

TITLE VI COMPLIANCE REVIEW
OF THE
METROPOLITAN TRANSIT AUTHORITY OF
HARRIS COUNTY
(METRO)
Houston, Texas

Final Report

July 2009

Prepared For

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
OFFICE OF CIVIL RIGHTS

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I. GENERAL INFORMATION

Grant Recipient: Metropolitan Transit Authority of Harris County
(METRO)

City/State: Houston, Texas

Grantee Number: 1547

Executive Official: Mr. Frank J. Wilson
President & Chief Executive Officer
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Site Visit Dates: February 10-13, 2009

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II. JURISDICTION AND AUTHORITIES

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct civil rights compliance reviews. The Metropolitan Transit Authority of Harris County (METRO) is a recipient of FTA funding assistance and is therefore subject to the Title VI compliance conditions associated with the use of these funds pursuant to the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d).
- Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.).
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).
- Department of Justice regulation, 28 CFR part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs” (December 1, 1976, unless otherwise noted).
- DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964” (June 18, 1970, unless otherwise noted).
- DOT Order 5610.2, “U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations,” (April 15, 1997).
- DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons, (December 14, 2005).
- FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines For Federal Transit Administration Recipients”, May 17, 2007.

III. PURPOSE AND OBJECTIVES

Purpose

The Federal Transit Administration (FTA) Office of Civil Rights periodically conducts discretionary reviews of grant recipients and subrecipients to determine whether they are honoring their commitments, as represented by certification, to comply with the requirements of 49 U.S.C. 5332. In keeping with its regulations and guidelines, FTA determined that a Compliance Review of METRO's Title VI Program was necessary. This Title VI Compliance Review was conducted concurrently with a Disadvantaged Business Enterprise (DBE) Compliance Review.

The Office of Civil Rights authorized The DMP Group to conduct the Title VI Compliance Review of METRO. The primary purpose of this Compliance Review was to determine the extent to which METRO has met its General Reporting and Program-Specific Requirements, in accordance with FTA Circular 4702.1A, "Title VI And Title VI-Dependent Guidelines For Federal Transit Administration Recipients". Members of the Compliance Review team also discussed with METRO the requirements of the DOT Guidance on Special Language Services to Limited English Proficient (LEP) Beneficiaries that is contained in Circular 4702.1A. The Compliance Review had a further purpose to provide technical assistance and to make recommendations regarding corrective actions, as deemed necessary and appropriate. The Compliance Review was not an investigation to determine the merit of any specific discrimination complaints filed against METRO.

Objectives

The objectives of FTA's Title VI Program, as set forth in FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," are:

- Ensure that the level and quality of transportation service is provided without regard to race, color, or national origin;
- Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;
- Promote the full and fair participation of all affected populations in transportation decision making;
- Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations;
- Ensure meaningful access to programs and activities by persons with limited English proficiency.

The objectives of Executive Order 13166 and the "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries" are for FTA grantees to take reasonable steps to ensure "meaningful" access to transit services and programs for limited English proficient (LEP) persons.

IV. BACKGROUND INFORMATION

The Metropolitan Transit Authority of Harris County (METRO) provides bus, light rail, HOV, carpool/van services and demand responsive public transportation service in the Harris County, Texas Region. The Texas State Legislature authorized the creation of local transit authorities in 1973 and METRO is a metropolitan transit authority established by voter referendum in 1978 under Article 1118X of the Texas State statutes. Its enabling legislation has been recodified as Chapter 451 of the Texas Transportation Code. Houston area voters also approved a one-cent sales tax to support its operations. METRO opened for business in January 1979.

METRO has a nine-member Board of Directors. Five are nominated by the Mayor of Houston and confirmed by the Houston City Council. Two are appointed by the Mayors of METRO's 14 other member Cities. Two are nominated by the Harris County Judge and confirmed by the County Commissioners.

METRO is one of the nation's largest public transportation systems, serving a 1,268 square mile area that includes most of Harris County, (including the Houston Metropolitan area) and parts of Fort Bend, Montgomery and Waller Counties. Based on data from the 2000 Census, the estimated population of the METRO service area was 3,369,553. Communities that are part of the METRO service area include the Cities of Houston, Bunker Hill Village, El Lago, Hedwig Village, Hilshire Village, Humble, Hunters Creek, Katy, Missouri City, Piney Point, Southside Place, Spring Valley, Taylor Lake Village and West

University Place. Major portions of unincorporated Harris County are also included.

METRO operates a fleet of 1,211 buses for fixed route service. Its bus fleet consists of standard 29- and 40-foot transit coaches, 60-foot articulated coaches, and 45-foot over-the-road coaches.

METRO directly operates its light rail line. The METRORail Red Line is a 7.5-mile light rail service running from the University of Houston-Downtown to south of Reliant Park along Main, Fannin, and San Jacinto streets. METRORail operates along 16 rail stations that provide access to many of the City's major employment, cultural/entertainment, education, and medical centers. Major METRORail destinations include Downtown, Midtown, the Museum District, Hermann Park/Houston Zoo, the Texas Medical Center, and Reliant Park.

The ADA complementary paratransit service operates from 5:00 a.m. to 11:00 p.m. on weekdays, 7:00 a.m. to midnight on Saturday, and 7:00 a.m. to 11:00 p.m. on Sunday. During the hours when METROLift does not operate but the fixed route service is operating, persons with disabilities can use a taxi-subsidy program, funded by METRO, known as the METROLift Subsidy Program (MSP).

During this Compliance Review, METRO operated from its Administration building at 1900 Main Street in downtown Houston. Bus service was operated from six operations and maintenance facilities and one mid-day storage lot, Buffalo Bayou. The Buffalo Bayou facility was also the location for the

METRO Police Department. The METRORail service operated from the Rail Operations Center south of downtown. Other administrative and support facilities included a Central Stores Warehouse, the Field Service Center that housed facilities maintenance and support vehicle maintenance, and the Houston TranStar location, which was a multi-agency traffic and emergency management center and the central control center for METRO transit movement. Bus service operations had 16 Transit Centers located throughout the service area. METRO also operated 24 park-and-ride lots for bus and rail service and one park & pool facility with a total of 20,000 parking spaces.

In November 2003, voters approved a comprehensive transit system plan known as METRO *Solutions* to address the Houston region's traffic congestion and air quality problems. The plan called for major multimodal transit improvements across the region and extends, through the year 2014, the General Mobility Program, which sets aside one-quarter of METRO's one cent sales tax revenue for mobility projects in Harris County, the City of Houston and the Multi-Cities. In addition, voters granted METRO the authority to issue up to \$640 million in bonds to fund the next phase of projects.

In June 2005, METRO announced its \$2 billion Phase 2 Implementation Plan to provide more rapid transit for the Houston region in less time than originally proposed under METRO *Solutions*. Key components of the Implementation Plan include:

- **Nearly 30 miles of Light Rail Transit** - In the North, East End, Southeast, Uptown and University Corridors;
- **28 Miles of Commuter Rail Transit (CRT)** - along U.S. 290 from Cypress Park & Ride to Intermodal Facility and along U.S. 90A from Missouri City to Fannin South Park & Ride/Rail Station;

- **40 Miles of Signature Bus Service/Suburban Bus Rapid Transit** - Southeast Transit Center to Texas Medical Center, Uptown to U.S. 90A CRT line, and Gessner and Texas 249/Tidwell;
- **10 New Transit Facilities** - Intermodal Facilities serving different transit modes (Commuter Rail, Light Rail, buses, etc.), Transit Centers and Park & Ride lots; and
- **HOV/HOT Conversion** - modify one-way, reversible High Occupancy Vehicle (HOV) lanes to two-way High Occupancy Toll (HOT) lanes.

The demographics of the METRO service area are shown in Table 1. According to the 2000 Census, the area had a predominance of White residents at 41.3 percent, persons of Hispanic or Latino origin at 31.6 percent, a Black population at 19.6 percent, and an Asian population at 5.7 percent. Twenty-one percent of the population was Limited English Proficient and 14.3 percent of the population was considered low-income.

Table 1 – Demographics of the METRO Service Area

**Racial/ Ethnic Breakdown of the
METRO Service Area**

Source: 2000 U.S. Census

Racial/ Ethnic Group	METRO Service Area Number	METRO Service Area Percent
White	1,390,288	41.3%
Black	660,084	19.6%
American Indian and Alaska Native	7,712	0.2%
Asian	193,503	5.7%
Hawaiian/Pacific Islander	1,131	0.0%
Other Race	53,116	1.6%
Hispanic Origin ¹	1,063,719	31.6%
Total Population	3,369,553	100.00%

Other Demographic Categories	Number	Percent
Low-Income	477,876	14.3%
Limited English Proficiency ²	739,126	21.0%

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

² This represents the LEP population of Harris County, not the METRO service area. At the time of the Compliance Review, METRO had not calculated the LEP population in its service area.

V. SCOPE AND METHODOLOGY

Scope

The Title VI Compliance Review of METRO examined the following requirements as specified in FTA Circular 4702.1A:

1. General Reporting Requirements - all applicants, recipients and subrecipients shall maintain and submit the following:
 - a. Annual Title VI Certification and Assurance;
 - b. Title VI Complaint Procedures;
 - c. Record of Title VI Investigations, Complaints, and Lawsuits;
 - d. Language Access to LEP Persons;
 - e. Notice to Beneficiaries of Protection under Title VI;
 - f. Submit Title VI Program;
 - g. Environmental Justice Analysis of Construction Projects; and
 - h. Inclusive Public Participation.

2. Program-Specific Requirements - all applicants, recipients and subrecipients that provide public mass transit service in areas with populations over 200,000 shall also submit the following:
 - a. Demographic Data;
 - b. Systemwide Service Standards and Policies;
 - c. Evaluation of Service and Fare Changes; and
 - d. Monitoring Transit Service.

Methodology

Initial interviews were conducted with the FTA Headquarters Civil Rights staff and the FTA Region VI Civil Rights Officer to discuss specific Title VI issues and concerns regarding METRO. The Title VI Compliance Review was conducted concurrently with a Disadvantaged Business Enterprise (DBE) Compliance Review. A joint agenda letter, covering both Reviews, was sent to METRO advising it of the site visit and indicating additional information that would be needed and issues that would be discussed. The Title VI Review team focused on the compliance areas that are contained in FTA Title VI Circular 4702.1A that became effective on May 13, 2007. These compliance areas are: (1) General Reporting Requirements; and (2) Program-Specific Requirements for public transit providers. The General Reporting Requirements now include implementation of the Environmental Justice (EJ) and Limited English Proficiency (LEP) Executive Orders.

METRO was requested to provide Updates of Title VI Reporting Requirements of FTA Circular 4702.1A since its most recent Title VI submittal:

- METRO's most recent Title VI Update that was submitted to FTA.
- Description of METRO's service area, including general population and other demographic information using the most recent Census data.
- Current description of METRO's fixed route bus service, contracted bus service, complementary ADA paratransit service, bus rapid transit service

and rail service, including system maps, public timetables, transit service brochures, etc.

- Roster of current METRO revenue fleet for rail, bus, and paratransit to include acquisition date, fuel type, seating configurations and other amenities.
- Description of transit amenities maintained by METRO at rail stations, BRT stations, bus transfer centers and bus stops. Amenities include shelters, benches, restrooms, telephones, passenger information systems, etc.
- Any studies or surveys conducted by METRO, its consultants or other interested parties (colleges or universities, community groups, etc.) regarding ridership, service levels and amenities, passenger satisfaction, passenger demographics or fare issues during the past three years.
- Summary of METRO's efforts to seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities.
- A copy of METRO's plan for providing language assistance for persons with Limited English Proficiency that is based on the USDOT LEP Guidance.

- METRO's procedures for investigating and tracking Title VI complaints and documentation that the procedures for filing complaints are available to members of the public upon request.
- A list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming METRO that allege discrimination on the basis of race, color, or national origin during the past three years. This list must include the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by METRO in response to the investigation, lawsuit, or complaint.
- Description of efforts made by METRO to apprise members of the public of the protections against discrimination afforded to them by Title VI.
- Copies of any environmental justice assessments conducted for construction projects during the past three years and, if needed, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities.
- A copy of METRO's demographic analysis of its beneficiaries. This can include either demographic maps and charts prepared or a copy of any customer surveys conducted since the last Title VI submittal that contain demographic information on ridership, or METRO's locally developed demographic analysis of its customer's travel patterns.

- Quantitative system-wide service standards and qualitative system-wide service policies adopted by METRO to guard against discriminatory service design or operations decisions.
- Documentation of METRO's methodology for evaluating significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. (Note: per Circular 4702.1A Chapter V part 4, this requirement applies to "major service changes" only and METRO should have established guidelines or thresholds for what it considers a "major" service change to be.) If METRO has made significant service changes or increased fares in the past three years or is currently planning such changes, provide documentation of METRO's Title VI evaluations of the service or fare changes.
- Documentation of periodic service monitoring activities undertaken by METRO, during the past three years, to compare the level and quality of service provided to predominantly minority and low-income areas with service provided in other areas to ensure that the end result of policies and decision-making is equitable service. If METRO's monitoring determined that prior decisions have resulted in disparate impacts, documentation of corrective action taken to remedy the disparities.

METRO assembled most of the documents prior to the site visit and provided them to the Compliance Review team for advance review. A detailed schedule for the four-day site visit was developed.

The site visit to METRO occurred February 10-13. The individuals participating in the Review are listed in Section VIII of this report. As previously mentioned, this Title VI Compliance Review was conducted concurrently with a DBE Compliance Review. A joint Title VI/DBE Entrance Conference was conducted at the beginning of the Compliance Reviews with METRO senior management staff, EEO Specialists from FTA's Office of Civil Rights, and the contractor Review teams. The Review teams showed the participants a U.S. Justice Department Title VI film during the Entrance Conference. Also, during the Entrance Conference, the Review team explained the goals of the Reviews and the needed cooperation of staff members. A detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the Compliance Review teams separated and the Title VI Compliance Review team met with METRO staff responsible for Title VI Compliance. During this meeting, discussions focused on recent changes to FTA requirements for Title VI, a detailed examination of documents submitted in advance of the site visit and documents provided at the site visit by the METRO. At the site visit, METRO provided a January 2009 Supplement to its 2008 Title VI Report to FTA to address the requirements of FTA C. 4702.1A, issued in May 2007. The new requirements contained in that Circular were not included in the initial 2008 Title VI Report. The Review Team examined those documents during and after the site visit.

Community Interviews

Nine community representatives were interviewed. The individuals were representatives of the Chinese, African American and Hispanic communities in the METRO service area. Most of the representatives indicated that METRO had made their communities aware of services changes and construction projects. They acknowledged that METRO had advertised in their communities regarding these service changes, as well as provided information regarding the rail corridor projects through newspaper (both major and community), flyers, internet, and radio. METRO's outreach efforts through their community METRO *Solutions* offices, community colleges and neighborhood meetings were commended. It should also be noted that most representatives believed they had adequate input regarding the notice and the placement of the new rail lines in their communities. The introduction of light rail was positively received (especially in the Hispanic community). The primary concerns were METRO's assurance to protect and assist the local businesses once construction begins. There appeared to be a lingering concern about whether METRO will follow through on assurances provided during the negotiations of the new transit lines. There was overwhelming concern regarding whether METRO would follow through on its statements to ensure that there will be access to the businesses and promised signage on the construction routes. This issue was of particular concern in the African American communities. While METRO had provided assurances, it was noted that nothing in writing had been presented to these businesses to confirm that firm plans have been put in place. According to the representatives, METRO provided adequate notice of the fare change, however, there were numerous comments regarding whether the fare

change and, in particular, if the “transfer change policy” was equitable. The reduced time period in which to use the transfer created many comments regarding the fairness of the policy.

Overall, the representatives believed that the bus service and amenities provided to minority communities were comparable to the services provide to the non-minority communities. There were several concerns, however. Some representatives did not believe maintenance of bus shelters in minority communities was as frequent as in the non-minority communities. They mentioned that lights in the shelters sometimes remained in disrepair for extended time periods. They suggested placing notices on the shelters to enable the public to be able to advise METRO if repairs are required. A serious and current concern in the Hispanic neighbors involved the placement of some bus stops and shelter at or near neighborhood bars (cantinas). It was noted that some of the bus stops had been established prior to the opening of the cantinas, but there were particular concerns for the safety and welfare of women and children, especially at these bus stops. There were also complaints that drivers were not stopping for some riders in the minority neighborhoods. It was determined that many of these complaints were being lodged with the METRO *Solutions* offices and were not being reported to METRO’s Human Resources and Diversity department.

The Review team discovered that while the Asian community received some of the notices and information, they believed they received less than the African American and Hispanic communities, and, overall, believed that METRO was less responsive to their needs. According to the 2000 Census, Asians represent

nearly six percent of the service area population. The representative of the Chinese community stated that Asians in the Houston area believed METRO viewed them as one homogenous group when they are, in fact, comprised of several different and distinct groups, including Chinese, Vietnamese and Korean. The following were the comments/concerns represented by this segment of the population:

- The Asian communities were located in different parts of the city and were diverse.
- Each group had its own language and ridership. While many used park and ride service, many others would ride the bus if it were more responsive to their community and convenient.
- Advertising in one language does not reach all the different Asian communities. The schedules, advertisements and notices were not in the native languages and, if it were, it was often in one and not the other. Further, the interpreted language was not always correct.
- Asians did not believe that METRO fully understands their communities' needs. An example provided was that there were no bus routes within Chinese community. There were two bus routes (routes 2 and 132) on the main highways in the community but not within the community itself, according to several Chinese representatives. A representative at the Chinese Community Center indicated there were no bus stops at or near its Center. It was believed that many of its current participants (ages 8 to 84 according to the representative) would use the buses if service was provided to the Center as well as other major Centers in the community.
- Service was provided during rush hours in the morning and evening but was very limited between those times periods.

In summary, the Asian community did not believe that the current schedules, advertisements, notices and different cultural contacts from METRO were responsive to their needs.

Staff Interviews

The Review team independently selected three staff members to interview. The staff members were not involved in the development of the METRO's Title VI Program, but do have day-to-day contact with the public. The general consensus among the staff was that there was little to no awareness of METRO's Title VI Program.

One staff member was aware of the Title VI requirements, but none knew that there was a person or department where Title VI complaints should be directed. This was particularly apparent during the METRO *Solutions* offices tours. There, the Review team learned that the office staff was receiving and lodging discrimination complaints but had no knowledge that those complaints should have been directed to METRO's Human Resources and Diversity staff. None knew that the Diversity office was responsible ensuring that Title VI notices should be placed in conspicuous places on buses, rails and METRO public areas and METRO's other requirements regarding Title VI to ensure that METRO provided equitable services to all communities without discrimination on the basis of race, color, and national origin.

Site Visit Observations

Arrangements were made for a tour of the following comparable METRO bus routes serving minority and non-minority and low-income communities. During the tour, observations were recorded regarding the equipment assigned to the routes, the passenger loads and amenities along the route, such as benches, shelters and trash cans. It was noted that ridership along the minority routes was higher than that found along the non-minority routes. As shown below, the number of amenities was also higher to accommodate the ridership.

<u>Minority Routes</u>	<u>Amenities</u>	<u>Non-Minority Routes</u>	<u>Amenities</u>
#3 – Langley (not including CBD)	37 shelters 8 benches 37 trash cans	#3 – West Gray	14 shelters 7 benches 14 trash cans
#42 – Holman Crosstown	37 shelters 13 benches 48 trash cans	#18 – Kirby Crosstown	10 shelters 5 benches 13 trash cans

During the site visit, the review team also toured the North and South Corridors of METRO’s planned new light rail service. The North Corridor tour began at the University of Houston’s downtown campus and concluded at the Northline Mall and Houston Community College. The Hispanic community was the predominant community living along the North Corridor. African American and whites also lived along the line. Low and middle-income households were most prominent this area. The proposed rail line was strongly supported in the neighborhood and was anxiously awaited. The tour also included North Corridor’s METRO *Solutions* office where the Review team learned how the office interacted with the community and how the community had provided its

cultural input to the line, especially with regard to the proposed stations' artwork and design.

The South Corridor tour began in downtown Houston at the intersections of Capital and Rusk Streets and concluded just south of the Palm Center on Martin Luther King near Griggs Street. The South Corridor included Hispanic, African Americans and White neighborhoods. It also included all income levels. The Review team visited the Southeast METRO *Solutions* office where again the community has access to information regarding the line. The Review team also visited the Latin Cultural Center, where a METRO community meeting was occurring to address community concerns and obtain community input.

VI. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on Houston METRO's compliance with the General Reporting Requirements and the Program-Specific Requirements. This section describes the requirements and findings at the time of the Compliance Review site visit. In summary, deficiencies were identified in eight of the twelve Title VI requirements. Following the site visit and the issuance of the Draft Report, METRO documented corrective action adequate to close six of the deficiencies. At the time of the issuance of this Final Report, deficiencies remain in the following two areas:

- Language Access to LEP Persons
- Evaluation of Service and Fare Changes

An Advisory Comment was made in one area, Record of Title VI Complaints, Investigations and Lawsuits.

FTA acknowledges that METRO has made substantial progress toward meeting the requirements associated with Title VI. FTA expects METRO to integrate Title VI considerations in its daily practices and prior to the implementation of changes in service and fares. As described in this section, METRO still has remaining deficiencies and must place a priority on coming into full compliance within 90 days of the issuance of this Final Compliance Review Report.

FINDINGS OF THE GENERAL REPORTING REQUIREMENTS

1. Inclusive Public Participation

Guidance: *FTA recipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.*

Finding: During this Title VI Compliance Review of METRO, no deficiencies were found regarding METRO's compliance with FTA guidance for Inclusive Public Participation. METRO presented sufficient documentation to demonstrate that its public participation satisfied the requirements of the Circular. In addition to broad-based public participation at Board meetings, public hearings, and through its Public Comment System, METRO had a Community Outreach division within the Communications & Marketing department that seeks out and considers the views of residents, including minority, low-income and LEP populations in a number of ways.

METRO's Community Outreach division participated in the following types of local organizations:

- Civic Clubs/Neighborhood Organizations
- Task Forces
- Speakers Bureau
- Management Districts, Associations and Redevelopment Authorities
- Technical Associations
- Business Organizations
- Community Events

- Information Booths

METRO also provided a list of 576 meetings it held with community groups, for general information sharing, during the period between July 2007 and December 2008. METRO provided a separate listing of over 350 meetings, during this same period, with community groups to obtain input on the capital projects included in the METRO *Solutions* program. These projects include light rail and enhanced bus services. Both of the listings identified the number of persons in attendance and an estimate of the number of minority, elderly persons with disabilities in attendance.

2. Language Access to LEP Persons

Requirement: *FTA recipients shall take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of its programs and activities for individuals who are Limited English Proficient (LEP).*

Finding: During this Title VI Compliance Review of METRO, deficiencies were found regarding METRO's compliance with FTA requirements for Language Access to LEP persons.

During the site visit, METRO provided a document, dated January 2009, entitled *Language Access Plan*, using the format provided in the *DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons*, (December 14, 2005). The analysis was based only on 2000 Census data and concluded that approximately 21 percent of the Harris County population spoke

English less than “very well”. Eighty-six percent of the LEP population, or 18.1 percent of the total population, spoke Spanish. The next largest LEP community was Vietnamese, representing one percent of the population. METRO had collected aggregate information on the LEP student population in the local school district, however, METRO had not identified the proportion of LEP students in the schools or determined areas of high concentration of LEP students. METRO had not determined the frequency of contact of LEP persons with METRO services other than the use of the Spanish option with the METRO customer information center and the use of the Spanish translator on its website. Less than five percent of these encounters were in Spanish. METRO’s staff realized that a much larger percent of its riders speak Spanish either exclusively or as their preferred language, but METRO had not been able to quantify the frequency of encounter. METRO did identify 84 of its bus routes that served LEP areas.

METRO had published informational brochures, schedules and many other materials in Spanish; however, METRO did not have a standard operating procedure for serving LEP customers.

A review of METRO’s January 2009 Language Assistance Plan (LAP) against the *DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons*, (December 14, 2005), identified the following shortcomings.

Elements Required for LEP Assessment and Language Access Plan (Per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)	Included in METRO’s January 2009 LAP?
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Part A – Four-Factor Assessment	
1. Demography –The number or proportion of LEP persons eligible to be served or likely to be encountered	No ³
2. Frequency of Contact - the frequency with which LEP individuals come in contact with the program and/or activities	No
3. Importance - the nature and importance of the program, activity, or service to people's lives;	No
4. Resources - the resources available and costs	No
Part B - Develop Language Assistance Plan	
1. Identification of LEP Persons	No
2. Language Assistance Measures	No ⁴
3. Training of Staff	No
4. Provide Notice to LEP Persons	No
5. Monitor and Update the LAP	No

METRO’s Language Assistance Plan was a good first step toward meeting DOT requirements, but METRO recognized that it had more work to go to refine the plan and establish a timetable for full implementation. In December 2008, METRO formed a Collaborative Multilingual Task Force to identify ways that METRO can better communicate with the public it serves. During this Compliance Review, the Review team provided technical assistance to members of the Task Force on refinements to the Language Assistance Plan. These included:

- Disaggregating LEP data from the local school districts to better identify current concentrations of LEP students/populations in the service area
- Developing a more accurate assessment of the frequency with which LEP individuals come in contact with METRO. Data from the 2007 Rider Survey (which was offered in both English and Spanish versions) should be used, as should anecdotal estimates from operations supervisors and planners on the percentage of Hispanic riders on buses and trains.

³ Plan covers Harris County; not the METRO service area

⁴ Plan identifies current METRO efforts; not a description of efforts to eliminate barriers faced by LEP persons

METRO should consider adding an LEP question on its next rider survey, if an estimate cannot be otherwise made.

- Meet with community groups that serve LEP populations to determine if barriers exist that prevent meaningful access to METRO's services. If so, work with the community groups to determine the needs and preferences for language assistance.
- Develop a standard operating procedure and schedule training for first-line employees to use when encountering LEP persons. This would include bus and rail operators, supervisors, customer service and revenue department staff that operate fare sales locations.
- Identify "vital" documents to be translated and notify the printing office to ensure consistency.

Following the issuance of the Draft Report, METRO provided documentation that it had made progress to better identify the number and percentage of LEP persons in the service area and the frequency of encounters by LEP persons with METRO services. METRO obtained and analyzed current LEP data from several of the Independent School Districts in the METRO service area and analyzed the results of its most recent passenger survey which was issued in two versions, English and Spanish. As described below, METRO remains deficient with this requirement, as it has not yet developed a Language Access Plan for LEP persons. METRO noted that it is continuing work on the other activities associated with developing a Language Access Plan.

Corrective Actions and Schedule: Within 90 days, METRO must submit to the FTA Headquarters Office of Civil Rights a copy of its Language Assistance Plan

that meets with the requirement to provide meaningful access to Limited English Proficient (LEP) persons.

3. Title VI Complaint Procedures

Requirement: *FTA 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 upon request.*

Finding: During the site visit of the Title VI Compliance Review of METRO, deficiencies were found regarding METRO's compliance with FTA requirements for Title VI Complaint Procedures. At the time of the site visit, METRO did not have a procedure for filing Title VI complaints that was available to members of the public. In its January 2009 Supplement to its 2008 Title VI Report to the FTA, METRO developed draft procedures on how to file a Title VI complaint. The procedures stated that the person had 180 days from the date of the alleged discrimination to file a written complaint. The procedures also included information on how to file a complaint with FTA. According to the procedures, once METRO received a Title VI complaint, it would assign an investigator and use its best efforts to respond to the complaint within 90 calendar days.

Following the site visit, METRO submitted a final Title VI complaint procedure, notifying the public of how to file a Title VI complaint. Additionally, METRO stated that it had added a link on its website, www.ridemetro.org and that the Title VI Policy, complaint procedure and complaint form had been distributed to all METRO facilities, including the following corridor offices:

- East End
- Southeast
- North

METRO provided documentation that on April 3, 2009, it had provided copies of the Title VI complaint procedures to personnel at its facilities, including the corridor offices.

The Review team confirmed that METRO's website did contain a link, under the tab entitled "About Us" that fully describes the Title VI complaint procedure. The deficiency in this area is now closed.

4. Record of Title VI Investigations, Complaints, and Lawsuits

Requirement: *FTA recipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipients that allege discrimination on the basis of race, color, or national origin. This list shall include the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response to the investigation, lawsuit, or complaint.*

Finding: During this Title VI Compliance Review of METRO, deficiencies were found regarding METRO's compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. In its 2008 Title VI Report to FTA, METRO reported that it had no current Title VI investigations, lawsuits or complaints filed against them that allege discrimination on the basis of race, color, or national origin. In its January 2009 Supplement to the 2008 Title VI Report, METRO disclosed that FTA had received five Title VI complaints in May 2008 (DOT Complaint #s 2008-0152, 2008-0169, 2008-

0170, 2008-0154, and 2008-0171). These complaints alleged that METRO's actions have had adverse impacts on minority and low-income communities, inadequate public involvement, and that METRO had proposed and implemented service and fare changes that disproportionately affected minority and low-income populations. The complaints were still open at the time of the Compliance Review.

At the time of the site visit, METRO had a mechanism for receiving, investigating and tracking Title VI complaints received through its Oracle-based Public Comment System. This system captured complaints received via telephone, the METRO website, from walk-in customers, and written complaints received via mail. All incidents were coded in the system based on categories. A Business Analyst in the Customer Service Department coded complaints and had been trained to identify Title VI complaints. Those complaints were to be forwarded to the Manager of EEO/OD, who was to ensure that the responsible parties took appropriate action. At the time of the Compliance Review, METRO did not have a listing or summary or analysis of Title VI complaints available. METRO did not submit to FTA in either its 2008 Title VI Report to the FTA or in the January 2009 Supplement, a listing of Title VI complaints received through its Public Comment System.

Following the site visit, METRO compiled the complaint records for every complaint received through its Public Comment System that alleged discrimination for the period August 2007 to February 2009. The listing contained the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or

complaint; and actions taken by METRO in response to the investigation, lawsuit, or complaint. These are the items required by FTA C 4702.1A, IV, 3. The list did not provide a summary of the number of complaints or the general nature of the complaints or any actions taken by METRO to train employees on working with a diverse public.

The Review team examined every single complaint described in the 63-page document. A review of the complaints revealed that a total of 84 complaints were categorized as Title VI during the 17-month period. Five of these complaints actually described a disability complaint that is not protected under Title VI. Most of the complaints alleged that a bus operator had treated passengers rudely or passed up passengers because of their race or ethnicity. Additionally, of the 84 complaints, all of them were investigated by operations and most of them stated “No Action Required by Human Resources and Diversity”. There was no documentation that Human Resources and Diversity had investigated any of the complaints.

Advisory Comment: METRO is advised to follow its recently developed and published complaint procedures and investigate all complaints categorized as racial or ethnic discrimination. The Human Resources and Diversity office should also analyze the complaints and determine if staff training is needed to change operator behavior toward passengers.

5. **Notice to Beneficiaries of Protection Under Title VI**

Requirement: *FTA recipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections*

against discrimination afforded to them by Title VI. Recipients shall disseminate this information to the public through measures that can include but shall not be limited to a posting on its Web site.

Finding: During this Title VI Compliance Review of METRO, deficiencies were found regarding METRO’s compliance with FTA requirements for Notice to Beneficiaries of Protection under Title VI. At the time of the Compliance Review site visit, METRO did not have an adopted Title VI Policy statement. METRO included in its January 2009 Supplement to its 2008 Title VI Report to the FTA a draft Title VI Policy Statement. METRO’s Draft Title VI Policy Statement included two of the three required elements, as shown on the following table:

Elements Required in Title VI Notification (Per FTA Circular 4702.1A Chapter IV Section 5.a)	Included in METRO Draft Policy?
A statement that the agency operates programs without regard to race, color, and national origin	Yes
A description of the procedures that members of the public should follow in order to request additional information on the recipient’s nondiscrimination obligations	Yes
A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient.	No

At the time of the Compliance Review, this Policy had not been disseminated to the public. The Policy was not posted on METRO’s website and was available in draft form only. METRO stated that it intended to notify the public of their rights through methods such as placing information such as posters and/or flyers on its buses and rail cars as well as at its METRO *Solutions* corridor offices and other facilities. METRO also stated that it intended to add a link on its website

homepage, www.ridemetro.org, that outlined its policies and protections regarding Title VI. METRO stated that it anticipated having this information disseminated by the end of March 2009.

Following the site visit, METRO submitted a final Title VI Policy. The Policy was not changed to address the missing requirement, as previously noted. The Policy itself, as shown below (pasted directly from METRO's website) did not contain a description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient.

**Title VI Policy Statement
Metropolitan Transit Authority of Harris County, Texas**

The Metropolitan Transit Authority of Harris County, Texas (METRO) 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.

Toward this end, it is METRO's objective to

- Ensure that the level and quality of transportation service is provided without regard to race, color or national origin;
- Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;
- Promote the full and fair participation of all affected populations in transportation decision making;
- Prevent the denial, reduction or delay in benefits related to programs and activities that benefit minority populations or low-income populations; and
- Ensure meaningful access to programs and activities by persons with limited English proficiency (LEP).

The President/CEO, management, and all employees share the responsibility for carrying out METRO's commitment to Title VI. The Title VI staff is responsible for the day-to-day operation of the program and receives and investigates Title VI complaints that come through the complaint procedures process.

For additional information on METRO's nondiscrimination obligations, please contact:

*Metropolitan Transit Authority of Harris County, Texas
Office of Compliance (Human Resources)
1900 Main Street
P.O. Box 61429
Houston, Texas 77208-1429*

*phone: 713-652-8658
e-mail: TitleVI@ridemetro.org*

As mentioned previously (see Requirement #3 in this Section), following the site visit METRO disseminated the Policy through a link on its website, www.ridemetro.org (under the tab “About Us” on the home page). METRO also provided documentation that the Title VI Policy, complaint procedure and complaint form had been distributed to all METRO facilities, including the following corridor offices:

- East End
- Southeast
- North

The Review team confirmed that METRO’s website did contain a link that fully contained the Title VI Policy and complaint procedure. While the link contained both the Policy and the complaint procedure, the Policy must be able to stand alone as a notification to beneficiaries. If the Policy were the item sent to the facilities or was the document to be posted on shelters and at park and ride facilities, it would not notify the public of the procedure that members of the public should follow in order to file a discrimination complaint against the recipient. Additionally, the Review team was not provided any documentation of the distribution of the Policy to METRO facilities. The Review team could

not determine if the Policy was posted in places (other than in the corridor offices) where the public could view the Policy.

Following the issuance of the Draft Report, on May 13, 2009, METRO submitted:

- A corrected Title VI Policy statement that notifies the public of the procedures members of the public should follow in order to file a discrimination complaint against METRO.
- Documentation of the Policy dissemination in places other than the METRO website.

The deficiencies in this area are now closed.

6. Annual Title VI Certification and Assurance

Requirement: *FTA recipients shall submit its annual Title VI certification and assurance as part of its Annual Certifications and Assurances submission to FTA (in the FTA web based Transportation Electronic Award Management (TEAM) grants management system.*

Findings: During this Title VI Compliance Review of METRO, no deficiencies were found regarding METRO's compliance with FTA requirements for Annual Title VI Certification and Assurance. The FTA Civil Rights Assurance is incorporated in the Annual Certifications and Assurances submitted annually to FTA through the Transportation Electronic Award and Management (TEAM) system. METRO executed its FY 2009 Annual Certifications and Assurances in TEAM on January 5, 2009; however, METRO checked as not applicable, 01. Certifications and Assurances required of all applicants. This is the category

where the nondiscrimination assurance is located. METRO provided a “hard copy” of the fully executed FY 2009 FTA Certifications and Assurances that did check category 01 as applicable. It should also be noted that METRO corrected the Certification in TEAM on February 16, 2009.

7. Environmental Justice Analysis of Construction Projects

Guidance: *FTA recipients should integrate an environmental justice analysis into its National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required.). In preparing documentation for a categorical exclusion (CE), recipients can meet this requirement by completing and submitting FTA’s standard CE checklist, which includes a section on community disruption and environmental justice.*

Findings: During this Title VI Compliance Review of METRO, deficiencies were found regarding METRO’s compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. METRO conducted EJ Analyses for every federally funded capital project for which FTA requires an Environmental Assessment or Environmental Impact Statement. Prior to the Compliance Review, FTA Civil Rights staff worked with METRO to enhance its EJ analyses. During the Compliance Review, the EJ portion of the Environmental Impact Statements (EIS) for the following FTA-funded projects was reviewed:

- Southeast Corridor Light Rail – Supplemental Final Environmental Impact Statement, April 2008
- University Corridor Light Rail –Final Environmental Impact Statement, October 2008

- North Corridor Light Rail – Supplemental Final Environmental Impact Statement, April 2008

It was found that in these final documents, METRO generally followed FTA guidance for EJ analyses of construction projects, as shown below:

Elements Required for EJ Analysis (Per FTA C. 4702.1A, IV, 8. a-f)	Included in EIS for:		
	Southeast Corridor	University Corridor	North Corridor
A description of the low-income and minority population within the study area affected by the project	Yes	Yes	Yes
A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population	Yes	Yes	Yes
A discussion of all positive effects that would affect the identified minority and low-income population	Yes	Yes	Yes
A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects	Yes	Yes	Yes
A discussion of the remaining effects, if any, and why further mitigation is not proposed	Yes	Yes	Yes
For projects that traverse predominantly minority and low-income and predominantly non-minority and non-low-income areas, a comparison of mitigation and environmental enhancement actions that affect both areas.	Not Applicable	No	Not Applicable

One of the corridors, University, traverses both minority and non-minority and low-income and non low-income communities. The EIS for the University Corridor did not include the required comparison. At the time of the site visit, METRO was making final revisions to the FEIS and agreed to add this required element.

Following the site visit, METRO provided a new section to the University Corridor Supplemental Final EIS, dated 3/12/2009 that contained the comparison of mitigation and environmental enhancement actions that affected

both minority and/or low-income tracts and non-minority and non-low income tracts. It was interesting to note that the mitigation measures were *exactly* the same for each group. The deficiency in this area is now closed.

8. Submit Title VI Program.

Requirement: *FTA recipients serving large urbanized areas are required to document their compliance with the general reporting requirements by submitting a Title VI Program to FTA's Regional Civil Rights Officer once every three years.*

Findings: During this Title VI Compliance Review of METRO, no deficiencies were found regarding METRO's compliance with FTA requirements to Submit Title VI Program. METRO submitted its most recent Title VI Report to FTA in 2008. The Report, however, was not prepared in accordance with the current guidance, FTA Circular 4702.1A, dated May 13, 2007. METRO issued a January 2009 Supplement to its 2008 Title VI Report that addressed all of the required elements. This Compliance Review identified a number of missing or incomplete documents in the Title VI submittal. These items will be addressed through the submittal of corrective actions for areas found to be deficient.

9. Demographic Data

Requirement: *FTA recipients serving large urbanized areas shall collect and analyze racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.*

Findings: During this Title VI Compliance Review of METRO, no deficiencies were found regarding METRO's compliance with FTA requirements for

Demographic Data. Using the options presented in FTA C. 4702.1A, V, 1.a., METRO selected Option A: Demographic and Service Profile Maps and Charts.

This Option requires the following items:

Elements Required for Demographic Data (Per FTA C. 4702.1A, V, 1. a.)	Included in METRO's Title VI Submittals?
A base map of the agency's service area that includes each census tract or traffic analysis zone (TAZ), major streets, etc., fixed transit facilities and major activity centers. The map should also highlight those transit facilities that were recently modernized or are scheduled for modernization in the next five years.	Yes
A demographic map that plots the above information and also shades those Census tracts or TAZ where the percentage of the total minority and low-income population residing in these areas exceeds the average minority and low-income population for the service area as a whole.	No
A chart for each Census tract or TAZ that shows the actual numbers and percentages for each minority group within the zone or tract.	No

While not included in its 2008 Title VI Report to the FTA, the January 2009 Supplement to its 2008 Title VI Report to the FTA did contain one demographic map and demographic charts of Harris County. During the site visit, three problems were noted with the data:

1. The METRO service area differed from the Harris County boundaries.
2. The map only identified the census tracts with populations below poverty *and* minority populations at or above the Harris County average. No attempt was made to disaggregate low-income from minority or to identify concentrations of each minority group in the METRO service area.

Following the site visit, METRO provided demographic charts for each census tract in the METRO service area from the 2000 Census. The charts show low-income population as a separate category from each race/ethnicity category identified in the 2000 Census. METRO also produced maps for each minority

group and for low-income persons showing the areas where the total minority and low-income population residing in these areas exceeded the average minority and low-income population for the service area as a whole. The deficiencies in this area are now closed.

10. Systemwide Service Standards and Policies

Requirement: *FTA recipients serving large urbanized areas shall adopt quantitative system-wide service standards necessary to guard against discriminatory service design or operations decisions. Recipients serving large urbanized areas shall adopt system-wide service policies necessary to guard against discriminatory service design or operations decisions. Service standards differ from service policies in that they are not based necessarily on a quantitative threshold.*

Findings: During this Title VI Compliance Review of METRO, no deficiencies were found regarding METRO's compliance with FTA requirements for Systemwide Service Standards and Policies. FTA Circular 4702.1A describes effective practices to fulfill the service standard requirements. FTA recommends that recipients set standards for the following indicators, giving transit agencies latitude to set standards for different/or additional indicators at their discretion:

Service Standards

- Vehicle Load
- Distribution of Transit Amenities
- Vehicle Headway
- Service Availability
- On-time Performance

Service Policies

- Vehicle Assignment
- Transit Security

METRO had adopted quantifiable service standards and/or system-wide service policies for the following indicators:

Route Design Standards

- Area Coverage
- Route Variations
- Directness of Travel
- Bus and Rail Stop Spacing
- Bus and Rail Stop Amenities
- Service Detours

Schedule Design Standards

- Schedule Adherence
- Span of Service
- Service Frequency
- Passenger Load Factors

- Equipment Assignments

Capital Facility Standards for:

- Park & Ride Lots
- Transit Centers

These system-wide standards and policies are adequate to meet FTA requirements.

11. Evaluation of Service and Fare Changes

Requirement: *FTA recipients shall evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. For service changes, this requirement applies to “major service changes” only. Recipients should have established guidelines or thresholds for what it considers a “major” change.*

Findings: During this Title VI Compliance Review of METRO, deficiencies were found regarding METRO’s compliance with FTA requirements for Evaluation of Service and Fare Changes. In its 2008 Title VI Report to the FTA METRO provided a list of proposed Capital and Associated Service Projects.

These Projects included the following:

- Uptown Transit Amenities
- Regional Computerized Traffic Signal
- Addicks Park & Ride Lot
- SW Transitway-Segment V-B
- RCTSS – Outside BW 8

- Downtown/Midtown Transit Street Improvements
- S. Main/TMC Transit Street Improvement-Transit Amenities

The Title VI Report did not contain any discussion or evaluation of the equity aspects of these capital improvements.

The 2008 Title VI Report also contained a listing of new service, route eliminations, fare adjustments, route modifications, and schedule modification projects that had been implemented in the three year period from October 2004 through May 2007. The 2008 Title VI Report contained a single paragraph description of the minority impact of the route elimination projects. The Report stated:

The route elimination projects listed may have a negative impact on minority communities and transit users. However, because route eliminations only included poor performing routes, with low levels of passenger boardings, minimal negative impacts should occur from any possible reductions in service. Route eliminations were impartial and based on a ranking model with took into account daily boardings and subsidy per passenger boarding. Only those routes that ranked among the bottom of the 4th quartile and had a subsidy per boarding of more than double the average were eliminated.

The route listing did not contain any identification of which routes served minority communities or whether *all* low performing routes had been eliminated. The 2008 Title VI Report did not contain any discussion of fare changes.

In its January 2009 Supplement to the 2008 Title VI Report, METRO stated that it did not implement any “significant” service changes during FY 2006-FY 2008. METRO considered a significant change to be a *reduction* on an individual route that constitutes 25 percent of the revenue service. This

conflicted with Attachment 5 of the 2008 Title VI Report that listed two route eliminations in 2007. Further, it did not address a number of service enhancements and improvements that had been implemented or were in the planning stages during the time period.

In its January 2009 Supplement to the 2008 Title VI Report, METRO stated that it had conducted evaluations to determine if there were a discriminatory impact for two fare changes that occurred in 2006 and 2008. The evaluations in the January 2009 document did not meet the requirements of the Circular. During and following the site visit, METRO indicated that it had elected to use Option A of FTA C. 4702.1A, V.4, in preparing its evaluation. The Review team provided considerable technical assistance in how to prepare a Title VI Evaluation according to this Option. Following the site visit, METRO provided an enhanced document, titled *Equity Analysis: Fare Policy Changes*, dated March 9, 2009. This document addressed the fare structure change implemented in January 2008. A comparison of METRO's Title VI evaluations to FTA Option A requirements showed that the March 2009 Equity Analysis generally met FTA requirements. However, the Executive Summary states:

From these data, we conclude that these fare policy changes did not have a disproportionate impact on minority, low-income, or LEP riders.

In fact, the data shows that minorities, low-income and LEP riders were more likely to pay with cash and the elimination of the free transfer for cash paying passengers disproportionately impacted these protected groups. The fact that METRO took actions to minimize, mitigate, or offset the impacts supports that determination that the fare policy change had a disproportionate impact on the protected groups.

Additionally, METRO had not conducted Title VI evaluations, in compliance with FTA requirements, for the November 2008 fare increase or the numerous service eliminations and additions introduced or planned in the past three years. The table, below, provides a comparison of FTA requirements and METRO submittals.

Elements Required for Evaluation of Service and Fare Changes (Per FTA C. 4702.1A, V, 4.a.)	Included in:		
	2008 Title VI Report	2009 Supplement	Equity Analysis 3/9/09
Assess the effects of the proposed fare or service change on minority and low-income populations.			
<u>Service changes</u> – produce maps of service changes overlaid on a demographic map of the service area	No	No	N/A
<u>Span of service</u> – Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted	No	No	N/A
<u>Fare changes</u> - Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted	N/A	No	No ⁵
Assess the alternatives available for people affected by the fare increase of major service change.			
<u>Service changes</u> – Analyze what, if any, modes of transit are available for people affected by the service expansion or reduction. Analysis should compare travel time and costs to the rider of the alternatives.	No	No	N/A
<u>Fare changes</u> – Analyze what, if any, alternative transit modes, fare payment types or fare payment media are available for people affected by the fare change. Analysis should compare fares paid under the change with fares that would be paid through available alternatives.	N/A	No	Yes
Describe actions the agency proposes to minimize, mitigate, or offset any adverse effects of changes on minority and low-income populations.	No	No	Yes
Determine any disproportionately high and adverse effects on minority and low-income riders. If any, describe that alternatives would have more severe adverse effects than the preferred alternative	No	No	Yes

Following the issuance of the Draft Report, on May 13, 2009, METRO submitted an updated Equity Evaluation of the 2008 fare policy change, an

⁵ Table 1.1 of 2008 Fare Policy Change does not show the ethnic breakdown of each fare payment media, e.g., what percentages of all cash payers are Hispanic/Latino, Asian American, etc.?

Equity Evaluation of the November 2008 fare increase and an Equity Evaluation of all “significant” service changes implemented during the three years prior to its 2008 Title VI submittal (November 2004-2007). The following table compares these submissions to FTA requirements:

Elements Required for Evaluation of Service and Fare Changes (Per FTA C. 4702.1A, V, 4.a.)	Included in submissions of 5/13/09:		
	2008 Fare Policy	November 2008 Fare Increase	Service Changes
Assess the effects of the proposed fare or service change on minority and low-income populations.			
<u>Service changes</u> – produce maps of service changes overlaid on a demographic map of the service area	N/A	N/A	Yes
<u>Span of service</u> – Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted	Yes	Yes	Yes
<u>Fare changes</u> - Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted	Yes	Yes	N/A
Assess the alternatives available for people affected by the fare increase of major service change.			
<u>Service changes</u> – Analyze what, if any, modes of transit are available for people affected by the service expansion or reduction. Analysis should compare travel time and costs to the rider of the alternatives.	N/A	N/A	Yes
<u>Fare changes</u> – Analyze what, if any, alternative transit modes, fare payment types or fare payment media are available for people affected by the fare change. Analysis should compare fares paid under the change with fares that would be paid through available alternatives.	Yes	Yes	N/A
Describe actions the agency proposes to minimize, mitigate, or offset any adverse effects of changes on minority and low-income populations.	Yes	Yes	Yes
Determine any disproportionately high and adverse effects on minority and low-income riders. If any, describe that alternatives would have more severe adverse effects than the preferred alternative	Yes	Yes	Yes

While the submissions of May 13, 2009 meet the FTA requirements for conducting equity evaluations of fare and service changes, METRO limited the evaluation of service changes to those occurring prior to October of 2007, noting that this was the “focus of this Title VI Audit”. In fact, the Title VI Compliance

Review examined actions occurring in the three years prior to the Site Visit. Additional analysis must be conducted on the equity evaluation of the fare changes because the evaluations acknowledge a disparate impact on minorities and low-income persons. Therefore, METRO needs to prove that the fare policy change was not a pretext for discrimination.

According to the U.S. Department of Justice's (DOJ) Civil Rights Division, grantees must prove there is a substantial legitimate justification for the practice, and that a comparably effective alternative practice would result in less disproportionate adverse impacts was not available, and it was not a pretext for discrimination.

METRO remains deficient in this area because it has planned or implemented substantial new services during 2008, including all of the Light Rail projects and the implementation of premium services, including *Signature* bus service and new *Airport Direct* bus service. METRO has not documented that it conducted an Equity Evaluation of these service improvements to determine that the investments were made equitably in minority and non-minority communities. METRO must also provide documentation that the fare policy change was not a pretext for discrimination.

Corrective Actions and Schedules: Within 90 days, METRO must submit to the FTA Headquarters Office of Civil Rights an equity evaluation of *all* “significant” service changes implemented or planned during the past three years (this includes service reductions, eliminations and expansions) and documentation that its fare policy change was not a pretext for discrimination.

12. Monitoring Transit Service

Requirement: *FTA recipients shall monitor the transit service provided throughout its service area. Periodic service monitoring activities shall be undertaken to compare the level and quality of service provided to predominantly minority areas with service provided in other areas to ensure that the end result of policies and decision-making is equitable service. Monitoring shall be conducted at minimum once every three years. If recipient monitoring determines that prior decisions have resulted in disparate impacts, it shall take corrective action to remedy the disparities.*

Findings: During this Title VI Compliance Review of the METRO, deficiencies were found regarding METRO's compliance with FTA requirements for Monitoring Transit Service. In its 2008 Title VI Report, METRO provided a description of its monitoring procedures but did not produce the results of any actual monitoring activities. In its 2009 Supplement to the 2008 Title VI Report, METRO provided documentation that it conducted periodic service monitoring but did not compare the level and quality of service provided to predominantly minority and low-income areas with service provided in other areas. FTA requires recipients and subrecipients to conduct Title VI monitoring. The Circular provides four options and requires that monitoring is to be conducted at least once every three years and a copy of the results of the monitoring must be included with the Title VI Program submittal.

Following the site visit, METRO provided a *Procedure for Monitoring Transit Service*, dated March 2009, which stated that it would pursue Option A, as follows:

Houston METRO will incorporate the Level of Service Methodology into its annual route evaluation process which includes the Comparative Ranking Model. As the Comparative Ranking Model includes all METRO

fixed-route bus routes, Houston METRO will include all fixed-route bus routes in the annual monitoring process.

The Procedure noted that each bus route would be evaluated on the following indicators:

- Vehicle load
- Vehicle headway
- On time performance
- Transit amenities
- Service availability
- Vehicle assignment

The Procedure stated that the Comparative Ranking Model would be prepared annually and would document the Title VI analysis, including any issues with non-conformity. METRO did not provide a timeframe for completing the initial Title VI monitoring effort. As shown below, METRO's Procedure generally met FTA requirements, except that METRO's procedures did not assess its fixed guideway service.

Elements Required for Monitoring – Option A: Level of Service Methodology (Per FTA C. 4702.1A, V, 5. a.)	Included in METRO's Revised Monitoring Procedures?
Select a sample of bus routes and fixed guideway routes that provide service to a demographic cross-section of the recipient's population. A portion of the routes in the sample should be those routes that provide service to a predominantly minority and low-income areas.	Yes
Assess the performance of each route in the sample for each of the recipient's service standards and policies.	Yes
Compare the transit service observed in the assessment to the established service policies and standards.	Yes
In cases in which observed service does not meet the stated service policy or standard, recipients should determine why the discrepancy exists and take corrective action to correct the discrepancy.	Yes

Following the issuance of the Draft Report, on May 13, 2009, METRO submitted a revised procedure for monitoring to include monitoring of the fixed

guideway service and a copy of the draft results of the 2008 and 2009 level of service monitoring, in accordance with FTA Circular 4702.1A.

The deficiencies in this area are now closed.

VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

Title VI Requirements For Transit Providers	Site Review Finding	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
GENERAL REQUIREMENTS					
1. Inclusive Public Participation	ND				
2. Language Access to LEP Persons	D	No Language Assistance Plan for LEP persons.	METRO must submit to the FTA Headquarters Office of Civil Rights, a copy of its Language Assistance Plan that meets with the requirement to provide meaningful access to Limited English Proficient (LEP) persons.	90 Days/ Not later than 09/30/09	
3. Title VI Complaint Procedures	D	Metro's Title VI complaint procedures were not finalized and were not made available to the public.	METRO must submit to the FTA Headquarters Office of Civil Rights documentation that it has finalized its written complaint procedures and made the information available to the public through the METRO website, www.ridemetro.org and on postings and publications placed throughout the system.	90 Days	3/13/09
4. Record of Title VI Investigations, Complaints, and Lawsuits	D	METRO did not provide a list of Title VI Complaints in its 2008 Title VI Report or its 2009 Supplement.	METRO must submit to the FTA Headquarters Office of Civil Rights a listing of Title VI Complaints received by METRO during the period from January 1, 2007 to January 30, 2009. This list must include the date that the investigation, lawsuit, or complaint was filed; a	90 Days	3/13/09

Title VI Requirements For Transit Providers	Site Review Finding	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
			summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by METRO in response to the investigation, lawsuit, or complaint.		
5. Notice to Beneficiaries of Protection Under Title VI	D	Metro's Draft Policy did not contain all of the required elements.	METRO must submit to the FTA Headquarters Office of Civil Rights: <ul style="list-style-type: none"> ▪ A corrected Title VI Policy statement that notifies the public of the procedures members of the public should follow in order to file a discrimination complaint against METRO. ▪ Documentation of the Policy dissemination, in places other than the METRO website. 	90 Days	5/13/09
6. Annual Title VI Certification and Assurance	ND				
7. Environmental Justice Analysis of Construction Projects	D	EJ analysis for University Corridor missing a required element	METRO must submit to the FTA Headquarters Office of Civil Rights a revised University Corridor EJ Analysis to include a comparison of	90 Days	3/13/09

Title VI Requirements For Transit Providers	Site Review Finding	Description of Deficiencies	Corrective Action(s)	Response Days/Date	Date Closed
			mitigation efforts in both minority and non-minority areas.		
8. Submit Title VI Program	ND				
9. Demographic Data	D	Demographic data missing required elements	METRO must produce maps and charts in accordance with FTA C. 4702.1A	90 Days	3/13/09
10. Systemwide Service Standards and Policies	ND				
11. Evaluation of Service and Fare Changes	D	No Title VI Evaluations of Service Changes; Inadequate Evaluations of Fare Changes	METRO must submit: <ul style="list-style-type: none"> • An updated Equity Evaluation of the 2008 fare policy change to modify Table 1.1. • An Equity Evaluation of its November 2008 fare increase • An Equity Evaluation of and <i>all</i> "significant" service changes implemented or planned during the past three years (this includes service reductions, eliminations and expansions) and documentation that its fare policy change was not a pretext for discrimination. 	90 Days/ Not later than 09/30/09	5/13/09 05/13/09

12. Monitoring Transit Service	D	No documentation of Title VI monitoring	METRO must submit to the FTA Headquarters Office of Civil Rights a revised procedure for monitoring to include monitoring of the fixed guideway service and a copy of the results of the level of service monitoring, in accordance with FTA Circular 4702.1A.	90 Days	05/13/09
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Findings at the time of the site visit: ND = No Deficiencies; D = Deficiency; NA = Not Applicable;
NR = Not Reviewed; AC = Advisory Comment

VIII. ATTENDEES

NAME	TITLE/ ORGANIZATION	PHONE	E-MAIL
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