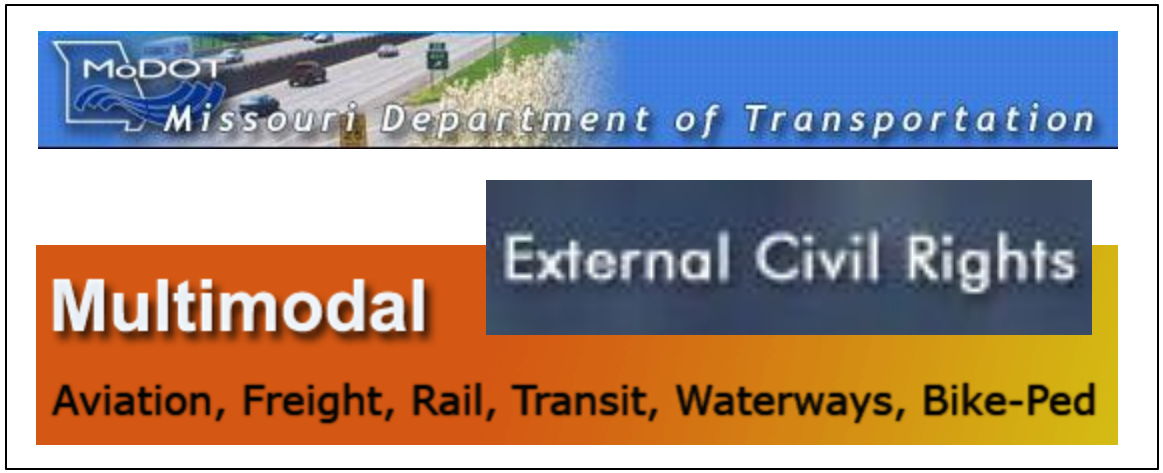
MoDOT Title VI Workshop
General Requirements



Prepared by
Philips & Associates, Inc., Program Consultants

November 12, 2013

Title VI Program

Outline

- General Requirements page 3
- Summary page 48
- For Fixed Route Transit Providers page 51
- Guidance for MPOs page 65
- Environmental Justice page 67

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Title VI Program
Requirements

"Community Transit"
2013-2016
Title VI Program

General Requirements

A. Introduction
B. Agency Information
C. Notice to the Public
D. Procedure for Filing a Complaint
E. Complaints, Investigations, Lawsuits *and* Evidence of Title VI Staff Training
F. Public Participation Plan
G. Language Assistance Plan
H. Advisory Bodies
I. Subrecipient Assistance
J. Subrecipient Monitoring
K. Equity Analysis of Facilities

Additional information

as specified, depending on whether recipient is a transit provider, a State, or a planning entity.

SOURCE: Circular 4702.1B, Appendix A

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Title VI Program
Template

General Requirements

A. Introduction
B. Agency Information (1)
C. Notice to the Public
D. Procedure for Filing a Complaint
E. Complaints, Investigations, Lawsuits *and* Evidence of Title VI Staff Training
F. Public Participation Plan
G. Language Assistance Plan
H. Advisory Bodies
I. Subrecipient Assistance (2)
J. Subrecipient Monitoring (2)
K. Equity Analysis of Facilities

For Fixed Route Transit Providers

L. Standards and Policies (3)
M. Data Reporting and Collection (4)
N. Transit Service Monitoring (4)
O. Service and Fare Equity Changes (4)

(1) recommended

(2) if applicable

(3) applies to all fixed route providers (including those that do not meet threshold)

(4) for providers that operate fixed route transit service that meet threshold (50 or more fixed route vehicles in peak service; 200,000+ population)

Providers of public transportation that only operate demand response service are responsible only for the General Requirements.

SOURCE: Circular 4702.1B, IV-1.

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GENERAL REQUIREMENTS AND GUIDELINES

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Title VI Program

A. Introduction

TEMPLATE

Introduction

- **Every application for FTA financial assistance must be accompanied by an assurance that applicant will carry out the program in compliance with Title VI regulations.**
  - *Can utilize FTA Master Agreement language.*
  - Primary recipients shall collect Title VI assurances from subrecipients prior to passing through Title VI funds.

SOURCE: Circular 4702.1B, III-1 (2.)

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Title VI Program

B. Agency Information

TEMPLATE

Agency Information (recommended)

- **Mission**
- **History** (including year started).
- **Regional Profile** (regional population; growth projection).
- **Population served** (in relation to regional population).
- **Service Area** (include map, with any routes utilized).
- **Governing body** make-up (include terms of office).

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Title VI Program

C. Notice to the Public

TEMPLATE

Requirement to Notify Beneficiaries of Protection Under Title VI

- Published: Title VI Notice must be published.
- Content: recipient's obligations under Title VI, and protections against discrimination afforded by Title VI.
- Local opportunity: Subrecipients must indicate local opportunity to file complaints directly with subrecipient. (May utilize material used by primary recipient.
- Dissemination: list of locations where notice is posted (website, agency public areas; facilities, vehicles).
- Document Translation (include Title VI obligations and complaint procedures, consistent with LEP guidance).

SOURCES: Circular 4702.1B, III-4 (5.); FTA Overview, October 2012.

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Title VI Program

D. Complaint Procedures

TEMPLATE

Complaint Procedures

- Title VI complaint procedures are intended to provide persons an avenue to raise complaints of discrimination regarding the recipient's programs, activities and services.
- In order to comply with the reporting requirements established in 49 CFR Section 21.9(b)*, **all recipients 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.

**Code of Federal Regulations, Title 49 - Transportation*

SOURCES: Circular 4702.1B, III-5 (6.), Appendix C; FTA Overview, October 2012.

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Title VI Program

D. Complaint Procedures

Complaint Procedures

- Recipients (organizations) must also develop a **Title VI complaint form**, and the form and procedure (notice and instructions) for filing a complaint shall be available on - but not limited to - the recipient's website.
- **Actively respond** to every complaint at the agency level. **Be thorough and timely** in the review process, and strive to bring complaint to closure. If unable to close, refer complaint allegation to the primary recipient.
- Subrecipients may adopt the Title VI investigation and tracking procedures and complaint form developed by the primary recipient.

SOURCES: Circular 4702.1B, III-5 (6.); FTA Overview, October 2012.

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MoDOT Title VI Complaint Form

Title VI Complaint Form

Missouri Department of Transportation
External Civil Rights Division

MoDOT is committed to ensuring that no person is excluded from participation in or denied the benefits of its services on the basis of race, color or national origin, as provided by Title VI of the Civil Rights Act of 1964, as amended. Title VI complaints must be filed within 180 days from the date of the alleged discrimination.

The following information is necessary to assist us in processing your complaint. If you require any assistance in completing this form, please contact the Title VI Coordinator by calling (573)751-4309. The completed form must be returned to: MoDOT External Civil Rights Division, Title VI Coordinator, 1617 Missouri Blvd, P.O. Box 270, Jefferson City, Missouri 65102-0270.

Name:
Street Address, City, State and Zip:
Phone Number & Email Address:
Alternate Phone Number:
Name of person(s) discriminated against (if someone other than complainant):
Street Address, City, State and Zip:
Phone Number & Email Address:
Alternate Phone Number:

Please check the reason(s) for which you believe you were discriminated:

- ☐ Race
- ☐ Color
- ☐ National Origin (Limited English Proficiency)

Person who are deaf or hard of hearing may contact ECR through Relay Missouri Services at (800)735-2966 or 711 (Toll Free – TTY)

Title VI Complaint Form

Date of Incident: _____

Please describe the alleged discrimination incident. Provide the name and title of all individuals involved if available. Explain what happened and who you believe was responsible. You may attach any written materials or other information that you believe is relevant to your complaint.

Person who are deaf or hard of hearing may contact ECR through Relay Missouri Services at (800)735-2966 or 711 (Toll Free – TTY)

MoDOT Title VI Complaint Form

Title VI Complaint Form

Please list any witness(es) to the alleged discrimination:

Name:
Street Address, City, State and Zip:
Phone Number & Email Address:
Name:
Street Address, City, State and Zip:
Phone Number & Email Address:

What corrective action would you like to see taken?

Person who are deaf or hard of hearing may contact ECR through Relay Missouri Services at (800)735-2966 or 711 (Toll Free – TTY)

Title VI Complaint Form

Have you filed a complaint with any other federal, state or local agency/ agencies/ court(s)?

☐ Yes ☐ No

If so, please list the agencies in which you filed a complaint and provide their contact information:

Agency:
Contact Person:
Street Address, City, State and Zip:
Phone Number & Email Address:
Agency:
Contact Person:
Street Address, City, State and Zip:
Phone Number & Email Address:

I affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Complainant's Signature **Date**

Print Name of Complainant **Date**

Person who are deaf or hard of hearing may contact ECR through Relay Missouri Services at (800)735-2966 or 711 (Toll Free – TTY)

Title VI Program

E. Monitoring Complaints, Investigations, Lawsuits

TEMPLATE

Monitoring Complaints, Investigations, Lawsuits

- Maintain and monitor log of Title VI complaints, investigations, status of investigations, actions taken by agency.
  - Includes documentation of closure letters, letters of finding (LOF).
  - Includes active investigations by entities other than FTA.
  - Formal charges and/or lawsuits will be similarly listed, and investigated by the agency's legal counsel.
- **Recipients should make available complaint log to primary/designated recipient on semi-annual basis.**

SOURCES: Circular 4702.1B, III-5 (7.); FTA Overview, October 2012, Community Transit, Hampton Roads Transit, Maine DOT.

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REVIEW

Title VI Program

Compliance

Title VI Program Requirements for FTA recipients:

- All FTA recipients must document, investigate and respond to any Title VI complaints made from the public.
- All FTA recipients must make available its Title VI complaint log (on *semi-annual basis*, and evidence of Title VI training.

- *Observed, historical complaint types:*
  - *Intentional discrimination (disparate treatment)*
  - *Complaints arising from inconsistent application of policies and/or procedures; and/or funding.*
  - *Negative experience due to lack of resources.*
  - *Displacement of persons/businesses (disparate impact).*

SOURCES: Circular 4702.1B; NYSDOT Subrecipient Reporting Requirements.

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Title VI Program

Complaints Discussion

Complaint Examples

Sheltered Workshop vehicles

- Alleged discrimination in the use of older vehicles exclusively within shorter local radius (minority community)within larger service area. *Result: policy put in place that all vehicles would be maintained and placed in service for reasonable expectation of consistent regular operation in service area.*

Translated materials regarding proposed Transit Depot

- Claim that insufficient information has been provided in the primary/home language of beneficiaries regarding proposed transit depot development. Result: Notices about impending depot development translated into Spanish.

Airport connector versus improved bus service

- Alleged violation of Title VI by awarding federal funding for Bay Area Rapid Transit (BART) Oakland airport connector instead of federal funding for AC Transit of Oakland to improve bus service. *Result: BART connector lost federal funding, but was built w/other sources.*

SOURCE: Overview of Title VI, Christopher MacKechnie, 2012

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Title VI Program

E. Monitoring Complaints, Investigations, Lawsuits

TEMPLATE

Evidence of Title VI Staff Training

- Are new employees made aware of Title VI responsibilities pertaining to their specific duties?
- Do new employees receive this information via employee orientation?
- Is Title VI information provided to all employees and program applicants?
- Is Title VI information prominently displayed in the organization and on any program materials distributed, as needed?

SOURCE: Georgia Title VI Self-Survey

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Title VI Program

F. Public Participation (Engagement) Plan

TEMPLATE

Promoting Inclusive Public Participation (Engagement)

- Process should include **community meetings** and other **initiatives for public engagement** to provide education and highlight **agency mission and services** for the community.
- Benefits of engaging with other community organizations:
  - Knowledgeable regarding culture of the community.
  - Plugged into "pulse" of community.
  - Often advocates for minority and LEP populations.
- **Board should conduct public hearings during <u>triennial</u> development of Title VI Plan.**

SOURCES: FTA Circular 4702.1B, III-5 (8.); FTA Overview, October 2012; FTA Office of the Administrator, May 16, 2013; FTA EJ Circular 4703.1.

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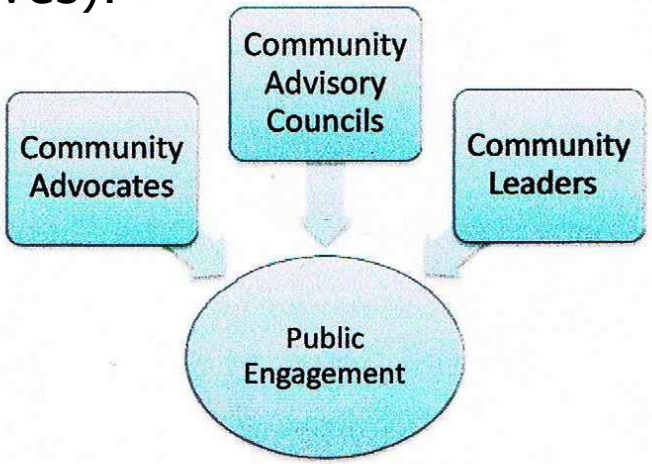
Title VI Program

F. Public Participation (Engagement) Plan

Promoting Inclusive Public Participation (Engagement)

- The robust public participation plan should contain:
  - Desired outcomes (goals, objectives).
  - Proactive strategies (inclusive of all stakeholders).



SOURCES: FTA Circular 4702.1B, III-5 (8.); FTA Overview, October 2012; FTA Office of the Administrator, May 16, 2013; FTA EJ Circular 4703.1.

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Title VI Program

F. Public Participation Plan

Promoting Inclusive Public Participation (Engagement)

- Recipients have wide latitude to determine when, where and how often specific public participation activities should take place.
  - Recipients should make these determinations based on a demographic analysis of the populations affected.
- RECOMMENDED: Recipients should summarize and report public outreach and involvement activities, triennially.

SOURCES: Circular 4702.1B, III-5 (8.); FTA Overview, October 2012.

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Title VI Program

F. Public Participation Plan

Public Participation Best Practices (Part One)

- Survey agency beneficiaries ahead of time.
- Publicize meetings as far in advance as possible.
- Meet at convenient times and accessible locations utilizing different meeting sizes and formats.
- Make sure you are reaching targeted communities.
- Surveys and focus groups are also effective tools.
- Make available resources for limited English proficient (LEP) persons, such as interpreters.

SOURCES: Circular 4702.1B, III-5 (8.); FTA Overview, October 2012.

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Title VI Program

F. Public Participation Plan

Promoting Inclusive Public Participation (Engagement)

- Seek out information effectively from the community regarding minority and LEP experience.
- Efforts to include minority and LEP populations should be carried forth proactively.
  - Goal is *inclusive* public participation.
  - Community groups sought out should include:
    - agencies that serve particular minority groups;
    - Employers;
    - organizations with international experience;
    - health and nursing care agencies (employing LEP persons);
    - libraries (have understanding of cultural needs of patrons).

SOURCES: Circular 4702.1B, III-5 (8.); FTA Overview, October 2012.

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Title VI Program

F. Public Participation (Engagement) Plan

Public Participation Best Practices (Part Two)

- Make sure agency decision makers are in attendance.
- Provide clear, comprehensive information.
- Communicate clearly rationale for any change.
- Provide opportunity for feedback.
- Secure public comments before finalizing any proposals.

- RECOMMENDED: Recipients should summarize and report public outreach and involvement activities, triennially.

SOURCE: Overview of Title VI, Christopher MacKechnie, 2012

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Title VI Program

F. Public Participation (Engagement) Plan

Case Studies:

- *Wyandotte County KS Transit and **"Bus the Boulevard"** – a coalition of churches, a community association, and apartment complex residents – came together to voice concerns, review data (including a survey), and share findings, resulting in new transit service for two neighborhoods.*

- *Public input is being sought on a new public transportation service called Bus Rapid Transit (BRT) in an upcoming series of meetings and online. **Metro**, whose operations include the area's mass transit bus and light rail systems, is teaming with MoDOT, the East-West Gateway Council of Governments, the city of St. Louis, and St. Louis County in the effort. Based on demographic data, employment patterns and other information, a project team has identified four potential options for BRT routes.*

- *In a **midwest community**, interviews with community organizations yielded information on how frequently LEP persons were using transit services, and what modes of service or particular routes were used most frequently.*

SOURCES: Transit Action Network, 08/13/13; West Newsmagazine, 09/02/13.

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Title VI Program

G. Language Assistance Plan

TEMPLATE

True or False?

English is the official language of the United States.

False

There is no official language of the United States.

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Title VI Program

G. Language Assistance Plan

Who is a Limited English Proficiency (LEP) person?

*Sometimes referred to as a **limited English proficient** person.*

- A person who has a limited ability to read, speak, write or understand English.
  - The inability to use the English language at a level that permits effective interaction with providers.
- Public transit is a key means of achieving mobility for many LEP persons.
  - LEP persons are three times more likely to use public transit services, than those who speak English well.

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Title VI Program

G. Language Assistance Plan

- **Title VI of the Civil Rights Act is the <u>legal basis</u> for LEP regulations, <u>to disallow national origin discrimination</u>.**
- <u>Executive Order 13166</u> directs each agency providing Federal financial assistance to issue guidance to recipients of such assistance on their legal obligation to take reasonable steps to *ensure meaningful access* for LEP persons under the national origin nondiscrimination provisions of the Civil Rights Act of 1964, and implementing regulations.

Title VI of the Civil Rights Act of 1964 provides that no person shall be subjected to discrimination on the basis of race, color or <u>national origin</u> under any program or activity that receives federal financial assistance.

SOURCES: Circular 4702.1B, III-6 (9.); Attorney General, February 11, 2011.

Title VI Program

G. Language Assistance Plan

Specifically, the Title VI Program includes a **requirement to provide *meaningful access* to LEP persons**.

What does meaningful access look like?

- Practices and operating procedures cannot have the effect of restricting meaningful participation by LEP persons.
- Language assistance, to whatever extent it is provided, must be *at no cost* to the individual.
- It must be competent assistance.

SOURCE: Circular 4702.1B, III-6.

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Title VI Program

G. Language Assistance Plan

Overview of requirements:

- Identify LEP individuals who need language assistance (Four Factor Analysis).
- Develop a Language Assistance (LA) Plan.
- Implement and maintain your Language Assistance Plan.
- There are variable guidelines regarding incorporation of written translated materials (Safe Harbor Provision) in the Language Assistance plan.

The Language Assistance Plan is sometimes referred to as the LEP Plan. Most accurately, the Requirement to Provide Meaningful Access to LEP Persons (FTA C 4702.1B III-6) includes the two-fold process of conducting a Four Factor Analysis, and using those results to develop a Language Assistance Plan (or LEP Plan) (FTA C 4702.1B III-8).

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Title VI Program

G. Language Assistance Plan

Identify LEP individuals who need language assistance.

Four-Factor Analysis

- Factor 1: The **number or proportion of LEP persons** in organization's area.
- Factor 2: The **frequency of contact** between LEP persons and the organization's services.
- Factor 3: The **importance of the service** provided by the organization.
- Factor 4: The **resources available** to the organization and costs.

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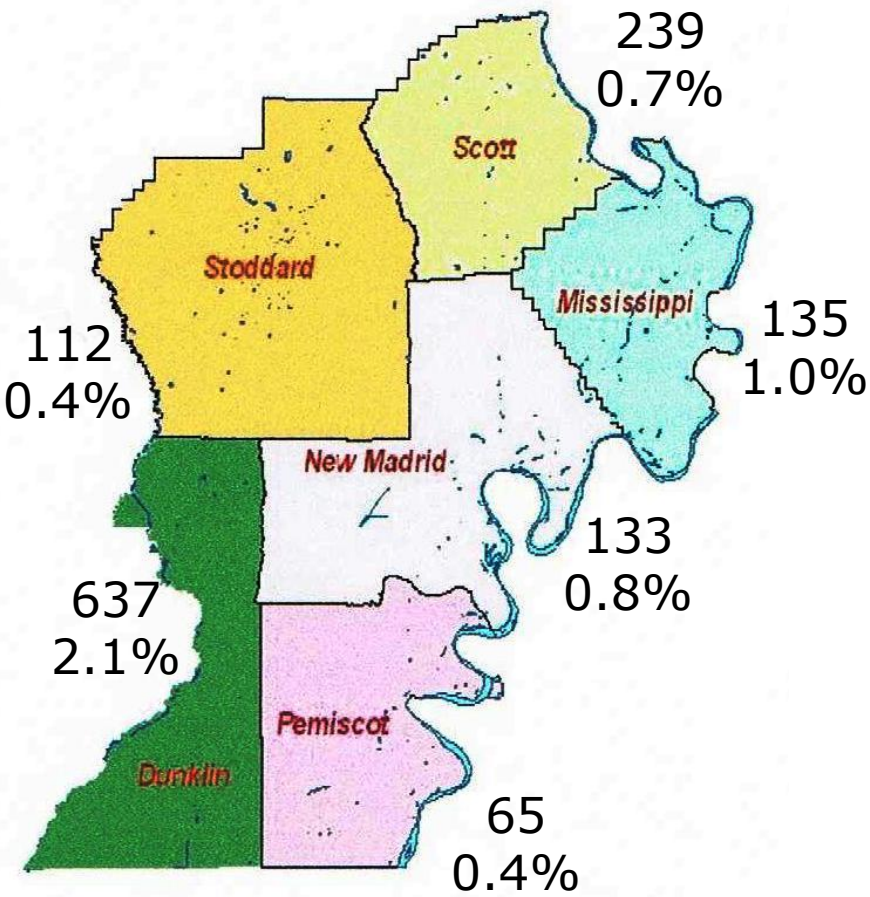
Missouri Bootheel: LEP Population

"Speak English less than very well"



Missouri	128,998	2.3%
6 county area	1,321	0.9%

SEE ALSO:

MoDOT LEP WORKSHOP
Using Census Data for the Four Factor Analysis

Missouri Department of Transportation

External Civil Rights | Multimodal

Prepared by
Philips & Associates, Inc., program consultants

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Missouri Bootheel: LEP Population

"Speak English less than very well"

Bootheel	Missouri		6 County		Dunklin		Mississippi		New Madrid		Pemiscot		Scott		Stoddard	
2007-2011 5-Year Estimates p.1	Estimate	% TL	Estimate	% TL	Estimate	% TL	Estimate	% TL	Estimate	% TL	Estimate	% TL	Estimate	% TL	Estimate	% TL
Total:	5,568,887		142,458		29,830		13,298		17,583		16,969		36,546		28,232	
Speak only English	5,231,415		139,128		28,408		13,018		17,253		16,694		35,831		27,924	
Spanish or Spanish Creole:	150,245		2,549		1,264		273		167		224		435		186	
Speak English "very well"	91,147		1,416		638		138		67		167		307		99	
Speak English less than "very well"	59,098	1.1%	1,133	0.8%	626	2.1%	135	1.0%	100	0.6%	57	0.3%	128	0.4%	87	0.3%
French (incl. Patois, Cajun):	14,218		64		13		0		23		0		22		6	
Speak English "very well"	11,188		43		9		0		21		0		13		0	
Speak English less than "very well"	3,030	0.1%	21	0.0%	4	0.0%	0	0.0%	2	0.0%	0	0.0%	9	0.0%	6	0.0%
Italian:	4,560		3		0		0		0		0		3		0	
Speak English "very well"	3,664		3		0		0		0		0		3		0	
Speak English less than "very well"	896	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Portuguese or Portuguese Creole:	2,232		10		0		0		0		0		10		0	
Speak English "very well"	1,455		10		0		0		0							
Speak English less than "very well"	777	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0						0%
German:	23,299		192		52		5		27							
Speak English "very well"	18,412		180		52		5		21							
Speak English less than "very well"	4,887	0.1%	12	0.0%	0	0.0%	0	0.0%	6	0						0%

MoDOT LEP WORKSHOP

Using Census Data for the Four Factor Analysis

Missouri Department of Transportation

External Civil Rights | Multimodal

Prepared by
Philips & Associates, Inc., program consultants

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Due to space limitation, some languages not shown.

Title VI Program

G. Language Assistance Plan

Four-Factor Analysis

- **<u>Factor 2</u>: Frequency with which LEP persons come into contact with the program.**
  a. Document staff encounters with LEP persons:
     - In the course of providing organization's services.
     - At agency (organization) and public meetings and programs.
  b. Track contacts (calls) for assistance:
     - Volume
     - Volume as percentage of all customer service calls
     - Trends

Maintain records of LEP person encounters.

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Title VI Program

G. Language Assistance Plan

Four-Factor Analysis

- **<u>Factor 3</u>: Nature and importance of the program, activity, or service provided by the program to people's (LEP persons') lives.**
  a. <u>Identify</u> your organization's most critical services/benefits.
  b. <u>Interact</u> (outreach, partner) with community and organizations that champion needs of LEP persons.
  c. Seek out <u>information</u> effectively from the community regarding the LEP experience.
  d. <u>Corroborate</u> results of community outreach efforts.

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Title VI Program

G. Language Assistance Plan

Four-Factor Analysis

- **<u>Factor 4</u>: Resources available to the recipient** (organization) for LEP outreach, as well as the costs associated with that outreach.
  - **a. Inventory** language assistance measures currently being provided, along with associated costs.
  - **b. Determine** what **additional services** are needed.
  - **c. Consider cost effective practices.**
    - Language assistance products developed and paid for by local, regional, state government agencies.
    - Bilingual staff to serve as interpreters/translators.
    - Use telephone interpretation services.
  - **d. Plan your budget.**

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Title VI Program

G. Language Assistance Plan

RESOURCES

Translation service options:

- Bilingual staff
- Staff interpreters
- Contract interpreters
- Telephone interpreter services
- Formal agreements with community volunteers

Language assistance is an enforceable regulation. Organizations should develop list of LEP resources in each service region, and <u>for each language group</u>. Many organizations schedule rides in advance, which gives the organization time to call upon their resources.

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Title VI Program

G. Language Assistance Plan

Safe Harbor Provision

LEP guidelines overview –

- Provide "meaningful access" to LEP persons.
- Select language assistance and translation services.
- Identify vital (or critical) written documents.
- **Understand when safe harbor provision is applicable.**

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Title VI Program

G. Language Assistance Plan

Safe Harbor Provision:

- The Safe Harbor Provision applies to the translation of written documents only. It does not affect the requirement to provide **meaningful access** to LEP individuals through competent oral interpreters where oral language services are needed and reasonable.
- Requires written translations of vital (critical) documents *for each LEP group that meets the threshold*.

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Title VI Program

G. Language Assistance Plan

RESOURCES

Vital (Critical) Documents <u>may</u> include:

- **Employment applications**
- **Documents** critical for accessing agency (organization) services or benefits.
- Information on **the right to file a complaint**
- **Complaint forms**
- Key information regarding **where an LEP person may obtain further, *translated,* information**
- **Outreach materials** directed to the greater, inclusive community served by the agency (organization).
- **Letters** requiring response from clients.

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Title VI Program

G. Language Assistance Plan

Safe harbors for written translations:

Size of Language Group	Recommended Provision of Written Language Assistance
1,000 or more in the eligible population in the service area or among current beneficiaries.	Translated vital documents.
More than 5% of the eligible population or beneficiaries *and* **more than 50** in number.	Translated vital documents.
More than 5% of the eligible population or beneficiaries *and* **50 or less** in number.	Translated written notice* of right to receive free oral interpretation of documents.
5% or less of the eligible population or beneficiaries and **less than 1,000** in number.	No written translation is required.

*in the primary language of the LEP language group.

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Title VI Program

H. Advisory Bodies

TEMPLATE

Minority Representation on Planning and Advisory Bodies

- Applies to transit planning boards, advisory councils, or committees whose members are selected by recipient.
- Recipient must provide a table depicting membership of non-elected committees and councils, the membership of which is selected by the recipient, by race breakdown.
- Recipient should provide a description of efforts made to encourage the participation of minorities on such advisory bodies.

SOURCES: Circular 4702.1B, III-9 (10.); FTA Overview, October 2012.

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Title VI Program

I. Subrecipient Assistance

TEMPLATE

Subrecipient Assistance

- Primary recipients should provide subrecipients:
  - Sample public notices, Title VI complaint procedures, and the recipient's Title VI complaint form.
  - Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient.
  - Direction regarding obtaining demographic information of population served by subrecipients.
  - **Technical assistance**.
  - **Reviews** of Title VI Programs; follow-up as necessary.

SOURCE: 5702.1B III-10 (11.), VIII-1; FTA Overview, October 2012.

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Title VI Program

J. Subrecipient Monitoring

TEMPLATE

Subrecipient Monitoring

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

SOURCES: Circular 4702.1B, III-10 (12.); FTA Overview, October 2012.

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Title VI Program

K. Equity Analysis of Facilities

TEMPLATE

Equity Analysis of Facilities

- The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin.

- "Facilities" include but are not limited to:
  - Vehicle storage facilities
  - Maintenance facilities
  - Operations centers, etc.
- "Facilities" do not include:
  - Bus shelters *(these are transit amenities)*
  - Transit stations
  - Power substations, etc.

In determining the location of facilities, recipients may not make decisions with the purpose or effect of subjecting persons to discrimination
- 49 CFR 21.5(b)(7)

SOURCE: Circular 4702.1B, III-11 (13.); FTA Overview, October 2012.

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Title VI Program

K. Equity Analysis of Facilities

Equity Analysis of Facilities

- **Analysis generally involves <u>displacement</u> of persons.**
- Identify several alternatives for site of facility/facilities.
- Analysis done at census tract or block group level.
- Engage in outreach to persons *potentially impacted*
  - Will any persons or businesses be displaced (by reason of land acquisition)?
  - Are there existing facilities that – together with proposed facility – would have cumulative adverse impact?
- Conduct "two test" exercise to determine whether facility can proceed, despite disparate impact.

Recall discrimination discussion (after map):

SOURCE: Circular 4702.1B, III-11 (13.); FTA Office of Administrator, 2013.

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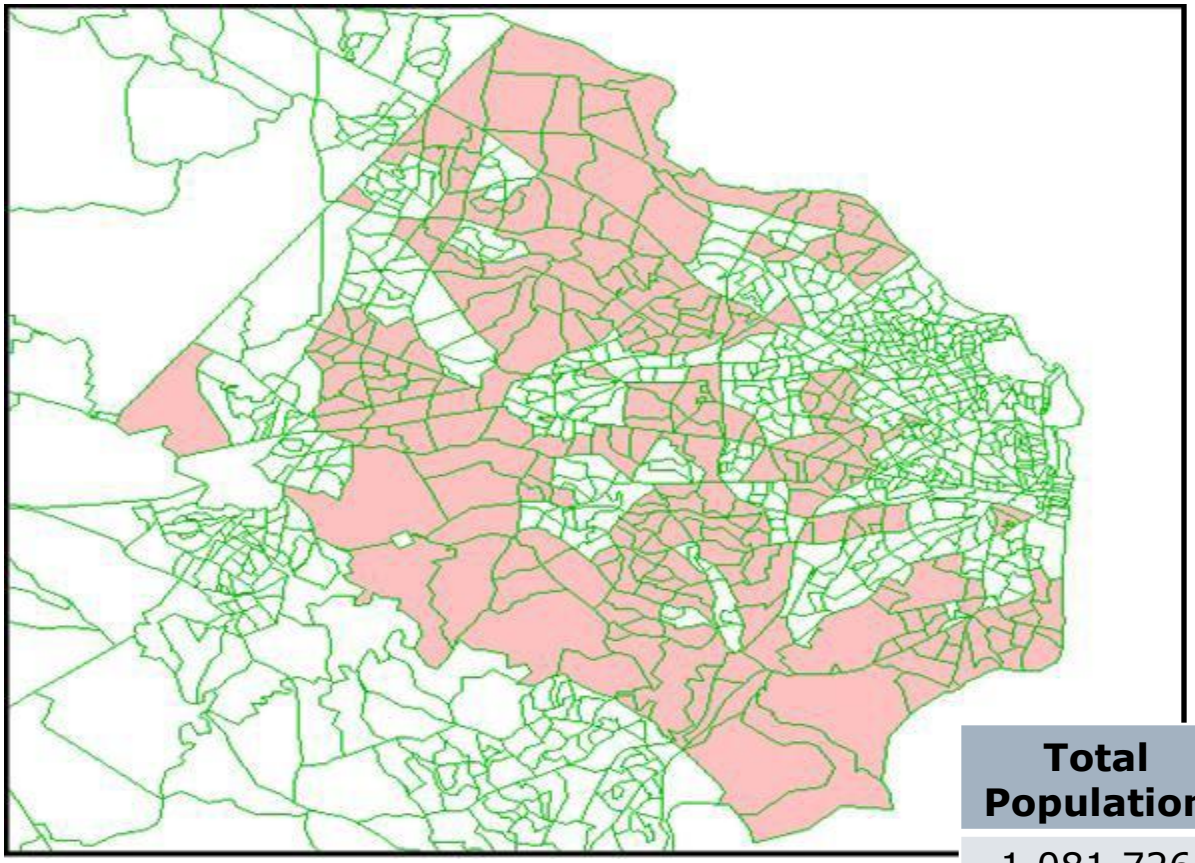
Title VI Program

Census Tract Analysis (Example)



Non Minority Tracts

Minority Tracts

Total Population	Minority Population	Percent Minority
1,081,726	403,736	37%

SOURCE: FTA Overview, 11/07/2012.

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REVIEW

Multimodal External Civil Rights

Aviation, Freight, Rail, Transit, Waterways, Bike-Ped

Title VI Program

Discrimination

When can recipients take actions that have disparate impacts?

- In cases when the proposal is supported by a "substantial legitimate justification" *("TEST ONE")* ***and***
- There are no comparable effective alternative practices that would result in less disparate impacts *("TEST TWO").*

In any event, the justification for the action must not be a pretext (ploy, ruse, tactic) for discrimination.

Consider potential benefits and **adverse effects**.

Discuss practicable alternatives.

Include impacted community in discussion.

Implement practicable alternatives.

SOURCES: Transit Action Network, Kansas City MO ; 4702.1B, III-11.

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REVIEW

Title VI Program

Discrimination – Summary

Types of Discrimination:

- Disparate treatment
- Disparate impact
- Disparate burden

Adverse Effects <u>and</u> Positive Benefits

- Many public transportation projects involve both adverse effects <u>and</u> positive benefits.
- Whether adverse effects will be disproportionally high is dependent on the net results after consideration of totality of the circumstances. Engage the community in discussion.
- In determining whether an alternative is practicable, the social, economic (incl. costs), and environmental impacts of *avoiding the adverse effect* should be taken into account.

SOURCE: FTA EJ Circular 4703.1, August 15, 2012

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Title VI Program
Summary

SUMMARY

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Title VI Program

Summary

Covered Today

- Types of Discrimination
- Compliance
- Title VI Highlights
  - Board (or equivalent) approval of Title VI Plan
  - Public Engagement
  - Language Assistance plan (LEP plan)
  - Minority Representation on Advisory Bodies
  - Equity (Disparate Impact) Analysis for New Facilities
    - Consider potential benefits and adverse effects

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Title VI Program

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Title VI Program

FIXED ROUTE TRANSIT PROVIDES

FOR FIXED ROUTE TRANSIT PROVIDERS

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Title VI Program

Fixed Route Introduction

Introduction

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

SOURCES: 4702.1B, IV-1 thru IV-3 (1., 2., 3.); FTA Overview, October 2012.

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Title VI Program

Fixed Route Introduction

Requirements for Fixed Route Transit Providers

Requirement	Transit Providers that operate fixed route service	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
Set system-wide standards and policies	Required	Required
Collect and report data	Not required	Required: • Demographic and service profile maps and charts • Survey data regarding customer demographic and travel patterns
Evaluate service and fare equity changes	Not required	Required
Monitor transit service	Not required	Required

At this time, applies to METRO (St. Louis) and KCATA (Kansas City).

SOURCE: Circular 4702.1B, IV-1 (1.)

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Title VI Program

L. Standards and Policies

TEMPLATE

System-Wide Service Standards and Policies*

- Applies to all fixed route providers or public transportation service.
- <u>All fixed route transit providers shall set service standards and policies for each specific fixed route mode of service</u>.
- <u>Standards and policies must address how service is distributed across the transit system</u>.
- Recipients should report any changes in service standards or policies made during the past year on an annual basis.

applies to <u>all</u> fixed route providers (including those that do not meet volume threshold).

Providers of demand response service are responsible only for General Requirements.

SOURCE: Circular 4702.1B, IV-4 (4.); FTA Overview, October 2012.

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Title VI Program

L. Standards and Policies

Effective Practices to Fulfill the Service <u>Standard</u> Requirement:

<u>Quantitative standards</u>:

1. Vehicle load for each mode.
2. Vehicle headway for each mode.
3. On-time performance for each mode.
4. Service availability for each mode.

Vehicle load applies to each vehicle type. Headway, on-time performance, and service availability is more relevant to entire system.

Effective Practices to Fulfill the Service <u>Policy</u> Requirement:

<u>Qualitative standards</u>:

1. Vehicle assignment for each mode.
2. Distribution of transit amenities (such as bus shelters) for each mode.

See Community Transit **Title VI Program** for Service Standards and Service Policies example. (Pages 22-26)

SOURCE: FTA Overview, October 2012.

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Title VI Program

L. Standards and Policies

Standards and Policies: Definitions

- **Vehicle Load**: Generally expressed as the ratio of passengers to the number of seats on a vehicle, relative to the vehicle's maximum load point. Can specify vehicle loads for peak vs. off-peak times, and for different modes of transit.
- **Vehicle Headway**: The amount of time between two vehicles traveling in the same direction on a given line or combination of lines.
- **On-time performance**: A measure of runs completed as scheduled.
- **Service availability**: A general measure of the distribution of routes within an agency's service area.

SOURCE: Circular 4702.1B, IV-4 (4.)

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Title VI Program

M. Data Reporting and Collection

METRO, KCATA

TEMPLATE

Requirement to Collect and Report Demographic Data*

- Must prepare data regarding demographic and service profile maps and charts and customer demographic travel patterns.
  - **Demographic and Service Profile Maps and Charts**
    - Base map of service area that overlays with geographic data.
    - Demographic map.
  - **Demographic Ridership**
  - **Travel Patterns**

**** applies to providers that operate 50 or more fixed route transit vehicles in peak service; 200,000+ population.***

SOURCE: Circular 4702.1B, IV-7 (5.); FTA Overview, October 2012.

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Title VI Program

N. Transit Service Monitoring

METRO, KCATA

TEMPLATE

Requirement to Monitor Transit Service*

- Implement monitoring program for 4 standards and 2 policies noted at: *L. Standards and Policies.*
- Assess performance of each minority and non-minority route in sample. **Compare to standards and policies.**

Standard #4: Service Availability for Minority and Non-Minority Residents

# of Households	Within 0.5mi.	More than 0.5 mi.
Minority	86.6%	13.4%
Non-minority	76.8%	23.2%
System	78.5%	21.5%

- Study amenities (such as bus shelters) distribution.

**** applies to providers that operate 50 or more fixed route transit vehicles in peak service; 200,000+ population.***

SOURCE: Circular 4702.1B, IV-9 (6.), Appendix J; FTA Overview, October 2012.

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Title VI Program

N. Transit Service Monitoring

METRO, KCATA

Requirement to Monitor Transit Service

- Brief and obtain Board approval regarding monitoring program results.
- Submission of monitoring results every 3 years in Title VI program.
- Primary recipient should document results of subrecipient monitoring program and report, including evidence that the board or other governing entity or official(s) approved results.

SOURCE: Circular 4702.1B, IV-9 (6.); FTA Overview, October 2012.

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Title VI Program

O. Service and Fare Equity Analysis

METRO, KCATA

TEMPLATE

Use service and fare equity checklist*

- ☐ Develop **major service change** policy.
- ☐ Develop disparate impact policy (and adverse effect determination).
- ☐ Develop disproportionate burden policy (and adverse effect determination).

Step-by-step guidance is offered in **the FTA Service Equity Ridership vs Population Data** Presentation, 11/07/12.

Step-by-step guidance is offered in **the FTA Fare Equity Analysis Ridership Data** Presentation, 10/24/12.

See Community Transit Title VI Program for **Major Service Change & Impact Policie**s example.

**** applies to providers that operate 50 or more fixed route transit vehicles in peak service; 200,000+ population.***

SOURCE: Circular 4702.1B, IV-9 (6.); FTA Overview, October 2012.

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Title VI Program

O. Service and Fare Equity Analysis

METRO, KCATA

Policy	Purpose	Threshold
Major Service Change (same as current policy)	Establishes a service change threshold that warrants a service equity analysis	Route addition/elimination or >25% change in revenue hours
Disparate Impact (new policy related to minority populations)	Determines when adverse effects of major service changes are borne disproportionately by *minority* populations	+/- 15 percentage point difference in impacts between minority and non-minority riders
Disproportionate Burden Impact (new policy related to low-income populations)	Determines when adverse effects of major service changes are borne disproportionately by *low-income* populations	+/- 3% percentage point difference in impacts between low-income and non low-income riders

GRTA Georgia Regional Transportation Authority

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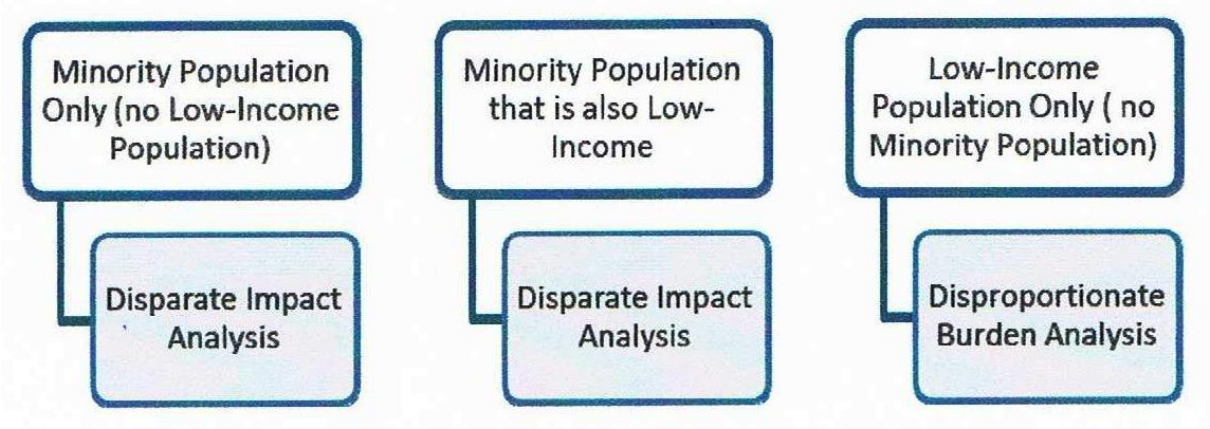
Title VI Program

O. Service and Fare Equity Analysis

METRO, KCATA

Requirement to Evaluate Service and Fare Equity Changes

- What is the proper analysis?



SOURCE: Circular 4702.1B, IV-9 (7.); FTA Overview, October 2012.

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Title VI Program

O. Service and Fare Equity Analysis

METRO, KCATA

Requirement to Evaluate Service and Fare Equity Changes

- Primary recipient should document results of service and/or fare equity analysis conducted since the last Title VI Program submission, including evidence that the board or other governing entity or official(s) approved results (before implementation of those changes).
- In addition to the periodic report, transit agencies must also conduct a Title VI assessment whenever they make major changes to a route or any change in fares. A major change is defined as changing the service hours or length of a route by more than 25%.

SOURCE: Circular 4702.1B, IV-9 (7.); FTA Overview, October 2012; FTA Office of the Administrator, May 16, 2013; Christopher MacKechnie.

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Title VI Program

Fixed Route Summary

METRO, KCATA

Requirements for transit providers that operate 50 or more fixed route vehicles in peak service and 200,000+ population:

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

SOURCE: FTA Overview, October 2012.

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GUIDANCE FOR MPOs

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Title VI Program

Guidance for MPOs

Requirements of MPOs

- All general requirements
- Fixed route requirements, if applicable
- Demographic profile of the metropolitan area
- Description of procedures by which the mobility needs of minority populations are identified and considered in the planning process.
- Demographic maps that show the impacts of the distribution of state and federal funds in the aggregate for public transportation projects.
- Analysis of the MPO's transportation system investments that identifies and addressed any disparate impacts.
- Description of the procedures the agency used to ensure non-discriminatory pass-through of FTA financial assistance (if requested).
- Description of the procedures the agency uses to provide assistance to potential subrecipients in a nondiscriminatory manner (if requested).

SOURCE: Circular 4702.1B, Appendix A.

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ENVIRONMENTAL JUSTICE

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Title VI Program

Environmental Justice

Environmental Justice Assessment Process

- Under the process outlined in Executive Order 12898 and the US DOT's order, consideration of environmental justice issues must be considered during preparation of an **Environmental Impact Statement (EIS).** General principles required as part of the EIS analysis are as follows:
  - **Identification of Minority or Low-Income Populations:** Agencies should consider the composition of the affected area to determine whether minority populations, low-income populations, or Indian tribes are present, and if so whether there may be disproportionately high and adverse human health or environmental effects on these populations. This identification should occur as early as possible during the **EIS** process.

Circular 4702.1B (10/1/2012) moves **Environmental Justice** language to new EJ Circular 4703.1 (8/15/2012) with the exception of the service and fare equity analysis section.

SOURCE: fta.dot.gov: Environmental Justice

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Title VI Program

Environmental Justice

Environmental Justice Assessment Process

- **Public Participation:** Agencies should develop effective public participation strategies that assure meaningful community representation in the **EIS** process.
- **Numeric Analysis:** Where a disproportionate and adverse environmental impact is identified, agencies should consider relevant demographic, public health and industry data concerning the potential for exposure to human health or environmental hazards in the affected population, to the extent that such information is reasonably available.
- **Alternatives and Mitigation:** The relative impact of alternatives should be considered, and measures to avoid, minimize, and mitigate impacts should be evaluated as part of the **EIS.**

SOURCE: fta.dot.gov: Environmental Justice

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