data. According to NJ Transit, this inability was due to ongoing issues with its AVL/APC data-collection technology.

### **Corrective Actions and Schedules**

No later than November 1, 2017, NJ Transit must submit to the FTA Office of Civil Rights an updated system-wide service policy for the distribution of bus system transit amenities, including FTA-funded bus shelters that are turned over to local jurisdictions.

### **Advisory Comment**

NJ Transit should include a description of its use of AVL/APC data and timepoint schedule adherence for measuring on-time performance in future Title VI plan submittals, but only after NJ Transit has fully implemented such methods.

## **7.3 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.<sup>3</sup>

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<sup>3</sup> 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.

## Discussion

During this compliance review, no deficiencies were found with this requirement. Throughout the month of June 2014, NJ Transit held five focus groups to receive input from the public on the development of the agency's procedures for conducting Title VI service and fare equity analyses. In particular, the objectives of the focus groups were to seek input from the public into the development of NJ Transit's major service change, disparate impact, and disparate burden policies, as well as the most effective methods for engaging and including the public during the planning stages of any future service or fare change. The results of the focus groups were well documented and later incorporated into NJ Transit's Title VI service and fare equity analysis procedures approved by its Board of Directors and included in its 2014 Title VI Program Plan. For example, focus group participants identified the following service changes as "major":

- Adding or eliminating a bus stop
- Adding or eliminating a bus route
- Realignment of a bus route
- Adding or eliminating a rail/light rail station
- Increasing or decreasing service span
- Increasing or decreasing frequency of service
- Adding or eliminating weekend service

Accordingly, in its 2014 Title VI Program Plan, NJ Transit defined a major service change as follows:

1. *When it proposes to discontinue (abandon) all service on an entire bus route, rail line, or light rail line, or to start service on an entirely new bus route, rail line, or light rail line.*
2. *When it proposes to discontinue (abandon) all service on a portion of a bus route, rail line, or light rail line that represents more than 25% of the route or line's miles, or when it proposes to increase the length of a bus route, rail line, or light rail line by more than 25% of the route or line's miles. No analysis is necessary in the case of discontinuing a portion of a route or line's service if alternate service is available by existing duplicative service (provided by NJ Transit or another transit provider) or by transfer to another route.*
3. *When it proposes to discontinue all service, or add a new service on a particular day or days of the week for an entire bus route, rail line, or light rail line, or on a portion of a bus route, rail line, or light rail line that represents more than 25% of the route or line's miles.*
4. *When it proposes to substantially curtail or substantially increase the amount of service on any bus route, rail line, or light rail line. "Substantial" for these purposes is defined to mean a considerable reduction or increase in service on a particular bus route, rail line, or light rail line; it is recognized that the determination of what is a considerable reduction or increase in service will depend on the particular characteristics of the bus route, light rail, or rail line in question. However, generally NJ Transit shall be governed by the following in making such determinations (of what is "substantial"):*
  - a. *Any reduction or increase on a regular bus route or light rail line that increases or decreases the headway on the peak service by more than 50%, or that more than doubles or halves the non-peak headway.*



- b. *Any service reduction or increase on a rail line that reduces or increases the amount of service on the line by more than 25%.*
- c. *Any proposal to completely close an existing or open a new bus terminal, rail station, or light rail station.*
- d. *Any service reduction or increase that would change the span of service on a regular bus route, light rail line, or rail line by two hours or more.*

Similarly, NJ Transit reported focus group participants “felt that when reducing service, NJ TRANSIT should try to impact as few minority and low-income customers as possible. When adding service, they felt NJ TRANSIT should impact as many minority and low-income customers as possible.” Participants also stated that “fares should be raised equally across all modes, regardless of the cost to operate or maintain the services,” and “all ticket types should have the same increment with the exception of ticket types used by the majority of minorities or low-income riders, which should have lower fare increases.” As a result, and as documented in its 2014 Title Program Plan, NJ Transit’s Disparate Impact (DI) and Disproportionate Burden (DB) policies were as follows:

#### *Service Changes*

*For service reductions, a DI/DB occurs if the absolute difference between the percentage of minority/low income population affected by the change and the percentage of minority/low income population in the market is 10 points or more. For service improvements, a DI/DB occurs if the absolute difference between the percentage of minority/low income population benefitting from the change and the percentage of minority/low income population in the market is 10 points or more.*

#### *Fare Changes*

*For ticket types that are used disproportionately by minority or low income customers, a DI/DB occurs if the absolute difference in the percentage price change of the ticket type and the average percentage price change for all ticket types in that market is 10 points or more.*

Regarding its procedures for seeking public input when planning service and fare changes, in addition to public hearings, focus group participants preferred online surveys and comments by email. NJ Transit included these methods in its final service and fare change procedures.

In addition to incorporating rider input into the development of its major service change definition, DI/DB thresholds, and public input process, NJ Transit included other considerations, as follows:

- *The definitions of major service change and disparate impact/disproportionate burden needed to be simple enough to explain to the public.*
- *The definition of major service change needed to be applicable to increases and decreases in service, and ensure that in-depth equity analyses are not required for “minor” service changes.*

- *The thresholds for “disparate impact” and “disproportionate burden” needed to be low enough to capture significant impacts on riders, but high enough so that they wouldn’t detect disparity where none exists.*
- *Given the wide range of transit services and rider characteristics across the state, NJ Transit developed an approach to conduct equity analyses by seven distinct markets.*

NJ Transit conducted a Title VI fare change equity analysis and Title VI service change equity analysis in May and June of 2015, respectively. NJ Transit conducted both analyses in accordance with its service and fare change procedures and FTA Circular 4702.1B, Chap. IV-10, Part 7 requirements. For both analyses, NJ Transit took a market-based approach, analyzing the impacts of the planned changes within one of seven markets (and fare zones within markets for its fare change analysis): Northern New Jersey Rail, Northern New Jersey Light Rail (Hudson-Bergen and Newark Light Rail Lines), Northern New Jersey Interstate Bus (NY – 100 and 300 series), Northern New Jersey Local Bus, Southern New Jersey Rail, Southern New Jersey Light Rail (River Line), and Southern New Jersey Interstate and Local. NJ Transit also used as its data source results from its *Seven Markets Demographics Survey*, dated May 5, 2015, and onboard passenger counts conducted by rail personnel.

For both analyses, NJ Transit held one information session and nine public hearings throughout the State of New Jersey. The agency also sought public input through letters and e-mails. NJ Transit received 836 public comments including transcripts of the hearings, which it distributed to its Board of Directors. A total of 610 people attended the hearings, and 210 people offered public comments. NJ Transit received a total of 626 individual submissions via its online Fare & Service Proposal Comment Form, established Customer Service channels (website “Contact Us” form, field office walk-in and telephone), and hard copy letters. NJ TRANSIT reviewed and considered all public comments prior to finalizing its service and fare changes.

NJ Transit conducted its May 2015 fare change analysis in response to a FY 2016, \$120 million projected budget shortfall. Prior to the fare change, NJ Transit implemented a number of internal actions including locking in fuel pricing, reducing scheduled overtime, implementing parts and supplies efficiencies, and securing additional funds from the State treasury. According to NJ Transit, these actions reduced the shortfall by more than \$42 million, however, it still faced a significant budget gap. To close the gap, in addition to implementing service changes, NJ Transit proposed an average 9 percent fare increase.

In its analysis, NJ Transit first identified ticket types by market disproportionately used by minority and low-income riders. For each ticket type, NJ Transit compared the percentage of minority use to the percentage of all riders who used the same fare type. If minority usage was an absolute five percentage points higher than overall usage, NJ Transit determined the fare type disproportionately used by minority riders. For ticket types disproportionately used by minority riders, NJ Transit compared the percentage price change of that ticket type to the average percentage price change for all ticket types in the market (8.8 percent). NJ Transit then applied its DI/DB policy threshold (absolute 10 percentage points) to determine if the fare change to the ticket type resulted in a disparate impact to minority riders. NJ Transit applied the same methodology to analyze whether the proposed fare change resulted in a disproportionate burden for low-income riders. As indicated in its May 2015 fare change analysis, NJ Transit’s proposed fare change did not result in a disparate impact or disproportionate burden.

NJ Transit's June 2015 service change analysis included the proposed elimination of the last late-night train on NJ Transit's Montclair-Boonton Line; the decrease in the span of service by two hours on its Pascack Valley Line; the elimination of three bus routes determined low performing (i.e., low ridership, low farebox recovery) by NJ Transit; and the elimination of service on three bus routes. All proposed service changes met NJ Transit's threshold for major service change. NJ Transit conducted its equity analyses by market, and compared the percentages of impacted minority and low-income riders (boardings) to the market's average percentages of minority and low-income ridership, in accordance with FTA Circular 4702.1B Appendix K. It then applied its DI/DB policy threshold to determine if the proposed service changes would result in a disparate impact and/or disproportionate burden. NJ Transit determined no DI/DB would occur with any of its proposed service changes, with the exception of the elimination of its Northern New Jersey Local Bus Route (Route 307). NJ Transit determined the proposed changes to Route 307 would result in a disproportionate burden on its low-income riders. NJ Transit decided to eliminate Route 307 after considering the following alternatives and mitigations:

*NJ TRANSIT estimates that 87 passengers will lose service with the elimination of Route 307, a seasonal service created in 2001 primarily to serve seasonal employees and visitors to Six Flags Great Adventure. Through 2013, the financial losses incurred by this low ridership route were covered through a cash subsidy by Six Flags Great Adventure. NJ TRANSIT is proposing to discontinue this route because Six Flags Great Adventure discontinued the subsidy in 2014, and the route performs very poorly in comparison to its peer route group.*

*With regard to the disproportionate burden finding in the Northern New Jersey Local Bus market, NJ TRANSIT took steps to avoid, minimize, and mitigate the impacts of eliminating Route 307 where practicable. NJ TRANSIT engaged Six Flags Great Adventure in talks to resume the subsidy of Route 307, but Six Flags Great Adventure declined to resume the subsidy. NJ TRANSIT explored the possible discontinuance and reduction of other routes, but all the identified alternatives would impact better performing regular route service that serves a greater number of customers. Therefore Route 307 remained on the list of routes proposed for discontinuance.*

NJ Transit's Board of Directors approved the results of the agency's Title VI fare and service change equity analyses per Board resolution (Item 1507-21) on July 15, 2015.

## **7.4 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 decision-making 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.

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## Discussion

During this compliance review, a deficiency was found and an advisory comment is made regarding this requirement. In its most recent Title VI monitoring effort (2014), NJ Transit monitored the performance of its system (all modes included) relative to its system-wide service standards and policies. NJ Transit further compared the performance of its minority routes and stops to its nonminority routes and stops to determine whether minorities experienced disparate treatment. Based on the results of its 2014 Title VI monitoring effort, NJ Transit concluded that no disparate impact occurred on any of its modes.

Although NJ Transit did not identify instances of inequitable service or disparate impact in its 2014 Title VI monitoring effort, when defining its minority routes and stops for comparison purposes, it did so incorrectly. NJ Transit's minority route definition was as follows:

*Where the minority population along the route or station exceeded 33.3%, the route or station was defined as "minority." [Note: The 33.3% threshold from the Circular was lower than the percentage of minority population in the service area of 44%.]*

During the site visit, the review team pointed out that NJ Transit had not applied the Circular's minority route definition guidance to its high access routes. FTA Circular 4702.1B, Chap. IV-9, Part 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.*

Because NJ Transit's service included both limited and high access routes, NJ Transit discussed with the review team alternative minority route definitions for its limited access routes. NJ Transit proposed defining minority routes based on census block group demographics within one half mile of a limited access bus stop or light rail station and within one mile of a commuter rail station, rather than on total route revenue miles. FTA determined it would need more demographic information regarding the limited access roadway segments to determine whether the suggested approach more appropriately identifies minority routes than the approach noted in the Circular.

The review team noted that when analyzing vehicle loads on its routes, NJ Transit initially used its minority route definition to determine which routes were minority and which routes were nonminority. After it began its analysis, NJ Transit discovered that for some routes it had survey data available it believed were more useful for determining whether those routes were minority or nonminority. Accordingly, NJ Transit completed its analysis by recategorizing some routes based on the available survey data, and in doing so, a previously identified instance of disparate impact resulted in no disparate impact.

In summary, when most recently conducting Title VI monitoring, NJ Transit did not define its minority routes per FTA Circular 4702.1B, Chap. IV-9, Part 6.a guidance.

**Corrective Actions and Schedules**

No later than November 1, 2017, NJ Transit must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes updated Title VI monitoring procedures and the results of its next Title VI monitoring effort. NJ Transit must fully describe its proposal for monitoring its commuter routes, including providing more demographic information regarding its limited access roadway segments.

**Advisory Comment**

NJ Transit should not use different methodologies to define what constitutes minority and nonminority routes.

## 8. Findings of the Program-Specific Requirements for States

Pursuant to the overlap of responsibilities between New Jersey DOT and NJ Transit for state requirements, NJ Transit is required to complete some Chapter V responsibilities, but not all. NJ Transit will specify which items it is required to complete based on its responsibilities with state planning and state grant management. See Section 6.11.

### 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. NJ Transit's Local Programs and Minibus Support (LPMS) staff managed statewide planning activities on behalf of the agency. In its 2014 Title VI Program Plan and during the site visit, NJ Transit described its statewide transportation planning process and how it identified the transportation needs of minority populations. LPMS management and staff had extensive experience managing the equitable distribution of FTA Section 5310 and Section 5311 “pass through” funds and demonstrated an awareness of the distribution and needs of minority populations throughout the State. LPMS maintained and made available demographic profiles of the State by county. In addition, through the purposeful and annual collection of minority population and user data required and provided at the time of Section 5310 and Section 5311 subrecipient grant application, LPMS maintained a current and working demographic profile of the State that factored into its program planning. For example, in its State Management Plan for its FTA Section 5310 Program, NJ Transit stated the following:

*NJ TRANSIT annually prepares a record of approved and rejected funding requests that identifies applicants that are minority organizations or that provide assistance to minority communities. Utilizing this information provided by the applicant, NJ TRANSIT has the ability to review the profiles of the estimated total number of persons to be served versus the estimated total number of minority group persons served. A comparison of denied applicants versus approved applicants can also be done. These numbers provide an opportunity to ensure that the approved applicants fairly represent a cross section of all applications received with regard to service offered to the minority communities of the state.*

During the site visit, as an example of its planning process, LPMS staff provided Section 5310 Title VI data reports for FY 2014 through FY 2016. These reports confirmed the tracking and consideration of Title VI concerns at the State and subrecipient levels. For each subrecipient, NJ Transit tracked the following:

- County serviced and whether the county was predominantly minority
- Number of total clients served
- Number and percentage of minority clients served
- Number of minority clients by race

As discussed in Section 6.8 Monitoring Subrecipients, NJ Transit monitored its subrecipients as required by FTA Circular 4702.1B, Chap. III-10, Part 12.

## **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, no deficiencies were found with this requirement. As described in its 2014 Title VI Program Plan and on site, LPMS, divided the State into three regions. Each region comprised seven counties. LPMS designated one staff person to serve as a Regional Program Administrator (RPA) and to act as a liaison for each region. The RPAs reported directly to the LPMS Manager, who in turn reported directly to the LPMS Director. RPAs were primarily responsible for monitoring subrecipient Title VI compliance.

During the site visit, LPMS staff demonstrated its S-RIDES online grant management system (<https://s-rides.njtransit.com/home/loginHome.aspx>). LPMS captured all grant application information in the S-RIDES system, including but not limited to project funding requests, Title VI information, and budget information. LPMS maintained all application data in the S-RIDES system whether or not an applicant received funding. LPMS provided a report of funding requests from private nonprofit organizations, state or local governmental authorities, and Indian tribes (queried from the S-RIDES system). The report identified those applicants that would use grant program funds to provide assistance to predominantly minority populations. The report also indicated which applications were rejected and accepted for funding.

NJ Transit funded all Section 5311 funding requests, including requests from agencies that provided transportation service to minority populations. Regarding the administration of the State's Section 5310 program, NJ Transit's competitive selection process included providing notice of funding availability in various newspapers of general circulation, including minority

newspapers published in the State. NJ Transit also announced through press releases the availability of applications for download on the New Jersey Community Transportation Training Program website at [www.njcttp.org](http://www.njcttp.org). In addition, NJ Transit maintained a mailing list it used to notify interested organizations of funding opportunities. This list comprised agencies that had received or were receiving assistance, agencies that had applied before but were denied funding, and agencies that inquired or requested information via phone, letters, or email. Annually, when applications become available, NJ Transit automatically sent notifications of application availability to all municipal clerks, counties, and to agencies on its mailing list. In addition, NJ Transit emailed all current subrecipients that applications were available. NJ Transit encouraged applications. As discussed in Section 8.1. Statewide Planning Activities, NJ Transit considered service provided to minority populations in its applicant selection process in an attempt to approve applicants that fairly represented “a cross section of all applications received with regard to service offered to the minority communities of the state.” A review of approved FY 2015 funding requests, showed the programs approved for funding served a greater percentage of minorities (57 percent) than the statewide average (44 percent).

NJ Transit published its Section 5310 applicant selection criteria in its State Management Plan. NJ Transit reviewed applications based on a weighted point system and a non-weighted system that addressed the following five major areas of concern:

- Description of service
- Vehicle utilization and appropriateness of service
- Coordination and cooperation
- Financial and management capabilities
- Operating plan



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## 9. Summary of Findings and Corrective Actions

Item	Title VI Requirements	Site Review Finding	Deficiencies and/or Advisory Comments	Corrective Action(s)	Response Days or Date
6.1	Inclusive Public Participation	NJ Transit did not confirm it used African American and Asian media as it used Spanish and Portuguese media.	AC	NJ Transit should use African American and Asian media, where available, to further direct its outreach efforts to those populations as it does with Spanish and Portuguese populations.	
6.2	LEP Language Assistance Plan	NJ Transit's LEP Four-Factor Analysis and Language Assistance Plan did not meet FTA Circular 4702.1B, Chap. III-6, Part 9 requirements.	D, AC	<p>NJ Transit must submit to the FTA Office of Civil Rights an updated LEP Four-Factor Analysis and Language Assistance Plan prepared in accordance with FTA Circular 4702.1B, Chap. III-6, Part 9 and DOT LEP Guidance. In its next Title VI submission, NJ Transit must develop its LAP based on the results of its LEP Four-Factor Analysis.</p> <p>NJ Transit should incorporate more of the measures recommended in FTA Circular 4702.1B, Chap. III-7, Part 9.a(2) in its LEP Factor 2 analysis. NJ Transit should expand its outreach to other LEP communities identified in its service area in its LEP Factor 1 analysis and to discuss topics that will help in its Factor 1 and Factor 2 analyses. NJ Transit should include the results of its expanded outreach in future LEP Four-Factor Analyses. NJ Transit should better organize its Four-Factor Analysis and LAP content so that information is located in the most relevant</p>	11/1/2017

Item	Title VI Requirements	Site Review Finding	Deficiencies and/or Advisory Comments	Corrective Action(s)	Response Days or Date
				and appropriate sections of both documents.	
6.3	Title VI Complaint Procedures	NJ Transit's current Title VI complaint procedures substantially met FTA Circular 4702.1B, Chap. III-5, Part 6 requirements; however, its updated procedures substantially lacked clarity in many ways. FTA did not find NJ Transit deficient in this area because NJ Transit had not yet implemented its updated procedures. FTA made advisory comments regarding NJ Transit's updated Title VI complaint procedures.	D, AC	<p>NJ Transit must submit to the FTA Office of Civil Rights updated Title VI complaint procedures that more clearly and comprehensively describe how it receives, investigates, and resolves complaints.</p> <p>NJ Transit should update its website, Title VI Notice to Beneficiaries, and any other media that communicate information on its Title VI complaint procedures to reflect its updated procedures once they are implemented.</p>	11/1/2017
6.4	List of Title VI Investigations, Complaints, and Lawsuits	NJ Transit recorded complaints, lawsuits, and investigations as required by FTA Circular 4702.1B, Chap. III-5, Part 7; however, it did not include complaints received by its subrecipients on its complaint log.	AC	If NJ Transit continues to distinguish between "informal" and "formal" complaints, it should identify which complaints were "informal" and which were "formal" in all future reports.	
6.5	Notice to Beneficiaries of Protection under Title VI	NJ Transit developed and distributed a Title VI Notice to Beneficiaries in accordance with FTA Circular 4702.1B, Chap. III-4, Part 5 requirements.	D, AC	NJ Transit must submit to the FTA Office of Civil Rights documentation confirming it translates and distributes in all mediums its Title VI Notice to Beneficiaries into languages other than Spanish and	11/1/2017

Item	Title VI Requirements	Site Review Finding	Deficiencies and/or Advisory Comments	Corrective Action(s)	Response Days or Date
		NJ Transit's Title VI Notice on its website, however, was inconsistent with versions of NJ Transit's Title VI Notice published elsewhere. NJ Transit did not translate hard copy versions of its Notice into languages other than Spanish. NJ Transit's various Notices were inconsistent with regard to how the public could file a complaint.		Portuguese, per the results of its LEP Four-Factor Analysis. NJ Transit should publish a consistent Title VI Notice to Beneficiaries across all media that reflected NJ Transit's current procedures with respect to how the public can file a Title VI complaint.	
6.6	Annual Title VI Certification and Assurance	NJ Transit filed its Title VI Certification and Assurance in accordance with FTA Circular 4702.1B, Chap. III-1, Part 2 requirements.	ND	No action required.	
6.7	Providing Assistance to Subrecipients	NJ Transit complied with the FTA Title VI requirement for providing assistance to subrecipients.	ND	No action required.	
6.8	Monitoring Subrecipients	NJ Transit complied with the FTA Title VI requirement for monitoring subrecipients.	ND	No action required.	
6.9	Minority Representation on Planning or Advisory Bodies	Although NJ Transit was aware of the lack of minority representation on its nonelected planning and advisory bodies and had made some efforts to address the disparity, minority representation remained	AC	NJ Transit should remove the ADA Task Force and the Private Advisory Committee from its list of nonelected planning and advisory bodies. NJ Transit should document its efforts to facilitate membership on its North Jersey and South Jersey Transportation Advisory Committees	

Item	Title VI Requirements	Site Review Finding	Deficiencies and/or Advisory Comments	Corrective Action(s)	Response Days or Date
		disproportionate to service area demographics.		to achieve representation on those bodies that is demographically representative of their respective service areas. As it has done with Spanish- and Portuguese-speaking communities, NJ Transit should take steps to proactively and specifically solicit the participation of African American, Asian, and other minority groups represented throughout the State, as appropriate.	
6.10	Determination of Site or Location of Facilities	NJ Transit did not recently construct any new facilities.	ND	No action required.	
6.11	Submit Title VI Program	NJ Transit did not clarify in its Title VI Program which state responsibilities it is required to fulfill based on the planning and grant management tasks it fulfills for the State.	AC	Considering the overlap of responsibilities for state management between NJ Transit and New Jersey DOT, FTA advises that NJ Transit document this gray area in responsibilities for fulfilling the State requirements of FTA Circular 4702.1B, Chapter V in its next Title VI Program submission due November 1, 2017. Specify which of the Chapter V requirements NJ Transit fulfills based on its planning and grant management (as a recipient of 5310 and 5311 funds) tasks it fulfills for the state. These items will be expected from NJ Transit moving forward.	

Item	Title VI Requirements	Site Review Finding	Deficiencies and/or Advisory Comments	Corrective Action(s)	Response Days or Date
7.1	Demographic Data	NJ Transit's demographic profile maps did not show minority concentrations in the aggregate or by race as required by FTA Circular 4702.1B, Chap. IV-7, Part 5.	D	NJ Transit must submit to the FTA Office of Civil Rights updated demographic profile maps for its service area developed in accordance with FTA Circular 4702.1B, Chap. IV-7, Part 5 requirements.	11/1/2017
7.2	System-wide Service Standards and Policies	NJ Transit's service policy for the distribution of transit amenities was lacking.	D, AC	<p>NJ Transit must submit to the FTA Office of Civil Rights an updated system-wide service policy for the distribution of bus system transit amenities.</p> <p>NJ Transit should include a description of its use of AVL/APC data and timepoint schedule adherence for measuring on-time performance in future Title VI plan submittals, but only after NJ Transit has fully implemented such methods.</p>	11/1/2017
7.3	Evaluation of Service and Fare Changes	NJ Transit had no deficiencies related to its evaluation of service and fare changes.	ND	No action required.	
7.4	Monitoring Transit Service	NJ Transit did not define its minority routes per FTA Circular 4702.1B, Chap. IV-9, Part 6 guidance.	D, AC	NJ Transit must submit to the FTA Office of Civil Rights an updated Title VI Program Plan that includes updated Title VI monitoring procedures and the results of its next Title VI monitoring effort. NJ Transit must fully describe its proposal for monitoring its commuter routes, including providing more demographic information	11/1/2017

Item	Title VI Requirements	Site Review Finding	Deficiencies and/or Advisory Comments	Corrective Action(s)	Response Days or Date
				<p>regarding its limited access roadway segments.</p> <p>NJ Transit should be consistent in how it conducts Title VI monitoring in the future. In particular, NJ Transit should not use different methodologies to define what constitutes minority and nonminority routes.</p>	
8.1	Statewide Planning Activities	NJ Transit included Title VI concerns in its statewide planning activities, as required by FTA Circular 4702.1B, Chap. V-2, Part 3.	ND	No action required.	
8.2	Program Administration	NJ Transit conducted its program administration activities as required by FTA Circular 4702.1B, Chap. V-3, Part 4.	ND	No action required.	

Note: Item numbers refer to the numbered sections in Sections 6 through 8 above. AC = advisory comment; D = deficiency; ND = no deficiency.

## 10. Compliance Review Attendee List

### New Jersey Transportation Corporation

Name	Title
Steven Santoro	Executive Director
Amy Herbold	Deputy Executive Director
Leotis Sanders	NJT VP Civil Rights and Diversity
Todd Baretta	Chief Compliance Officer
Paul Wyckoff	Chief of Government and External Affairs
Christine Baker	Assistant Attorney General
Joyce Zuczek	Board Secretary
Meghan Umukoro	Assistant Board Secretary
Sharon Young	Manager, Grant Administration and Compliance
Lori Thompson	Chief, Capital Programs and Administration
Megan Strickland	Acting Chief, Cap. Compliance, Budget & Admin
Penny Bassett	Acting Executive Director, Communications and Customer Service
Anthony Grieco	Senior Director, Customer Service
Dionna Summer	Director, Customer Service
Althea Branch	Acting Manager Customer Service and Outreach
Pat Battersby	Director Product Marketing
Lauren Williams	Regional Program Administrator
Jack Dean	Program Director, Research & Communication Services
Anna Magri	Director, Local Programs and Minibus Support
Janelle Rivera	Manager, Local Programs and Minibus Support
Lea Sheridan	Supervisor, Local Programs and Minibus Support
Isabel Hernandez	Local Programs / Northern Regional
Lisa Tulley	Local Programs / Southern Regional
Heather Smith-Bermuda	Acting GM, Access Link
Frank Gillespie	Assistant General Manager, ADA
Adam Katz	Director, Policy, Planning & Analysis, ADA
Alan Malma	Deputy General Manager, Bus Service Planning
John Leon	Senior Director, Government & Customer Relations
Neal Fitzsimmons	Acting Chief, Light Rail Service Planning & Communications
Michael Klufas	Principal Rail Simulation Planner
Ron Nicoli	Senior Director, Private Carrier Affairs
Glen Newman	Director, GIS
Aaron Reisner	Senior Transportation GIS Analyst

### NJ Transit Subrecipients

Name	Title
Kathleen Ladato	Director, Monmouth County Division of Transportation
Mary E Buglio	Director, JFK Adult Medical Program



**Federal Transit Administration**

<b>Name</b>	<b>Title</b>
John Day	FTA Headquarters Program Manager for Policy and Technical Assistance
Alana Kuhn	FTA Headquarters Equal Opportunity Specialist
Lynn Bailey	FTA Region 2 Acting Regional Civil Rights Officer

**Compliance Review Team – The DMP Group, LLC**

<b>Name</b>	<b>Title</b>
John Potts	Lead Reviewer
Donald Lucas	Reviewer
Khalique Davis	Reviewer
Danielle Slattery	Reviewer

## **Attachment A – FTA Notification Letter to NJ Transit**



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

Headquarters

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

March 1, 2017

Steven H. Santoro  
Executive Director  
New Jersey Transit Corporation  
One Penn Plaza East  
Newark, NJ 07105

Dear Mr. Santoro:

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 New Jersey Transit Corporation (NJ TRANSIT) has been selected for a review of its overall Title VI program to take place on May 9-12, 2017.

The purpose of this review will be to determine whether NJ TRANSIT is honoring its commitment, as represented by certification to FTA, to comply with the 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, tours of areas served by transit, and an exit conference. FTA has engaged the services of The DMP Group, LLC (DMP) to conduct this compliance review. As part of the review, the following FTA contractor personnel will be granted temporary access to your TrAMS account: John Potts, Donald Lucas, Gregory Campbell, and Khalique Davis. Please do not remove these individuals. FTA will do so at the close of the 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 **May 9, 2017 at 9:00 a.m.** to introduce the DMP team and FTA representatives to NJ TRANSIT 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), to the following contact person:

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

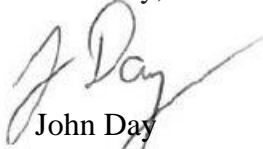
We request the exit conference be scheduled for **May 12, 2017 at 1:00 p.m.** to afford an opportunity for the reviewers to discuss their observations with you and your agency. We request that you and other key staff attend the exit conference.

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 NJ TRANSIT, will be considered public documents subject to release under the Freedom of Information Act, upon request.

NJ TRANSIT 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 Alana Kuhn, Equal Opportunity Specialist for this compliance review, at 202-366-1412 or via e-mail at *alana.kuhn@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

cc: Stephen Goodman, Regional Administrator, FTA Region II  
Lynn Bailey, Acting Regional Civil Rights Officer, FTA Region II  
Leotis Sanders, NJ TRANSIT Vice President Civil Rights and Diversity Programs  
John Potts, Lead Reviewer, The DMP Group LLC

**New Jersey Transit**  
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 NJ TRANSIT's public transit service area, including general population and other demographic information using the most recent Census data.
2. Current description of NJ TRANSIT's public transit service, including system maps, public timetables, transit service brochures, etc.
3. Roster of NJ TRANSIT's current revenue fleet, to include acquisition date, fuel type, seating configurations, vehicle assignment, and other amenities.
4. Description of transit amenities maintained by NJ TRANSIT for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.
5. NJ TRANSIT'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 NJ TRANSIT.
8. Any studies or surveys conducted by NJ TRANSIT, 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. NJ TRANSIT'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 NJ TRANSIT that alleges discrimination on the basis of race, color, or national origin during the past three years.
13. Summary of NJ TRANSIT's current efforts to engage the public, with special emphasis on the viewpoints of minority, low-income, and LEP populations in the course of

**New Jersey Transit**  
Title VI Program Compliance Review

conducting public outreach and involvement activities.

14. Copy of NJ TRANSIT four factor analysis of the needs of persons with Limited English Proficiency.
15. Copy of NJ TRANSIT's Language Assistance Plan (LAP) for persons with limited English proficiency that is based on the USDOT LEP Guidance.
16. Copy of NJ TRANSIT's Notice to Beneficiaries of Protections under Title VI.
17. Documentation of efforts made by NJ TRANSIT 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 NJ TRANSIT to guard against discriminatory service design or operations decisions.
22. Copy of NJ TRANSIT'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 NJ TRANSIT's locally developed demographic analysis of its customer's travel patterns.
23. Any service and fare equity analyses conducted in the past three years.
24. Names, titles, telephone numbers, and email addresses of interested parties (external organizations) with which NJ TRANSIT has interacted on Title VI issues.
25. Other pertinent information determined by NJ TRANSIT staff to be pertinent and demonstrative of its Title VI compliance efforts, as applicable.

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## **Attachment B – NJ Transit Response**



Via email on September 8, 2017

Mr. Day,

Thank you for the opportunity to review the draft report from NJ TRANSIT's recent compliance review, and provide comments related to factual matters. After review and consultation with key business partners I am responding on behalf of NJ TRANSIT with feedback on specifically three findings of deficiency found in the draft report: Items 6.11, 7.2 and 7.4. I am sending this response by E-mail to expedite response. Please advise if this should be sent more formally and I will do so in follow-up.

With regard to Item **6.11 Submit Title VI Program**, the deficiency reads: **NJ Transit did not submit its most recent Title VI Program Plan on time. NJ Transit's most recent Title VI Program Plan did not address all FTA Circular 4702.1B, Chap. III-3, Part 4 requirements.**

NJ TRANSIT's Title VI Plan for FFY 2015-2017 had a due date of November 1<sup>st</sup>, 2014, per agreement with then FTA Region II RCRO Aaron Meyers. NJ TRANSIT met that due date with a submission on October 30<sup>th</sup>, 2014, as indicated in the report. This occasion was NJ TRANSIT's first time submitting under the then new circular. NJ TRANSIT's Title VI Plan development was delayed due to significant time spent in technical guidance conversations with Aaron Meyers and FTA HQ, on how the corporation might address some critical concerns in meeting the submission requirements, given unique aspects of NJ TRANSIT's structure and its broad service area.

Also, NJ TRANSIT is not clear what part of FTA Circular 4702.1B, Chap. III-3, Part 4 requirements were not addressed. In the draft report it is mentioned that "NJ TRANSIT functioned as both a fixed-route transportation provider...as well as a State DOT." (page 27); this is inaccurate. During the compliance review it was clarified that NJ TRANSIT is only responsible for 5310 and 5311 funding under the requirements for States, and that New Jersey DOT handles all other "Requirements for States" in their Title VI Plan submission to FHWA. The reviewers provided technical guidance that NJ TRANSIT should in its documentation clarify this somewhat gray overlap in responsibility in its Title VI Plan submission, and NJ TRANSIT is committed to doing that in its FFY 2018-2020 submission. However, the compliance review report reflects that NJ TRANSIT did fulfil its 5310 and 5311 obligations completely, and by extension fulfilled the requirements for "Statewide Planning Activities" and "Program Administration" where no deficiencies were found. No other area in the submission requirements has been identified as having gone unaddressed.

NJ TRANSIT requests FTA reconsider this deficiency, and consider replacing it perhaps with a comment or technical guidance on what areas of FTA Circular 4702.1B, Chap. III-3 need more detail and clarity.

In addition, NJ TRANSIT requests any due date for submission of this item reflect the new agreed upon Title VI Plan submission date of 11/1/17.

With regard to item **7.2 Systemwide Service Standards and Policies**, the deficiency reads: **NJ Transit's service policy for the distribution of transit amenities was lacking.** In the detail on page 33, it is clarified the specific area lacking was a policy for Bus amenities, specifically bus shelters. The issue of bus shelters was raised and debated spiritedly during compliance the review. The point was not resolved, although there was commitment by the

review team to consult with FTA HQ on the issue. NJ TRANSIT offers its thoughts conveyed to the reviewers here, for further consideration.

NJ TRANSIT points to FTA Circular 4702.1B, Chap. IV-4, Effective Practices to Fulfill the Service Policy Requirement, (1) Distribution of transit amenities for each mode. The second paragraph in this section reads: "This policy does not apply to transit providers that do not have decision-making authority over the siting of transit amenities. Transit providers are not responsible for setting a policy for transit amenities that are solely sited by a separate jurisdiction (e.g., a city, town, or county) unless the transit provider has the authority to set policies to determine the siting of these amenities."

It is NJ TRANSIT's conviction that this exception to the policy applies with respect to its bus shelter program. I raised and discussed this specific concern directly with former FTA HQ Title VI Officer Amber Ontiveros as far back as feedback to the proposed circular in 2011. I spoke about it with FTA Region II RCROs Aaron Meyers and Jonathon Ocana separately during prior submissions. The result of all those conversations was agreement that the amenities exception cited was applicable to NJ TRANSIT's bus shelter program.

NJ TRANSIT does not have statutory authority to establish bus stops or to install bus shelters on its own. New Jersey being a "home rule" state, NJ TRANSIT relies on municipalities to codify bus stops (with County concurrence on County roadways). Localities are then the sponsor to formally request installation of bus shelters and, under the terms of corporation's agreements with sponsors, take ownership and maintenance responsibility for the shelters after installation is completed. NJ TRANSIT's program is open to all municipalities, but the corporation cannot direct or mandate the creation of bus shelters as an amenity. NJ TRANSIT can and does control the level of customer amenities sited on properties that the corporation owns and operates. As in 2014, NJ TRANSIT has in its current submission identified 12 terminals/park-rides which it owns and assessed them in the context of seven different customer amenities: parking, building/shelter, ticket vending machines, CCTV, electronic signage, security presence, and waste receptacles. Each terminal is defined as minority or non-minority based upon the service at the facility and NJ TRANSIT compares the presence/non-presence of the amenities at minority vs. non-minority facilities, to assure that there is no disparate impact in siting the amenities. This is all in keeping with and explicit in NJ TRANSIT's Systemwide Service Standards, and Policies and Service Monitoring documentation.

NJ TRANSIT of course understands and appreciates that perspectives on the applicability of this exception from different reviewers may vary, and that FTA HQ's thinking on this exception and its applicability may have evolved since it was last discussed. If the determination is that this finding of deficiency remains and this exception does not apply to NJ TRANSIT, respectfully, NJ TRANSIT requests clarification on how and why it does not, and further requests technical guidance on how it might craft and adhere to a policy to ensure equity in the distribution of an amenity over which it does not exercise authority.

With regard to Item **7.4 Monitoring Transit Service**, the deficiency reads: **NJ Transit did not define its minority routes per FTA Circular 4702.1B, Chap. IV-9, Part 6 guidance.**

NJ TRANSIT accepts without dispute this finding and corrective actions in general, however, there is a critical aspect missing in the detail with regard to how minority routes will be calculated going forward. After receiving technical guidance from the reviewers NJ TRANSIT fully acknowledged the error in calculating minority routes overall and acknowledges that, as is

said on page 38 of the report, **FTA Circular 4702.1B, Chap. IV-9, Part 6a** defines a “minority transit 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.*

However, NJ TRANSIT communicated its belief that, due to the significant number of NJ TRANSIT Bus routes traversing limited access roadway segments with no bus stop locations, calculating service equity based on revenue mileage would be misleading. The circular directive applied literally would enable revenue miles of areas with no bus stops or rail stations served to be weighted equally with route segments serving dense networks of stop/station locations. NJ TRANSIT believes an alternative would be more fair and in keeping with the spirit of the circular. In the updated Service Monitoring analysis for NJ TRANSIT's FFY 2018-2020 submission, each census block group in NJ TRANSIT's service area (the State of New Jersey) was identified as a minority block group when its minority population exceeded the statewide minority population of 42.80% (according to the 2011-2015 American Community Survey 5 year estimates). A radius was constructed **around each transit stop** (one half mile radius for bus stops and light rail stations, and one mile radius for commuter rail stations). All the block groups intersecting the defined radius for each transit stop were identified. For rail and light rail, where at least one third (33.33%) of the block groups identified for each station had been deemed minority block groups, the station was deemed a minority station and highlighted as such.

The proposal was discussed with the reviewers on-site and it was NJ TRANSIT's understanding that it was agreed to be appropriate for the identification of minority routes to use the methodology outlined above. NJ TRANSIT understands the reviewers perhaps cannot make this determination on FTA's behalf, however, the corporation believes it is important that acknowledgement of this agreement (or at least this discussion) appear in the draft report, in case there has been some misunderstanding that requires further discussion, clarification, or technical guidance. NJ TRANSIT plans to submit its Service Monitoring in accordance with this methodology.

Also, as mentioned above, NJ TRANSIT requests the due date for submission of this item reflect the new agreed upon Title VI Plan submission date of 11/1/17.

These were the findings that NJ TRANSIT offers feedback to and requests FTA consider/reconsider. Some relatively very minor technical errors and now outdated facts were identified in some of the general description information for the corporation, but nothing at all critical from an NJ TRANSIT perspective. That information can certainly be conveyed to FTA under separate cover in the near term if such is of critical importance. NJ TRANSIT once again appreciates the opportunity to offer its thoughts and comments on the draft report and awaits FTA's reply. However, NJ TRANSIT will proceed with addressing all the corrective actions for the findings of deficiency and advisory comments identified in the draft report, in its current FY 2018-2020 Title VI Plan submission, to the extent practicable. NJ TRANSIT is committed to implementing corrective actions as soon as possible upon receipt of the final report, and remains fully committed to complying with all aspects of Title VI. The Executive Director and NJ TRANSIT's Executive Management Team remain open to and solicitous of FTA's guidance and support on how we might improve the quality and compliance measures of NJ TRANSIT's Title VI Program.

As always, I am your disposal for questions and requests for clarification.

Regards,

Leotis Sanders  
Chief Civil Rights and Diversity Officer  
DBE/Title VI/ADA/Public Agency Compliance/Diversity & Inclusion  
Office of Civil Rights and Diversity Programs  
New Jersey Transit  
One Penn Plaza East  
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