

**TVI7. Has the recipient conducted the required equity analysis for any new transit facilities sited since the last Comprehensive Review?**

**BASIC REQUIREMENT**

In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color, or national origin.

**APPLICABILITY**

All recipients

**DETAILED EXPLANATION FOR REVIEWER**

FTA Circular 4702.1B describes the requirements for complying with the regulation in 49 CFR Section 21.9(b)(3), which states, “In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.” Locating a facility includes construction or leasing activities. The requirement for an equity analysis applies to projects requiring land acquisition and the displacement of persons from their residences and businesses. Title VI covers all of the operations of covered entities regardless of whether specific portions of the covered program or activity are Federally funded. Therefore, this requirement also applies to facilities that are not FTA-funded.

For purposes of this requirement, “facilities” do not include bus shelters, as these are transit amenities and are covered in FTA Circular 4702.1B Chapter IV, nor do they include transit stations, power substations, etc., as those are evaluated during project development and the National Environmental Policy Act (NEPA) process. Facilities included in this provision include, but are not limited to, storage facilities, maintenance facilities, operations centers, etc. The recipient is required to complete a Title VI equity analysis during the planning stages with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin. Recipients must engage in outreach to persons potentially impacted by the siting of facilities. The Title VI equity analysis must compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.

If a recipient conducted an analysis during the NEPA process, then this can be utilized towards the Title VI equity analysis requirement, as long as the NEPA analysis encompasses the necessary information required in a Title VI equity analysis. However, if a facility exempted from the Title VI equity analysis, due to the assumption it will be analyzed during the NEPA process, does not in fact trigger NEPA (for example, because there are no federal funds in the facility), then said facility will require a Title VI equity analysis.

When evaluating locations of facilities:

- Analysis should be done at the Census tract or block group, where appropriate, to ensure that proper perspective is given to localized impacts.
- If the recipient determines that the location of the project will result in a disparate impact on the basis of race, color, or national origin, the recipient may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin. The recipient must show how both elements are met. In order to make this showing, the recipient must consider and analyze alternatives to determine whether those

alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.

#### INDICATORS OF COMPLIANCE

- a. *Has the recipient sited any new transit facilities since the last review? If no, move to the next question.*
- b. *Was the Title VI equity analysis for the site determination or location of facilities completed prior to selection of the preferred site?*
- c. *If an equity analysis was completed, did the recipient include required elements?*

Required Element	Comment
Whether the location of a project would result in a disparate impact on the basis of race, color, or national origin	-
Outreach consistent with the Public Participation Plan (PPP) to persons potentially impacted by the siting of facilities was conducted	-
Upon determination of a disparate impact, the Title VI equity analysis compared the equity impacts of various siting alternatives, implementing the least discriminatory alternative	-

#### INSTRUCTIONS FOR REVIEWER

Review projects in TrAMS to determine if the recipient has added any new transit facilities. Review responses to real property questions in the Satisfactory Continuing Control review area. Determine if these facilities meet the requirement to conduct a Title VI equity analysis. Request and review documentation on Title VI equity analysis for siting or location of applicable facilities to determine if the analysis took place prior to the preferred site selection.

Request and review any Title VI analysis completed for facility siting completed since the last review to determine if the required elements were included:

#### POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if it is within six months of finalizing the siting of a facility(ies) for which an equity analysis is required, but has not defined a process to do so.

DEFICIENCY CODE TVI7-1: Title VI equity analysis not conducted for facility site or location

SUGGESTED CORRECTIVE ACTION: For a facility still in the process of siting, the recipient must prepare and submit documentation of an equity analysis conducted during the planning stages.

**NOTE TO REVIEWER:** If this deficiency is made for a facility for which the location has already been determined, the reviewer is to consult with FTA and the Regional Counsel to determine the appropriate corrective action(s).

The recipient is deficient if an equity analysis was completed but not in accordance with FTA Circular 4702.1B Chapter III 13 for the siting or location of facilities.

DEFICIENCY CODE TVI7-2: Incomplete equity analysis for facility site or location determination

**NOTE TO REVIEWER:** If this deficiency is made, the reviewer is to consult with FTA and the Regional Counsel to determine the appropriate corrective action(s).

## **GOVERNING DIRECTIVE**

FTA Circular 4702.1B Chapter III 13. Determination of Site or Location of Facilities

Title 49 CFR Section 21.9(b)(3) states, “In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.” Title 49 CFR part 21, Appendix C, Section (3)(iv) provides, “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.” For purposes of this requirement, “facilities” does not include bus shelters, as these are transit amenities and are covered in Chapter IV, nor does it include transit stations, power substations, etc., as those are evaluated during project development and the NEPA process. Facilities included in this provision include, but are not limited to, storage facilities, maintenance facilities, operations centers, etc. In order to comply with the regulations:

- a. The recipient shall complete a Title VI equity analysis during the planning stage with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin. Recipients shall engage in outreach to persons potentially impacted by the siting of facilities. The Title VI equity analysis must compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.

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## **TVI8. Has the recipient evaluated fare and major service changes and monitored transit service?**

### **BASIC REQUIREMENT**

If the recipient is a transit provider that operates 50 or more fixed-route vehicles in peak service and is located in an Urbanized Area (UZA) of 200,000 or more in population, it must evaluate fare and major service changes and monitor transit service.

### **APPLICABILITY**

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

### **DETAILED EXPLANATION FOR REVIEWER**

**Fare and major service changes:** Under FTA Circular 4702.1B, 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 shall

evaluate major service and any fare and fare media changes (including transfers) and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact on riders on the basis of race, color, or national origin. This requirement does not apply to recipients with fewer than 50 peak period vehicles, although all recipients are still required to comply with Title VI regulations that prohibit disparate impact discrimination and should review their policies and practices to ensure their service and fare changes do not result in disparate impacts on the basis of race, color, or national origin.

FTA requires recipients subject to this requirement to develop a definition of a major service change and to conduct a service equity analysis for all major service changes. Fare change equity analyses are required for all fare or fare media changes. FTA Circular 4702.1B requires written procedures for the conduct of service and fare equity analyses and a disparate impact policy to be part of the Title VI Program. The policies and procedures developed to address the service and fare equity requirement must also discuss when and how a transit agency will assess the compounding effects from prior service and fare changes. (Note: The inclusion of prior service and/or fare changes depends on the nature of the agency, the proximity of the changes, and other specific factors. An agency must determine what will be a reasonable timeframe and analyze for compounding effects.) These policies and procedures require public participation during the development stages and are to be formally adopted once the governing board approves them.

A fare and service change equity analysis must be adequate to evaluate if there will be any disparate effects on riders on the basis of race, color, or national origin. The circular provides extensive guidance on how to conduct fare and service equity analyses. FTA Circular 4702.1B requires recipients to use tables similar to those found in Appendix K of the circular for service or fare actions that were implemented after April 1, 2013. Any fare or equity analysis conducted needs to be included in the next submission of the recipient's Title VI Program.

Transit providers may use decennial Census data to develop maps and charts until the next decennial Census or they may use American Community Survey (ACS) data between decennial censuses. These maps and charts will help the transit provider determine whether, and to what extent, transit service is available to minority populations within the transit provider's service area. These maps may be prepared using Geographic Information System (GIS) technology, although transit providers without access to GIS technology may prepare the maps in alternative formats.

Upon completion of a service or fare equity analysis, the recipient shall brief its board of directors, top executive, or appropriate governing entity or official(s) responsible for policy decisions regarding the service and/or fare change(s) and the equity impacts of the service and/or fare change(s). The transit provider shall submit documentation such as a board resolution, copy of meeting minutes, or similar documentation as evidence of the board or governing entity or official's consideration, awareness, and approval of the analysis.

This requirement is different from the Section 5307 requirement for public comment for fare increases and major service reductions (see Section 5307 Program Requirements section). Section 5307 requires a public comment process before raising a fare or carrying out a major reduction of transportation service. For purposes of Title VI, recipients to which this requirement applies must perform an equity evaluation for "major service changes" (both increases and reductions), as locally defined, and fare changes (both increases and reductions).

Note: Though the circular delineates the procedures large fixed-route transit providers must undertake when planning a service and/or fare change, all fixed-route transit providers are required by Title VI to ensure that all service and fare changes are equitably undertaken, regardless of the provider's size.

Agencies not meeting the higher threshold are still required to have some means to ensure that its service and/or fare changes comply with the protections afforded by Title VI.

**New Starts, Small Starts, other new fixed guideway:** 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.” All proposed changes to parallel or connecting service will be examined. If the entity that builds the project is different from the transit provider that will operate the project, the transit provider operating the project shall conduct the analysis.

The service equity analysis shall include a comparative analysis of service levels pre- and post- the New Start, Small Start or other new fixed guideway capital project. The analysis shall be depicted in tabular format and shall determine whether the service changes proposed (including both reductions and increases) due to the capital project will result in a disparate impact on minority populations. 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. Public outreach held regarding the project will also be included.

**Monitoring:** All recipients that operate fixed-route services must set system-wide service standards and policies necessary to avoid discriminatory service design or operational decisions. Policies must be set for each mode. These standards and policies must address how service is distributed across the transit system and must ensure that the manner of the distribution affords users access to these assets. The standards must be comprehensive and apply agency-wide. Service policies are developed to ensure service design and operational practices do not result in discrimination on the basis of race, color, or national origin. Service policies differ from service standards in that they are not necessarily based on a quantitative threshold.

## **SUPPLEMENTAL FUNDING IMPACT**

### **Evaluation of Fare and Major Service Changes**

Temporary service and fare changes in response to an emergency (including COVID-19) do not rise to the level of a major change, so a service and fare equity analysis is not required. If a transit agency operating 50 or more fixed-route vehicles in peak service and located in an urbanized area (UZA) with a population of 200,000 or more chooses to make permanent any fare media changes that are instituted during an emergency, or if such changes last longer than six months, then the transit agency must perform a fare equity analysis as described in Chapter IV of FTA’s Title VI Circular 4702.1B. Similarly if a transit agency chooses to make any service changes permanent any service changes that are instituted during an emergency, or changes in service last longer than 12 months, then the transit agency must perform a service equity analysis.

FTA expects that all transit agencies take reasonable measures to implement temporary service or fare changes equitably to prevent unintentional discrimination. FTA does not require a transit agency to document this process, get board approval prior to implementing changes, or share documentation on the changes with FTA, but FTA recommends that transit agencies document the rationale for specific service reductions, as well as steps taken to ensure equitable reductions in service, in the event someone files a complaint.

FTA cautions that changes in fare media policies (such as temporarily not accepting cash fares, e.g., only pre-purchased media (often referred to as a cashless or cash-free fare policy)) may discriminate against minority transit riders. Minority transit riders may be disproportionately unbanked, lack credit cards, or lack access to locations for purchasing fare media in advance of a trip. FTA expects all transit agencies to consider mitigating measures in this circumstance to ensure their fare media changes do not result in

disparate impacts on the basis of race, color, or national origin, which are protected categories under Title VI of the Civil Rights Act of 1964.

#### INDICATORS OF COMPLIANCE

- a. *Does the recipient operate 50 or more fixed route vehicles in peak service and is it located in a UZA of 200,000 or more people? If no, move to the next question.*
- b. *If the recipient implemented a fare or major service change since its last Title VI submission, did it conduct an equity analysis in accordance with its Title VI Program?*
- c. *If the recipient initiated, or plans to initiate, new fixed guideway service or service under the New Starts or Small Starts programs, did it conduct a service and fare equity analysis as required or when is such an analysis anticipated to be completed?*
- d. *Is the recipient monitoring the service and amenities it provides in accordance with its Title VI Program?*

#### INSTRUCTIONS FOR REVIEWER

Prior to the site visit, review a description of the methodology used to determine the impact of the fare and major service changes in the recipient's Title VI Program and the description of what the recipient considers to be a major service change. Prior to the site visit, review OTrak for the recipient's prior Comprehensive Review report describing service and fares, and compare this with current fare and service information received from the recipient. Conduct an internet search of the recipient for fare or service changes. Review recipient responses regarding fare or service changes implemented since last the Title VI Program submission. Ask the FTA regional office if there have been any fare or major service changes since the last Comprehensive Review. Review documentation related to any service and fare technical assistance provided by FTA. If fare or major service changes have occurred but equity analyses have not been conducted at the planning stage, discuss onsite the reason(s) for this with the recipient.

**Fare and Major Service Changes:** For the latest fare or major service change that was not included in the latest Title VI submission, determine if the required elements were addressed:

<b>Fare and Service Change Elements</b>	<b><i>Addressed</i></b>	<b><i>Not Addressed</i></b>	<b><i>Reviewer Comments</i></b>
The recipient completed an equity analysis during the planning stages for any fare, fare media, or major service change that occurred.	-	-	-

<b>Fare and Service Change Elements</b>	<b><i>Addressed</i></b>	<b><i>Not Addressed</i></b>	<b><i>Reviewer Comments</i></b>
The recipient implemented its approved Title VI Program major service change and disparate impact policy as appropriate for the type of equity analysis required.	-	-	-
If the equity analysis revealed an adverse effect or a disparate impact, the recipient analyzed alternatives and, if necessary, took steps to avoid, minimize or mitigate impacts where practicable.	-	-	-
The recipient briefed the governing body on the results of any equity analysis prior to the approval of any fare, fare media, or major service changes, and received approval for the service and fare equity analysis.	-	-	-

**New Fixed Guideway, New Starts or Small Starts:** Prior to the site visit, determine if the recipient is initiating new fixed guideway service or service under New Starts or Small Starts programs through a review of award applications in TrAMS. Determine the projected start of revenue operations, as this equity analysis is to be conducted six months prior to revenue operations. Discuss with FTA if any fare or service equity analysis has been submitted or request the information from the recipient. If not previously reviewed by FTA's Office of Civil Rights, review the Title VI equity analysis to determine if the requirements were addressed.

<b>Equity Analysis Elements</b>	<b><i>Addressed</i></b>	<b><i>Not Addressed</i></b>	<b><i>Reviewer Comments</i></b>
The analysis was conducted six months prior to the beginning of revenue operations, whether or not the proposed changes to existing service rise to the level of a "major service change" as defined by the transit provider.	-	-	-
All proposed changes to parallel or connecting service were examined.	-	-	-
The analysis included a comparative analysis of service levels pre-and post- the New Starts/Small Starts/new fixed guideway capital project.	-	-	-
The analysis was depicted in tabular format and determined whether the service changes proposed (including both reductions and increases) due to the capital project would result in a disparate impact on minority populations.	-	-	-
A fare equity analysis was conducted for any and all fares that would change as a result of the capital project.	-	-	-

**Service And Amenities Monitoring:** Prior to the site visit, review the recipient's Title VI Program in TrAMS for monitoring procedures and results of previous monitoring. Request and review documentation of monitoring that has been conducted since the last Comprehensive Review. Verify that the requirements were addressed.

<b>Monitoring Element</b>	<b><i>Addressed</i></b>	<b><i>Not Addressed</i></b>	<b><i>Reviewer Comments</i></b>
Conducted the monitoring at least every three years.	-	-	-
Selected a sample of minority and non-minority routes from all modes of service provided. The sample shall include routes that provide service to predominantly minority areas and non-minority areas.	-	-	-
Assessed the performance of each minority and non-minority route in the sample for each of the transit provider's service standards and service policies.	-	-	-
Compared the transit service observed in the assessment to the transit provider's established service policies and standards.	-	-	-
Analyzed any route that exceeded or failed to meet the standard or policy, depending on the metric measured to determine why the discrepancies exist, and take steps to reduce the potential effects.	-	-	-
Evaluated transit amenities policy to ensure amenities are being distributed throughout the transit system in an equitable manner.	-	-	-
Developed a policy or procedure to determine whether disparate impacts exist on the basis of race, color, or national origin, and apply that policy or procedure to the results of the monitoring activities.	-	-	-
Briefed and obtained approval from the transit providers' policy-making officials regarding the results of the monitoring program.	-	-	-
Documented corrective actions to remedy any disparities.	-	-	-

## **POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it did not conduct an equity analysis for an applicable fare change or major service change unless it can be demonstrated that the fare change lasted less than six months, the service change lasted less than 12 months or none of the service changes constituted "major service



changes” for the purpose of Title VI. The recipient is deficient if its procedures are not conducted in accordance with its approved Title VI Program, including its PPP.

DEFICIENCY CODE TVI8-1: Impact of fare and/or service changes not adequately examined

SUGGESTED CORRECTIVE ACTION: The recipient must submit an equity analysis for any fare or major service change that occurred since submission of the last Title VI Program. The recipient must also submit revised procedures implemented to ensure that future equity analyses will be conducted as required.

The recipient is deficient if there is no documentation of approval by the board of directors, top executive(s), or appropriate governing entity or official(s) responsible for policy decisions regarding the service and/or fare change(s) and the equity impacts of the service and/or fare change(s).

DEFICIENCY CODE TVI8-2: Impact of fare and/or service changes not approved by governing body

SUGGESTED CORRECTIVE ACTION: For completed equity analysis, the recipient must submit documentation that the analysis was approved by the appropriate governing entity or official(s) responsible for policy decisions regarding service and/or fare change(s) and the equity impacts of the service and/or fare change. The recipient must also submit revised procedures implemented to ensure that future equity analyses will be approved by the governing body in advance of implementation or any service and/or fare change.

The recipient is deficient if it has not completed an equity analysis for new fixed guideway or service under New Starts or Small Starts program or the analysis is incomplete. For projects still in the planning process, or not within six months of starting revenue service, the recipient must provide documentation to FTA on how it will meet Title VI requirements.

DEFICIENCY CODE TVI8-3: New Starts or new fixed guideway service and equity analyses not completed

SUGGESTED CORRECTIVE ACTION: The recipient must submit an equity analysis for New Starts or new fixed guideway service that occurred since submission of the last Title VI Program. The recipient must also submit revised procedures implemented to ensure that future equity analyses will be conducted as required.

**NOTE TO REVIEWER:** For projects completed without complete analyses, consult FTA to discuss the corrective action.

The recipient is deficient if it cannot document that it has monitored service and amenities at least every three years. The recipient is deficient if the monitoring and analysis does not include required elements.

DEFICIENCY CODE TVI8-4: Not implementing Title VI monitoring of service or amenities

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit an updated monitoring program, consistent with the procedures in FTA Circular 4702.1B, along with evidence of implementation.

The recipient is deficient if there is no documentation of the briefing and approval of its policy-making officials regarding the results of the monitoring program.

DEFICIENCY CODE TVI8-5: Policy-making officials' review of Title VI monitoring not evident

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit evidence that it has briefed its policy-making officials on Title VI monitoring conducted, along with a plan to ensure that this briefing occurs for future monitoring efforts.

## GOVERNING DIRECTIVE

### FTA Circular 4702.1B Chapter IV 7. Requirement to Evaluate Service and Fare Changes

This requirement applies only to 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 or that otherwise meet the threshold in the Introduction section of this chapter. These transit providers are required to prepare and submit service and fare equity analyses as described below. Transit providers not subject to this requirement are responsible for complying with the DOT Title VI regulations which prohibit disparate impact discrimination, and therefore should review their policies and practices to ensure their service and fare changes do not result in disparate impacts on the basis of race, color, or national origin. To further ensure compliance with 49 CFR Section 21.5(b)(2), 49 CFR Section 21.5(b)(7), and Appendix C to 49 CFR part 21, all providers of public transportation to which this Section applies shall develop written procedures consistent with this Section to evaluate, prior to implementation, any and all service changes that exceed the transit provider's major service change threshold, as well as all fare changes, to determine whether those changes will have a discriminatory impact based on race, color, or national origin. The written procedures and results of service and/or fare equity analyses shall be included in the transit provider's Title VI Program.

*Exceptions to conducting fare analysis:* "(i) "Spare the air days" or other instances when a local municipality or transit agency has declared that all passengers ride free. (ii) Temporary fare reductions that are mitigating measures for other actions. For example, construction activities may close a segment of a rail system for a period of time and require passengers to alter their travel patterns. A reduced fare for these impacted passengers is a mitigating measure and does not require a fare equity analysis. (iii) Promotional fare reductions. If a promotional or temporary fare reduction lasts longer than six months, then FTA considers the fare reduction permanent and the transit provider must conduct a fare equity analysis.

*Detailed descriptions of what the analyses are to cover is included in the Circular's Chapter IV, Section 7.* Transit providers shall use tables similar to those provided in Appendix K to depict the results of the service and/or fare equity analysis. Transit providers should refer to the checklist and examples in the Appendix for additional technical assistance with service and fare equity analyses. Upon completion of a service or fare equity analysis, the transit provider shall brief its board of directors, top executive, or appropriate governing entity or official(s) responsible for policy decisions regarding the service and/or fare change(s) and the equity impacts of the service and/or fare change(s). The transit provider shall submit documentation such as a board resolution, copy of meeting minutes, or similar documentation with the Title VI Program as evidence of the board or governing entity or official's consideration, awareness, and approval of the analysis." "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. If the entity that builds the project is different from the transit provider that will operate the project, the transit provider operating the project shall conduct the analysis. 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 analysis shall be depicted in tabular format and shall determine whether the service changes proposed (including both reductions and increases) due to the capital project will result in a disparate impact on minority populations. The transit provider shall also conduct a fare equity analysis for any and all fares that will change as a result of the capital project.

#### FTA Circular 4702.1B Chapter IV 6. Requirement to Monitor Transit Service

FTA requires these transit providers to monitor the performance of their transit system relative to their system-wide service standards and service policies (i.e., vehicle load, vehicle assignment, transit amenities, etc.) not less than every three years. (Additional details follow in this section of the Circular.)

If a transit provider determines, based on its monitoring activities, that prior decisions have resulted in a disparate impact on the basis of race, color, or national origin, the transit provider shall take corrective action to remedy the disparities to the greatest extent possible, and shall discuss in the Title VI Program these disparate impacts and actions taken to remedy the disparities.

Transit providers shall brief and obtain approval from the transit providers' policymaking officials, generally the board of directors or appropriate governing entity responsible for policy decisions regarding the results of the monitoring program.

#### FTA Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19), CR2

Under FTA's Title VI Circular 4702.1B, transit providers that operate 50-or-more fixed route vehicles in peak service and are located in an urbanized area (UZA) with a population of 200,000 or more, must perform a service equity analysis whenever they make a major service change. The service equity analysis evaluates the impacts of the proposed service changes on Title VI-protected populations. Temporary service changes in response to an emergency do not rise to the level of a major service change, so a service equity analysis is not required. Similarly, FTA exempts all temporary fare changes enacted as a result of an emergency from the fare equity analysis requirement.

However, if a transit agency chooses to make permanent any changes made during an emergency, or if changes last longer than 12 months (service) or 6 months (fare), then the transit agency must perform a service or fare equity analysis.

FTA does expect that all transit agencies take reasonable measures to implement temporary service or fare changes equitably to prevent unintentional discrimination. FTA does not require a transit agency to document this process, get board approval prior to implementing changes, or share documentation on the changes with FTA, but FTA recommends that transit agencies document the rationale for specific service reductions, as well as steps taken to ensure equitable reductions in service, in the event someone files a complaint.

Changes directly or indirectly related to an emergency, including ridership and budget reductions, that continue longer than 12 months (service) or 6 months (fare), or are planned in advance as permanent require an equity analysis. As outlined in the Title VI Circular Chapter IV, Section 7, any major service change that lasts longer than 12 months is considered permanent and requires a service equity analysis. This timeframe applies to major service changes initially enacted in response to the COVID-19 public health emergency. Similarly, any fare change—even if initially enacted in response to an emergency—

that lasts longer than 6 months is considered permanent and requires a fare equity analysis. Further, transit agencies must prepare an equity analysis during the planning process for planned major service changes or fare changes consistent with the Circular.

*FTA Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19), CR15*

FTA cautions that changes in fare media policies—such as temporarily not accepting cash fares, e.g., only pre-purchased media (often referred to as a cashless or cash-free fare policy)—may discriminate against minority transit riders. Minority transit riders may be disproportionately unbanked, lack credit cards, or lack access to locations for purchasing fare media in advance of a trip. FTA expects all transit agencies to consider mitigating measures in this circumstance to ensure their fare media changes do not result in disparate impacts on the basis of race, color, or national origin, which are protected categories under Title VI of the Civil Rights Act of 1964. If a transit agency operating 50 or more fixed route vehicles in peak service and located in an urbanized area (UZA) with a population of 200,000 or more chooses to make permanent any fare media changes that are instituted during an emergency, or if such changes last longer than six months, then the transit agency must perform a fare equity analysis as described in Chapter IV of FTA's Title VI Circular 4702.1B.

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**TVI9. Does the recipient identify the needs of minority populations in planning activities; document that it passes Federal Transit Administration (FTA) funds through 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 FTA-funded programs?**

**BASIC REQUIREMENT**

Recipients are required to distribute funding and conduct planning activities in a nondiscriminatory manner.

**APPLICABILITY**

States and non-state direct recipients of Section 5310 or Section 5311 funds with subrecipients

**DETAILED EXPLANATION FOR REVIEWER**

State DOTs and MPOs shall conduct a non-discriminatory planning process and distribute funding in a non-discriminatory manner. States and MPOs are required to encourage and engage minority communities in the statewide or metropolitan transportation planning processes and to consider the needs and mobility of minority communities in the planning process. To ensure that members of minority communities are provided with full opportunities to participate in the planning process, actions shall be taken to eliminate language, mobility, temporal, and other obstacles to allow these populations to participate fully in the process.

States and MPOs shall provide documentation that FTA funds are passed through to subrecipients without regard to race, color, or national origin, and to ensure that minority populations are not being denied the benefits of or excluded from participation in these programs. States and MPOs are required to provide and document assistance provided to potential subrecipients and the procedures used to ensure the equitable distribution of funds to subrecipients that serve predominately minority populations.

**INDICATORS OF COMPLIANCE**