

- a. *Did the recipient ensure that members of minority communities are provided with full opportunities to engage in the statewide or metropolitan transportation planning process?*
- b. *Did the recipient ensure that the needs of minority communities are identified in the Statewide or Metropolitan Transportation Planning process?*
- c. *Did the recipient pass through FTA funds to subrecipients as indicated in its Title VI Program?*
- d. *Did the recipient provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations, as described in its Title VI Program?*

INSTRUCTIONS FOR REVIEWER

Prior to the site visit, review the recipient's most recent Title VI Program submission in TrAMS for discussion of the statewide or metropolitan transportation planning process and the procedures it will use to:

- (1) identify the transportation needs of minority populations,
- (2) include minority communities in the statewide or metropolitan transportation planning process,
- (3) pass through FTA financial assistance to subrecipients in a non-discriminatory manner, and
- (4) provide assistance to potential subrecipients.

Review documentation of statewide or metropolitan planning activities to determine if procedures documented in the Title VI Program for identifying transportation needs of minority communities and including them in the planning process were implemented. This could include actions to eliminate language, mobility, temporal, and other obstacles to allow these populations to participate fully in the process.

Review documentation of activities such as the competitive selection or annual program of projects processes, the latest allocation of funds to subrecipients, and assistance offered for efforts to receive applications from agencies serving predominantly minority populations, along with the record of accepted and rejected applications identifying applicants that are minority organizations or that provide assistance to minority communities.

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if it is not identifying the needs of minority communities in planning as described in its Title VI Program.

DEFICIENCY CODE TVI9-1: Needs of minority communities not identified in statewide or metropolitan planning process

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit evidence that the needs of minority communities are being included in the statewide or metropolitan transportation planning process in accordance with FTA Circular 4702.1B and its Title VI Program.

The recipient is deficient if it is not implementing procedures for including minority communities in statewide or metropolitan transportation planning process as described in its Title VI Program.

DEFICIENCY CODE TVI9-2: Minority communities not included in the statewide or metropolitan transportation planning process

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit evidence that it has implemented procedures for including minority communities in planning processes in accordance with FTA Circular 4702.1B and its Title VI Program.

The recipient is deficient if it is not passing through funds to subrecipients in a non-discriminatory manner as described in its Title VI Program.

DEFICIENCY CODE TVI9-3: No basis for determining equitable distribution of funds

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit an assessment of the adequacy of its procedures and, if necessary, an updated plan to ensure funds are used and distributed equitably, consistent with the procedures in FTA Circular 4702.1B and its Title VI Program.

The recipient is deficient if it is not providing assistance to potential subrecipients as described in its Title VI Program.

DEFICIENCY CODE TVI9-4: Assistance not provided to potential subrecipients

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit documentation that it is providing assistance to potential subrecipients, consistent with the procedures in FTA Circular 4702.1B and its Title VI Program.

GOVERNING DIRECTIVE

FTA Circular 4702.1B, Chapter V 2. Requirement to Prepare and Submit a Title VI Program

States shall include the following information in their Title VI Program: (f) A description of the statewide transportation planning process that identifies the transportation needs of minority populations; (g) A description of the procedures the State uses to pass through FTA financial assistance to subrecipients in a non-discriminatory manner; (h) A description of the procedures the State uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations.

FTA Circular 4702.1B, Chapter VI 2. Requirement to Prepare and Submit a Title VI Program

MPOs shall include the following information in their Title VI Program: (a) (3) A description of the procedures by which the mobility needs of minority populations are identified and considered within the planning process... (c) (2) A description of the procedures the MPO uses to pass through FTA financial assistance to subrecipients in a non-discriminatory manner; (3) A description of the procedures the MPO uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations.

FTA Circular 4702.1B, Chapter V 3. Planning

As part of the planning certification review, FTA/FHWA review State-developed documentation to determine whether States have: c. Ensured that members of minority communities are provided with full opportunities to engage in the Statewide Transportation Planning process. This includes actions to eliminate language, mobility, temporal, and other obstacles to allow these populations to participate fully in the process.

FTA Circular 4702.1B, Chapter VI 3. Planning

As part of the planning certification review, FTA/FHWA review MPO developed documentation to determine whether MPOs have: c. Ensured that members of minority communities are provided with full opportunities to engage in the transportation planning process. This includes actions to eliminate language, mobility, temporal, and other obstacles to allow these populations to participate fully in the process.

FTA Circular 4702.1B, Chapter V 4. Requirements for Program Administration

In order to comply with 49 CFR Section 21.5, the general nondiscrimination provision, 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.

FTA Circular 4702.1B, Chapter VI 6. Requirements for Program Administration

In order to comply with 49 CFR Section 21.5, the general nondiscrimination provision, MPOs shall document that they pass through FTA funds under any FTA programs (e.g., 49 U.S.C. 5310, Enhanced Mobility for Seniors and Individuals with Disabilities), 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.

TVI10-1	Does the recipient monitor service provided under contract or other arrangement or relationship, or service provided by another entity on the recipient's behalf, for compliance with Title VI requirements?
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BASIC REQUIREMENT

Service provided under contract or other arrangement or relationship (including, but not limited to, an award, subaward or cooperative agreement) must meet the Title VI requirements that apply to the recipient.

APPLICABILITY

Recipients who enter into contracts or other arrangements or relationships with other entities, lease vehicles, or otherwise rely on another public entity to provide service. This includes pilot programs, demonstration projects, and written contracts or informal arrangements that reflect an ongoing relationship between the parties.

Option 1: Do not add anything because of this leading off the manual on page 1:

The recipient must ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance without regard to whether specific projects or services are federally funded. The recipient must ensure that all transit services and related benefits are distributed in an equitable manner.

Option 2: Add this to Applicability section: Note: Title VI requirements apply to all of a recipient's programs, services, and activities, regardless of funding source

DETAILED EXPLANATION FOR REVIEWER

Recipients are required to ensure that service provided under contract or other arrangement or relationship (including, but not limited to, an award, subaward, or cooperative agreement) adheres to the same Title VI requirements that apply to the recipient.

INDICATOR OF COMPLIANCE

- a. *How does the recipient monitor contractor compliance to ensure that they are complying with Title VI requirements?*
- b. *Does the recipient have procedures for addressing contractor non-compliance?*

INSTRUCTIONS FOR REVIEWER

Review sample transportation service contracts and other arrangements or relationships, agreements to provide supplemental transportation, and leases for Title VI requirements. Onsite, discuss Title VI policies and procedures with the recipient and review recipient's oversight files.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it does not ensure that contractors, entities with which the recipient has other arrangements or relationships, and lessees comply with Title VI requirements.

DEFICIENCY CODE TVI-10-1: Insufficient oversight of contracted service for Title VI requirements

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit procedures for ensuring that contractors, entities with which the recipient has other arrangements or relationships, and lessees comply with the Title VI service provisions.

SUGGESTED CORRECTIVE ACTION 2: The recipient must submit evidence of implementation of procedures for ensuring that contractors, entities with which the recipient has other arrangements or relationships, and lessees comply with the relevant Title VI requirements.

GOVERNING DIRECTIVE

FTA Circular 4702.1B Chapter III 2. Program Overview, 6. Applicability to Contractors

Contractors and subcontractors are responsible for complying with the Title VI Program of the recipient with whom they are contracting. Contractors are not required to prepare or submit Title VI Programs. Recipients are responsible for ensuring that contractors are following the Title VI Program and complying with Title VI.

FTA Master Agreement, Section 12

Recipients agree to comply, and assure the compliance of each subrecipient, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, 'Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act,' 49 CFR part 21.

49 CFR 21.5(b)(1)(vi) Discrimination Prohibited

A recipient...may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin

ISSUES/AREAS OF CONCERN FOR FTA AWARENESS

Did background research and/or onsite observations support any of the concerns below:

- Have any oversight reviews, audits, or investigations of the recipient conducted since the last Comprehensive Review (including Title VI Reviews and the most recent Comprehensive Review) identified significant deficiencies, material weaknesses, and/or repeat deficiencies in Title VI?
- Are any oversight reviews, audits, or investigations scheduled during this Federal fiscal year?
- Did the recipient experience difficulty resolving or closing any oversight review, investigation, or audit deficiencies related to Title VI?
- Are any Title VI deficiencies currently open?
- If a Title VI compliance review is scheduled for the current Federal fiscal year, what information prompted the review?
- Are any issues related to Title VI indicated in the Oversight Assessment Tool (OAT)?
- Did the recipient make revisions to its Title VI program submission as noted by FTA, but those revisions do not appear to meet the intent of the issues communicated to it by FTA?
- Did the recipient submit its Title VI program update late?
- Did the recipient transmit its Title VI Program or Program Update through a means that differed from uploading it to the Recipient Documents or Civil Rights Information section of TrAMS?
- Does it appear that the recipient developed an incomplete plan because it could be categorized as more than one type of recipient per the Title VI Circular?
- Have Title VI complaints been filed with FTA against the recipient?
- If the recipient is located in a UZA under 200,000 in population and operates 50 or more fixed-route vehicles in peak demand, does it provide any service into an area of 200,000 or more?

- For service reductions, does the recipient define its threshold for triggering service change equity analysis differently from that which triggers public comment under the Section 5307 Program Requirements for major service reduction?
- Is the current Title VI Program that the recipient is implementing the one that was approved by FTA?
- Does the recipient appear to have sufficient resources for effective implementation of its Title VI Program?
- Do the recipient's system-wide service standards for each fixed-route mode of service appear to be sufficient to avoid discriminatory service design or operational decisions?
- Any potential issues or concerns about the recipient's Title VI Program or its implementation not covered previously in this section?

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REFERENCES

1. 2 CFR Parts 200 and 1201, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
2. 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"
3. FTA Circular 4702.1B "Title VI Requirements and Guidelines for Federal Transit Administration Recipients"
4. Civil Rights Restoration Act of 1987

USEFUL WEBLINKS

1. FTA Title VI Page
2. FTA Civil Rights Training Materials
3. FTA Civil Rights Video Training Series
4. Title VI Frequently Asked Questions
5. US Census American FactFinder "Percent of Specific Language Speakers in the Region" (S1601)
6. Coronavirus Aid, Relief, and Economic Security Act
7. FTA's Frequently Asked Questions From FTA Grantees Regarding Coronavirus Disease 2019
8. Notice of Concurrence
9. Emergency Relief rule
10. Emergency Relief docket

Exhibit 11.1

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	States	Metropolitan Planning Organizations
General Requirements in Chapter III	Required	Required	Required	Required
Set system-wide standards and policies	Required	Required	Required if fixed route service provided	Required if MPO is a <i>direct recipient</i> and provides fixed route service
Collect and report data	Not required	Required: <ul style="list-style-type: none"> • Demographic and service profile maps and charts • Survey data regarding customer demographic and travel patterns 	Required of all States: <ul style="list-style-type: none"> • Demographic profile and maps of the State showing minority populations • Analysis charts of distribution impact of State and Federal transportation funds • Analysis of disparate impacts of funding distribution 	
			Required if fixed route service provided and meets the peak vehicle and UZA threshold: <ul style="list-style-type: none"> • Service profile maps and charts • Survey data regarding customer demographic and travel patterns 	

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	States	Metropolitan Planning Organizations
Evaluate service and fare equity changes	Not required	Required	Required if fixed route service provided and meets the peak vehicle and UZA threshold	Required if fixed route service provided and meets the peak vehicle and UZA threshold
Monitor transit service	Not required	Required	Required if fixed route service provided and meets the peak vehicle and UZA threshold	Required if fixed route service provided and meets the peak vehicle and UZA threshold
Planning	Not required	Not required	Required	Required
Subrecipients	Monitoring required, unless subrecipient is also a direct recipient	Monitoring required, unless subrecipient is also a direct recipient	Required: <ul style="list-style-type: none"> • Procedures to pass through funding in non-discriminatory manner • Procedures to provide assistance to potential subrecipients Monitoring required, unless subrecipient is also a direct recipient	Monitoring required, unless subrecipient is also a direct recipient Required if MPO is a <i>primary recipient</i> : <ul style="list-style-type: none"> • Procedures to pass through funding in non-discriminatory manner • Procedures to provide assistance to potential subrecipients
Program Administration	Not required	Not required	Required	Required

Exhibit 11.2

The chart below summarizes the required elements for contents of a Title VI Program based on recipient category.

Type of Transit Provider	Title VI Program Contents
Demand Responsive Transit Provider	<ul style="list-style-type: none">• A copy of the recipient's Title VI notice to the public• A copy of the recipient's instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form• A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient since the time of the last submission• A public participation plan (PPP) that includes an outreach plan to engage minority populations, as well as a summary of outreach efforts made since the last Title VI Program submission• For recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, the recipient must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils• Narrative or description of efforts the primary recipient uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI program submissions• If the recipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility
Fixed Route Transit Provider	<ul style="list-style-type: none">• All elements listed above for Demand Responsive Transit Providers• System-wide service standards, including vehicle load, vehicle headway, on time performance, and service availability for each mode• System-wide service policies, including transit amenities and vehicle assignment for each mode

Type of Transit Provider	Title VI Program Contents
<p>Fixed Route 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; or has been placed in this category at the discretion of the Director of Civil Rights in consultation with the FTA Administrator</p>	<ul style="list-style-type: none"> • All elements listed above for Fixed Route Transit Providers and Demand Responsive Transit Providers • A demographic analysis of the transit provider's service area. This shall include demographic maps and charts completed since submission of the last Title VI Program that contains demographic information and service profiles • Data regarding customer ridership demographics and travel patterns, collected from passenger surveys • Results of the monitoring program of service standards and policies and any action taken, including documentation (e.g., a resolution, copy of meeting minutes, or similar documentation) to verify the board's or governing entity or official(s)'s consideration, awareness, and approval of the monitoring results • A description of the public engagement process for setting the "major service change policy" and disparate impact policy • A copy of board meeting minutes or a resolution demonstrating the board's or governing entity or official(s)'s consideration, awareness, and approval of the major service change policy and disparate impact policy • Results of equity analyses for any major service changes and/or fare changes implemented since the last Title VI Program submission • A copy of board meeting minutes or a resolution demonstrating the board's or governing entity or official(s)'s consideration, awareness, and approval of the equity analysis for any service or fare changes required by the circular

Type of Transit Provider	Title VI Program Contents
States	<ul style="list-style-type: none"> • A copy of the recipient's Title VI notice to the public • A copy of the recipient's instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form • A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient since the time of the last submission • A public participation plan that includes an outreach plan to engage minority populations, as well as a summary of outreach efforts made since the last Title VI Program submission • For recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, the recipient must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils • Narrative or description of efforts the recipient uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI Program submissions • If the recipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility • A demographic profile of the state that includes identification of the locations of minority populations in the aggregate • Demographic maps that overlay the percent minority and non-minority populations as identified by Census or American Community Survey data at Census tract or block group level, and charts that analyze the impacts of the distribution of State and Federal funds in the aggregate for public transportation purposes, including Federal funds managed by the State as a designated recipient • An analysis of impacts identified in the demographic maps that identifies any disparate impacts on the basis of race, color, or national origin, and, if so, determines whether there is a substantial legitimate justification for the policy that resulted in the disparate impacts, and if there are alternatives that could be employed that would have a less discriminatory impact • A description of the statewide transportation planning process that identifies the transportation needs of minority populations • A description of the procedures the State uses to pass through FTA financial assistance to subrecipients in a nondiscriminatory manner • A description of the procedures the State uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations

Type of Transit Provider	Title VI Program Contents
MPO	<ul style="list-style-type: none"> • A copy of the recipient's Title VI notice to the public • A copy of the recipient's instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form • A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient since the time of the last submission • A public participation plan that includes an outreach plan to engage minority populations, as well as a summary of outreach efforts made since the last Title VI Program submission • For recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, the recipient must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils • Narrative or description of efforts the primary recipient uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI Program submissions • If the recipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility • A demographic profile of the metropolitan area that includes identification of the locations of minority populations in the aggregate • A description of the procedures by which the mobility needs of minority populations are identified and considered within the planning process • Demographic maps that overlay the percent minority and non-minority populations as identified by Census or ACS data, at Census tract or block group level, and charts that analyze the impacts of the distribution of State and Federal funds in the aggregate for public transportation purposes, including Federal funds managed by the MPO as a designated recipient • An analysis of impacts that identified any disparate impacts on the basis of race, color, or national origin, and, if so, determines whether there is a substantial legitimate justification for the policy that resulted in the disparate impacts, and if there are alternatives that could be employed that would have a less discriminatory impact • A description of the procedures the MPO uses to pass through FTA financial assistance to subrecipients in a nondiscriminatory manner • A description of the procedures the MPO uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations