**TITLE VI COMPLIANCE REVIEW**

**OF THE**

**Massachusetts Bay Transportation Authority**

**(MBTA)**

**Boston, MA**

**Final Report**

**November 2011**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

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1. GENERAL INFORMATION

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City/State: Boston, MA

Grantee No: 1369

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Site Visit Dates: July 19 – 22, 2011

Compliance Review

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1. 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 Massachusetts Bay Transportation Authority (MBTA) 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).
* Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, “Environmental Impact and Related Procedures” (August 28, 1987).
* Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, “Planning Assistance and Standards,” (October 28, 1993, 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).
* Section 12 of FTA’s Master Agreement 17, (October 1, 2010).

1. 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 the Massachusetts Bay Transportation Authority (MBTA) Title VI Program was necessary.

The Office of Civil Rights authorized the DMP Group to conduct the Title VI Compliance Review of MBTA. The primary purpose of this Compliance Review was to determine the extent to which MBTA has met its General Reporting and Program-Specific Requirements and Guidelines, 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 MBTA 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 MBTA.

#### Objectives

The objectives of FTA’s Title VI Program, as set forth in FTA Circular 4702.1A, dated May 13, 2007, “Title VI and Title VI-Dependent Guidelines For Federal Transit Administration Recipients” are 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;
* 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 Massachusetts Bay Transportation Authority (MBTA) was created in 1964 by an Act of the Commonwealth of Massachusetts. MBTA provides public transportation services to 175 cities and towns throughout the Boston metropolitan area. The MBTA service area population currently exceeds 4.6 million.

Pursuant to legislation signed into law in June 2009, “An Act Modernizing the Transportation Systems of the Commonwealth of Massachusetts (as amended by Chapter 26 of the “Act”), MBTA was made a part of the Massachusetts Department of Transportation (MassDOT), but retains a separate legal identity. A five-member Board of Directors appointed by the Governor with expertise in transportation, finance, and engineering oversees MassDOT while serving as the governing body of both MassDOT and MBTA. MassDOT is administered by a Secretary, appointed by the Governor to serve as Chief Executive Officer (CEO). MassDOT includes four divisions: Highway, Rail and Transit, Aeronautics, and Registry of Motor Vehicles. The Secretary appoints an Administrator for each division. The new Rail and Transit Division is led by an Administrator, who also serves as the General Manager of MBTA.

MBTA also has an Advisory Board, consisting of one official or his designee from each of the 175 communities served by MBTA. The Advisory Board must approve a program for mass transportation as well as MBTA’s annual budget. In addition, the Advisory Board reviews and provides comments on MBTA′s draft Capital Improvement Plans and fare increases. The cities and towns pay an "assessment" consisting of their proportionate share of MBTA's net deficit. The state and federal government also pay shares of the deficit. Farebox revenues currently cover about 36 percent of the Authority's total expenses.

MBTA operates several modes of public transit service. These services include the following:

• **Motorbus** – Fixed-route motorbus service consists of 191 directly- operated routes and 11 routes that are operated under contract either by MBTA or with jurisdictions that receive MBTA subsidies.

• **Bus Rapid Transit** – The Silver Line is a Bus Rapid Transit (BRT) service with five routes.

• **Trolley Bus** – Four trackless trolley routes are operated from MBTA’s facility in North Cambridge.

• **Heavy Rail** – The Orange, Blue, and Red lines, MBTA’s heavy rail system, covers nearly 38 route miles and includes 53 stations.

• **Light Rail** – The majority of MBTA's light rail service is operated on the Green Line, with four routes and 74 stations. Additional light rail service is operated on the Mattapan Trolley. MBTA's total light rail service includes 26 route miles.

• **Commuter Rail** – MBTA operates 394 route miles of commuter rail service throughout the Boston metropolitan area. The commuter rail operation consists of 134 stations and 13 lines. Massachusetts Bay Commuter Rail Company (MBCR) operates all of MBTA’s commuter rail lines under contract.

• **Ferry Boat** – Four ferry routes are contracted to and operated by two private carriers. The service uses two commuter boats and two passenger ferries.

• **Paratransit** – MBTA's paratransit service, THE RIDE, is operated by four private contractors. Service is provided throughout MBTA's fixed route service area at the same time fixed-route local bus service is operated.

MBTA serves a population of 4,663,565 (2000 census) in an area of 3,244 square miles. MBTA’s fleet consists of 927 diesel and CNG buses, 32 dual mode buses, 28 electric trolley buses (ETBs), 408 heavy rail vehicles, 200 light rail vehicles, 10 streetcars, 83 commuter rail locomotives, 410 commuter rail coaches, 298 MBTA-owned specially equipped vans and sedans, and an additional 235 contractor-supplied specially equipped vans and sedans. The average weekday ridership for the entire system is approximately 1.1 million passenger trips.

MBTA operates public transit services 365 days a year. Heavy rail and bus service operates from 5:00 a.m. to 1:00 a.m. on weekdays and weekends. The Sunrise bus service provides transportation to Logan Airport employees on selected routes beginning at approximately 3:30 a.m. Monday through Saturday, and from 6:00 a.m. to 1:00 a.m. on Sundays. Commuter rail service operates daily from approximately 6:00 a.m. to 12:00 a.m., with hours varying by line. Ferry services operate weekdays from 5:45 a.m. to approximately 9:00 p.m. on most routes and to 11:10 p.m. on others. Certain ferry routes operate on Saturdays and Sundays. MBTA's ADA complementary paratransit service, THE RIDE, operates from 6:00 a.m. to 1:00 a.m.

A base fare of $1.25 is charged for MBTA's fixed-route bus service. Heavy rail and light rail services cost $1.70. Zone charges apply on certain bus and Green Line routes, including express bus service where fares range from $2.80 to $4 per trip depending on distance traveled. Commuter rail fares and ferry service fares also vary according to trip length. Commuter rail fares range from $1.70 to $8.25 per trip and ferry service fares range from $1.70 to $12.00 per trip.

The General Manager, as Chief Executive Officer of the Authority, has overall responsibility for carrying out MBTA’s commitment to the Title VI program. The Office of Diversity and Civil Rights (ODCR) has been delegated the responsibility of coordinating program procedures, overseeing implementation, and monitoring and reporting on progress. The Title VI program is an Authority-wide initiative, and all managers, supervisors, and employees share the responsibility of identifying and reporting civil rights violations.

A demographic profile of the MBTA service area from the 2000 Census, as presented on the following table, shows that 82.9 percent of the population is White, 6.1 percent is Black, 6.9 percent is Hispanic and 4.7 percent is Asian.

**Racial/ Ethnic Breakdown of the**

**Massachusetts Bay Transportation Authority**

Source: 2000 U.S. Census

|  |  |  |
| --- | --- | --- |
| Racial/Ethnic Group | MBTA Service Area | |
|  | Number | Percent |
| White | 3,864,250 | 82.9 |
| Black | 285,071 | 6.1 |
| American Indian and Alaska Native | 10,009 | 0.2 |
| Asian | 217,201 | 4.7 |
| Hawaiian/Pacific Islander | 1,756 | 0.0 |
| Other Race | 173,104 | 3.7 |
| Two or More | 112,174 | 2.4 |
| Hispanic Origin[[1]](#footnote-1) | 322,783 | 6.9 |
| Total Population | **4,663,565** | **100%** |
|  |  |  |
| Limited English Proficiency | 208,308 | 4.8 |
| Low-Income (Households)[[2]](#footnote-2) | 533,544 | 30.0 |

V. SCOPE AND METHODOLOGY

#### Scope

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

1. General Reporting Requirements and Guidelines - All applicants, recipients and subrecipients shall maintain and submit the following:
2. Annual Title VI Certification and Assurance;
3. Title VI Complaint Procedures;
4. Record of Title VI Investigations, Complaints, and Lawsuits;
5. Language Access to LEP Persons;
6. Notice to Beneficiaries of Protection under Title VI;
7. Submit Title VI Program;
8. Environmental Justice Analysis of Construction Projects; and
9. Inclusive Public Participation.

1. Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas - all applicants, recipients and subrecipients that provide public mass transit service in areas with populations over 200,000 shall also submit the following:
2. Demographic Data;
3. Systemwide Service Standards and Policies;
4. Evaluation of Service and Fare Changes; and
5. Monitoring Transit Service.

#### Methodology

This Compliance Review of MBTA was conducted concurrently with a Title VI Compliance Review of MassDOT. Joint Entrance and Exit Conferences were held with MBTA and MassDOT staff. The compliance areas, which differ somewhat for MBTA and MassDOT, were discussed in separate meetings.

Initial interviews were conducted with the FTA Headquarters Civil Rights staff and the Region I Civil Rights Officer to discuss specific Title VI issues and concerns regarding MBTA and MassDOT. Following these discussions, separate agenda letters were sent to MBTA and MassDOT advising the agencies of the site visit and indicating additional information that would be needed and issues that would be discussed.

The MBTA 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 Guidelines, and (2) Program-Specific Requirements for Recipients Serving Large Urbanized Areas. The General Reporting Requirements and Guidelines now include implementation of the Environmental Justice (EJ) and Limited English Proficiency (LEP) Executive Orders.

MBTA was requested to provide the following documents in advance of the site visit:

* Description of MBTA’s service area, including general population and other demographic information using the most recent Census data.
* Current description of MBTA’s public transit service, including system maps, public timetables, transit service brochures, etc.
* Roster of current MBTA revenue fleet, to include acquisition date, fuel type, seating configurations and other amenities.
* Description of transit amenities maintained by MBTA for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.
* MBTA Organization Chart.
* Any studies or surveys conducted by MBTA, 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 for its public transit service during the past three years.
* Summary of MBTA’s current 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 MBTA’s four factor analysis of the needs of persons with limited English proficiency.
* A copy of MBTA’s plan for providing language assistance for persons with limited English proficiency that is based on the USDOT LEP Guidance.
* MBTA’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 investigations, lawsuits, or complaints naming MBTA that alleges discrimination on the basis of race, color, or national origin during the past three years. This list must include:
* the date 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 MBTA in response to the investigation, lawsuit, or complaint.
* Copy of MBTA’s Notice to Beneficiaries of Protections Under Title VI.
* Documentation of efforts made by MBTA to notify 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.
* MBTA’s most recent Title VI Update that was submitted to FTA.
* FTA Approval Letter, if available.
* A copy of MBTA’s demographic analysis of its urban 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 MBTA’s locally developed demographic analysis of its customer’s travel patterns.
* Quantitative system-wide service standards and qualitative system-wide service policies adopted by MBTA to guard against discriminatory service design or operations decisions.
* Documentation of MBTA’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 MBTA should have established guidelines or thresholds for what it considers a “major” service change to be.) If MBTA has made significant service changes or fare changes in the past three years or is currently planning such changes, provide documentation of MBTA’s Title VI evaluations of the service or fare changes.
* Documentation of periodic service monitoring activities undertaken by MBTA, 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 MBTA’s monitoring determined that prior decisions have resulted in disparate impacts, provide documentation of corrective actions taken to remedy the disparities.

MBTA 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 occurred July 19 – 22, 2011. The individuals participating in the MBTA Review are listed in Section VIII of this report. As previously described, a Joint Entrance Conference with MBTA and MassDOT was conducted at the beginning of the Compliance Reviews with management staff from both agencies, an Equal Opportunity Specialist from the FTA Headquarters Office of Civil Rights and the contractor Review teams. The Review teams showed the participants a video on Title VI during the Entrance Conference. Also, during the Joint Entrance Conference, the Review teams explained the goals of the Review and the needed cooperation of staff members. The detailed schedules for conducting the on-site visits were discussed.

Following the Entrance Conference, the Compliance Review teams separated to conduct a detailed examination of documents submitted in advance of the site visit and documents provided at the site visit by each staff on behalf of MBTA and MassDOT.

**Site Visits**

With the help of MBTA staff, the Review team identified three minority routes and three non-minority routes that serviced both minority and non-minority areas. During the site visit, the Review team toured each of these routes in their entirety to observe ridership, vehicle assignment and condition, bus stops and transit amenities. The two Green Line light rail routes had standard platform structures and layouts at each stop. The following table identifies the four other routes toured and their respective characteristics with respect to transit amenities:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Transit Amenity** | **Silver Line**  **Minority** | **Silver Line**  **Non-minority** | **Route 28**  **Minority** | **Route 57**  **Non-minority** |
| Benches | 20 | 2 | 25 | 25 |
| Shelters | 11 | 2 | 22 | 24 |
| Trash Cans | 9 | 2 | 13 | 13 |
| Info Kiosks | 8 | 1 | 20 | 23 |

As indicated in the table above, no significant disparity in the distribution of transit amenities was observed on the minority and non-minority routes toured.

At the end of the site visits, a Joint Exit Conference was held with MBTA and MassDOT staffs, an Equal Opportunity Specialist from FTA’s Office of Civil Rights, and the contractor Review teams. At the Joint Exit Conference, initial findings and corrective actions were discussed with both MBTA and MassDOT.

VI. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on MBTA's compliance with the General Reporting Requirements and Guidelines and the Program-Specific Requirements for Recipients Serving Large Urbanized Areas. This section describes the requirements, guidance and findings at the time of the Compliance Review site visit. In summary, deficiencies were identified in three of the 12 requirements of the Title VI Circular applicable to recipients serving large urbanized areas. Following the site visit, MBTA submitted corrective actions adequate to close the deficiency in two of these areas. One deficiency remains in the area of *Language Access for LEP persons*.

#### FINDINGS OF THE GENERAL REPORTING REQUIREMENTS AND GUIDELINES

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 MBTA, deficiencies were found regarding MBTA’s compliance with FTA guidance for Inclusive Public Participation. MBTA’s most recent *Title VI Report*, dated May 2011, was conditionally approved by FTA in a letter dated June 14, 2011. One of the conditions for approval of MBTA’s *Title VI Report* was for MBTA to submit by August 15, 2011 a “*Public Participation Plan that identifies and describes the recipient’s policies/procedures for inclusive public participation and thereby ensures access to the transportation planning process for low-income and minority populations*.” MBTA included a section in its *Title VI Report* titled “*Public Outreach and Involvement Activities*” in which it described its outreach efforts to minority and low-income populations, however, these efforts did not meet the requirements of FTA Circular 4702.1A.IV.9. Specifically, MBTA lacked a clear strategy for including minority and low-income populations early and continuously in the planning process. In addition, MBTA did not include sufficient documentation confirming outreach to minority and low-income populations per the Circular. During the Review, MBTA stated that it was developing a revised plan for inclusive public participation in response to FTA’s conditional approval of its *Title VI Report* and indicated that it would be submitted to the FTA by the August 15, 2011 deadline.

During the Review, the outreach efforts described in MBTA’s *Title VI Report* were discussed. It was shown that MBTA’s practice of conducting outreach to minority and low-income communities on a project by project basis led to inconsistencies and lacked a clear understanding of MBTA’s procedure(s) for outreach to these communities. A list of MBTA’s outreach efforts to minority and low-income communities by project included:

* Legal notices associated with the development of its *Program for Mass Transportation* placed in the El Mundo and La Semana newspapers.
* Flyers translated into Spanish and Portuguese for community workshops and public meetings associated with the *South Coast Rail Project*.
* Language interpreters provided upon request for the *South Coast Rail Project*.
* Meeting notices mailed to churches, community centers, and housing authorities in minority and low-income communities affected by the *South Coast Rail Project*, along with notices posted in the Cape Verdean News and Portuguese Times newspapers.
* *The MBTA 2008-2009 System-wide Passenger Survey* was offered in four languages (Spanish, Cape Verdean Creole, Haitian Creole, and Chinese.)

During the site visit, MBTA explained that its General Manager created the Community Relations Department (CRD) in early 2011. Prior to the creation of the CRD, community outreach was done independently by each department on a project basis. One of the main goals of the CRD was to improve the coordination of outreach efforts to local communities. Since its creation, CRD stated that it has worked with the operations, communications, real estate, and design and construction departments to help develop their outreach strategies.

With respect to minority and low-income communities, the CRD was responsible for developing inclusive public participation procedures per FTA Circular 4702.1A.IV.9 in response to FTA’s conditional approval of its *Title VI Report*. The CRD stated that its draft response to FTA’s conditional approval at the time of the site visit included meeting regularly with community organizations at scheduled meetings or when MBTA attendance was requested at community events. When asked to provide examples of community groups it engaged and community meetings it attended, MBTA stated that it worked with the “T” Riders Union (TRU) and the Riders Oversight Committee (ROC). MBTA described the general composition of TRU and ROC as young, ethnic, and accessibility challenged. At the time of the site visit, a record of its engagement (i.e. meeting minutes, meeting agendas, etc.) was not provided by MBTA.

The CRD also established a procedure to require community outreach and engagement at different stages in the design of a project. Specifically, during the design phase of any project, community engagement is required at 30%, 60%, and 90% of project design completion. CRD compiled a list of community organizations that were engaged in connection with past projects but did not indicate which organizations represented minority and low-income concerns.

The Review team noted that MBTA’s draft response was too focused on providing project specific community outreach and had not addressed, in specific terms, how it would engage minorities and low-income persons per the Circular. It was suggested that CRD develop a plan that established a set of minimum guidelines or requirements for providing early and continuous outreach and involvement activities to minorities and low-income persons agency-wide for every project. As projects were proposed and implemented, the CRD, project managers, and/or appropriate departments would confirm they have met the minimum requirements established in the plan. If a project required a more customized inclusive public participation approach, then the plan for that project could be enhanced accordingly, but only after meeting the minimum outreach requirements established by CRD.

In its most recent *Title VI Report*, CRD included a checklist designed to ensure that public hearings were accessible to people with disabilities. The checklist included several guidelines and steps meeting planners should take to ensure compliance. It was suggested that CRD create this same type of checklist in its inclusive public participation plan to guide project managers, and the like, in meeting the agency’s minimum requirements for outreach to minority and low-income communities. It was further suggested that CRD be responsible for ensuring that these checklists were completed.

Additional suggestions included:

* The development of a current list of minority and low-income community organizations, advisory groups, and individuals as a reference. MBTA staff could use this list and determine the appropriate combination of community resources to engage depending on the scope of the project.
* A list of communication mediums available for notifying affected minority and low-income communities. This list should include minority media, as well as an inventory of resources available for communicating with LEP persons (i.e. document translation procedures, interpreters.)
* The involvement of CRD in all projects to ensure that inclusive public participation procedures are being followed.
* Maintaining a record of all outreach activities.
* Referencing the recommended inclusive public participation activities in FTA Circular 4702.1A.IV.9 as follows:
  + 1. *Coordinating with individuals, institutions, or organizations and implementing community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities.*
    2. *Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.*
    3. *Using locations, facilities, and meeting times that are convenient and accessible to low-income and minority communities.*
    4. *Using different meeting sizes or formats, or varying the type and number of news media used to announce public participation opportunities, so that communications are tailored to the particular community or population.*
    5. *Implementing DOT’s policy guidance concerning recipients’ responsibilities to LEP persons to overcome barriers to public participation.*

On August 12, 2011, MBTA submitted to the FTA Region I Civil Rights Officer, a draft Public Participation Plan (PPP) for outreach to minorities and low-income communities at the planning and programming stages. The PPP includes goals and guiding principles, a clearly described public outreach process, the identification of underserved (minority, low-income and/or LEP) populations, and public participation techniques to engage the target groups. The PPP also identified community partners and whether those partners represent minority or low-income populations or both.

This submittal is adequate to close the deficiency in this area.

1. 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 MBTA, deficiencies were found regarding MBTA’s compliance with FTA requirements for Language Access to LEP persons. MBTA’s most recent *Title VI Report*, dated May 2011, was conditionally approved by FTA in a letter dated June 14, 2011. One of the conditions for approval of MBTA’s *Title VI Report* was for MBTA to submit by August 15, 2011 a “*Limited English Proficiency (LEP) four factor analysis and language assistance plan (including a description of how the factors are addressed, where data was obtained, and results.)*”. At the time of the site visit, MBTA had not made progress on updating its plan for language access to LEP persons per FTA’s conditional approval.

Prior to the site visit, MBTA included in its *Title VI Report* a section entitled “*Plan for providing Meaningful Access to Activities and Programs for Persons with Limited English Proficiency [FTA C4702.1A, IV.4.]”* This section stated that (emphasis added),

*It is the policy of the MBTA to ensure that persons with limited English proficiency (LEP) are not discriminated against or denied meaningful access to and participation in the programs and services provided by the Authority. As such, the* ***MBTA has developed and operationalized a strategic plan for the Authority that reflects the overall goals for improving language access for our customers who are limited in their English proficiency****.*

***The strategic plan*** *contained in the Policy and Procedure* ***provides a road map*** *for addressing our goals while leaving room for growth and evolution as the Authority learns more about the needs of its customers.* ***The vision is to fully operationalize the strategic plan over several years at all levels of the Authority****.*

Since the requirement to provide language access to LEP persons had been in place since 2005, MBTA has had sufficient time to conduct a four factor analysis and develop a language assistance plan as required by the Circular. While the *MBTA Limited English Proficiency (LEP) Policy and Procedure*, included as an appendix in its *Title VI Report*, did provide a “road map for addressing” the needs of LEP persons, in large part it did not include actions *taken* to comply with FTA Circular 4702.1A.IV.4 and DOT Policy Guidance, as illustrated in the following table:

| **Elements Required for LEP Four Factor Analysis and Language Assistance Plan**  **(Per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)** | | |
| --- | --- | --- |
|  | **Included in MBTA’s**  **May 2011**  **Plan** | **Notes/Comments** |
| **Part A – Four-Factor Analysis** | | |
| 1. Demography –The number or proportion of LEP persons eligible to be served or likely to be encountered | No | MBTA’s most recent *Title VI Report* identified that the primary languages other than English spoken in the MBTA service area were Spanish, Chinese, Cape Verdean Creole/Portuguese, Italian, and Haitian Creole/French based on the 2000 U.S. Census. MBTA provided a map of its service area that identified populations by “First Language Spoken.”  MBTA also stated that it evaluated customer neighborhoods, stations, bus routes and subway and commuter rail lines to identify “language dominances” and determined that 6.1% spoke Spanish, 2.1% spoke Chinese, 2% spoke Cape Verdean Creole/Portuguese, 1.9% spoke Italian, and 1.5% spoke Haitian Creole/French. MBTA further stated that, “for the purpose of this policy, Cape Verdean Creole and Haitian Creole are the preferred languages for translation.” According to the results of its effort, by percentage, more Spanish and Chinese speaking people were identified than Cape Verdean Creole or Haitian Creole.  MBTA needs to conduct factor 1 of the four factor analysis in accordance with DOT LEP Guidance, to include the identification of both the number and percentage of LEP persons in its service area. MBTA was advised to consider the use a combination of data sources, including U.S. Census, American Community Survey, and school district LEP data. Clarification was provided to FTA, emphasizing the need to identify and use LEP data in its assessment, not “foreign language spoken” data or some other data that does not allow for the measurement of LEP persons in its service area. |
| 1. Frequency of Contact - the frequency with which LEP individuals come in contact with the program and/or activities | No | MBTA had not determined the frequency with which LEP persons come into contact with its services and programs. MBTA was referred to the DOT LEP Guidance and provided with steps it could take to determine frequency of contact with LEP Persons. Suggestions included monitoring customer call center and website translation statistics, engaging community groups, engaging operations personnel to do periodic monitoring, and using survey data. |
| 1. Importance - the nature and importance of the program, activity, or service to people's lives; | No | MBTA had not determined the nature and importance of its services and programs to LEP persons. MBTA was referred to the DOT LEP Guidance and provided with steps it could take to determine why LEP persons use and need its service. Suggestions included engaging community groups, and using survey data. |
| 1. Resources - the resources available and costs | No | MBTA had not assessed its available LEP resources and associated costs in relation to reasonably reliable LEP data obtained through the conduct of factors 1-3. |
| Part B - Develop Language Assistance Plan | | |
| 1. Identification of LEP Persons | No | See factor 1. MBTA did not have a sufficient approach to identifying the number and proportion of LEP persons. |
| 1. Language Assistance Measures | No | MBTA provided a list of language assistance measures in its *MBTA Limited English Proficiency (LEP) Policy and Procedure*, it said it would provide, not that it did provide, including:   * oral translation/interpretation services, as follows (language line, “I Speak Cards”) * translation of vital documents – list of vital documents did not include documents that helped LEP people use the system (route/system maps, applications/criteria for participation in fare discount and ADA accessibility programs). Route/system maps, fare media information are not considered vital by MBTA, and “may not be subject to translation.”   During the site visit, the Review team confirmed that MBTA made available the following:   * written translation of documents (Title VI Notice) and use of universal symbols * Interpreters for meetings and public hearings upon request   MBTA should inventory the language assistance measures it makes available and update its Language Assistance Plan (LAP) accordingly. |
| 1. Training of Staff | No | In its *LEP Policy and Procedure*, MBTA stated that “*it will train its workforce, especially its managers and employees who interact with the Authority’s customers…to ensure that they are aware of MBTA’s LEP Policy and Procedure*.” During the site visit, MBTA stated that managers and employees were provided LEP training during new hire orientation. Training was done verbally, and no written LEP training materials were produced or provided by MBTA. The Review team could not confirm that LEP training was being conducted.  MBTA should develop written LEP training materials to be included in new hire orientation and training activities. New hires and other appropriate personnel should be provided with a copy of MBTA’s LAP once developed. MBTA should ensure that training on its language assistance procedures for LEP persons is being conducted. |
| 1. Provide Notice to LEP Persons | Yes | MBTA provided notice that language assistance was available to LEP persons on its website and in its Title VI Notice to Beneficiaries. |
| 1. Monitor and Update the LAP | No | MBTA had not developed, monitored or updated its LAP per FTA Circular 4702.1A, IV.4. Once MBTA has sufficiently developed its LAP, it should monitor its plan by periodically conducting a four factor analysis to determine if changes to the plan are necessary. |

On August 12, 2011, MBTA submitted to the FTA Region I Civil Rights Officer a document titled *Four Factor Analysis Update: Assessment of MBTA Program Needs for Serving People with Limited English Proficiency*, dated August 2011. This document was a significant improvement over the information contained in the May 2011 Title VI submittal. For example, the updated document contained a detailed four-factor analysis for both of its service areas (urban fixed-route transit and commuter rail), including several efforts to determine frequency of contact. The August 2011 submission did not fully meet requirements in several key areas:

* MBTA did not identify and list the language assistance measures that it currently provides. The document primarily restates what was reviewed and described in the table above.
* MBTA did not include as “vital” documents information on how to ride the service or how to purchase passes. This could limit a person’s ability to use the service and take advantage of fare discounts.
* The description of LEP training for employees did not appear to be clearly defined and is grouped with general diversity and Title VI training, similar to the comments that are noted in the table above.
* The revised document did not provide a specific timeframe, such as every two/three years, for monitoring and updating the LEP Plan.

In response to the Draft report in a letter dated October 31st, 2011, MBTA stated the following:

*…the MBTA by January 27th, 2012 will take corrective action in preparing an amended Language Access Plan that clarifies and proactively affirms MBTA policy and procedure in more effectively communicating with the general public and our customers who have limited English proficiency. Specifically, the amended Language Access Plan will:*

* *Inventory language assistance measures provided by the MBTA;*
* *Clearly define all “vital” documents;*
* *More fully describe training programs and protocols for employees in the area of eliminating barriers for Limited English Proficient populations; and*
* *Define schedule for monitoring LEP progress and plan update.*

**Corrective Actions and Schedules:** Within 120 days, MBTA must submit to the FTA Equal Opportunity Specialist in Headquarters and the Region I Civil Rights Officer a revised Language Assistance Plan that provides a detailed listing of language assistance measures, a revised list of vital documents that will be translated, specific discussion of the content of LEP training, and a specific timeframe for monitoring and updating the LEP Plan.

1. 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 this Title VI Compliance Review of MBTA, no deficiencies were found regarding MBTA’s compliance with FTA requirements for Title VI Complaint Procedures. The *MBTA Policy and Procedures for Filing Discrimination Complaints under Title VI and Related Statutes* was included in its most recent *Title VI Report*.

According to MBTA’s Title VI complaint procedures, complaints could be filed by contacting the Customer Communications and Marketing (CCM) department in writing or via phone, through its website, or with any transit officer on duty. All complaints not filed directly with the CCM were forwarded to the CCM for handling as CCM representatives were trained to identify complaints alleging discrimination covered by Title VI. Verbal complaints would be recorded in writing by the MBTA personnel receiving the complaint. CCM determined which complaints were subject to protection under Title VI and forwarded them to the Office of Diversity and Civil Rights (ODCR).

ODCR investigated Title VI complaints. After ODCR completed its investigation, a final report was prepared which included findings and recommendations for corrective action. If a Title VI violation was found to exist, appropriate action was taken, monitored and reported. If no violation was found to exist, and the complainant was not satisfied, he/she could file an appeal with the Massachusetts Commission Against Discrimination (MCAD) or the FTA Office of Civil Rights (complaints against MBTA filed initially with the MCAD were also tracked and handled by ODCR). All Title VI formal charges or lawsuits were handled by MBTA’s Office of the General Counsel. At the time of the site visit, there were no formal Title VI charges or lawsuits.

MBTA demonstrated that it was following its Title VI procedures.

1. 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 MBTA, no deficiencies were found regarding MBTA’s compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. MBTA’s Title VI complaint log was included in its most recent *Title VI Report*. Per FTA Circular 4702.1A, IV.3, the log contained all required elements.

1. 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 MBTA, no deficiencies were found regarding MBTA’s compliance with FTA requirements for Notice to Beneficiaries of Protection Under Title VI. An advisory comment was made regarding MBTA’s compliance with FTA requirements for Notice to Beneficiaries of Protection Under Title VI. MBTA’s Notice included two of the three elements required by FTA Circular 4702.1A, IV.5 as shown in the following table:

|  |  |
| --- | --- |
| **Elements Required in Title VI Notification**  **(Per FTA Circular 4702.1A Chapter IV Section 5.a)** | **Included in MBTA Draft Policy?** |
| A statement that the agency operates programs without regard to race, color, and national origin | Statement included, but not consistent with the Circular |
| 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. | Yes |

MBTA’s Title VI Notice to Beneficiaries was as follows and the three elements required by the Circular are highlighted:

*Protecting Your Rights*

*What is Title VI?*

*Title VI of the Civil Rights Act of 1964 is a Federal statute that provides that no person shall be discriminated against or denied benefits on the ground of race, color, or national origin, in programs and services that receive federal financial assistance. As such, to ensure that MBTA customers are not discriminated against, we have adopted policies that promote equal access and quality service to all our customers.*

*What Does Title VI Mean To You?*

*Public transit agencies, such as the MBTA, are required to provide services in a fair and equitable manner to all passengers without regard to their race, color or national origin. Title VI also requires the MBTA to reduce language barriers that may impede access to important services by customers who may not be proficient in English.*

*In addition to the Title VI requirements there are other laws providing similar protection on account of a person’s gender, religion, age, disability, sexual orientation, or other protected status.*

***The MBTA also has a zero-tolerance policy prohibiting any form of unlawful discrimination.***

*What Services Are Available To Customers Who Are Not Proficient In English?*

*Under Title VI, customers who are not proficient in English are entitled to assistance in accessing critical MBTA information. If deemed essential or upon request, we can translate materials in several languages, including Spanish, Chinese, Haitian Creole, Italian and Cape Verdean Creole.*

*Additionally:*

* *Our automated fare system provides audio and visual instruction in English, Spanish and Chinese*
* *Our customer service agents and hub monitors are able to provide guidance to customers who are not proficient in English; and*
* *If deemed necessary or upon request translation services may be provided.*

***What Should You Do If You Have A Complaint?***

*All comments and suggestions for improvement in our service are welcome and will be considered.*

*You can:*

* *Submit your comments, suggestions or complaint to Customer Communications via email to www.mbta.com; or*
* *Send a letter to MBTA’s Customer Communications, Ten Park Plaza, Room 5610, Boston, MA 02116; or*
* *Call MBTA’s Customer Communications at (617) 222-3200.*
* ***For more information*** *or for an alternate format of this document please call (617) 222-3200, TTY (617) 222-5416 or visit* [*www.mbta.com*](http://www.mbta.com)*.*
* *When submitting complaints, please include your contact information as well as details of the incident including what occurred, where and when, and the names, addresses, phone numbers and e-mail addresses of witnesses.*

*We Welcome Your Feedback!*

*The MBTA is committed to providing safe, efficient and quality transportation services to all the communities that we serve. If you have comments or suggestions on how we can improve on our commitment to non-discrimination in our services or how we can better serve the needs of our customers who are not proficient in English, we would like to hear from you.*

While MBTA captured and communicated the spirit of the requirement in its Notice, nowhere did its Notice include a statement that “MBTA operated its services without regard to race, color, or national origin.” MBTA was advised to include a statement in its Notice that explicitly stated what was required in the Circular.

It was also suggested that MBTA create a Notice that only included the three elements required by the Circular. This would reduce the amount of information being communicated at one time and would also make it easier for MBTA to distribute its Notice on posters, system maps, and the like.

With respect to the distribution of its Notice, MBTA’s Notice was on its website. In addition, MBTA provided its *Title VI Brochure* that was distributed at bus and rail stations. During tours of selected MBTA routes, the Review team confirmed the availability of brochures at two of the six stations visited. MBTA was advised that more effective ways of distributing its Notice should be considered. Specifically, it was suggested that MBTA, in addition to or in place of the brochures, produce a more simplified *Notice* that could be printed on posters that were strategically placed in key locations throughout its system. In addition, MBTA should consider including its *Notice* on its system map(s) and other materials already being printed.

1. 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 MBTA, no deficiencies were found regarding MBTA’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. MBTA executed its FY 2011 Annual Certifications and Assurances in TEAM on November 9, 2010. MBTA checked as applicable, *01. Certifications and Assurances required of all applicants*. This is the category where the nondiscrimination assurance is located.

1. 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 MBTA, no deficiencies were found regarding MBTA’s compliance with FTA requirements for Environmental Justice Analysis of Construction Projects. An advisory comment was made regarding MBTA’s compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. Prior to the site visit, MBTA submitted nine construction projects for which Categorical Exclusions (CEs) were prepared and two construction projects for which Environmental Assessments (EAs) were prepared. Nearly all of the construction projects were “state of good repair” projects to improve existing infrastructure. FTA Circular 4702.1A, IV.8 requires that,

*Recipients preparing documentation for a categorical exclusion (CE) can meet this requirement by completing and submitting FTA’s standard CE checklist, which includes a section on community disruption and environmental justice*. *FTA recommends that recipients preparing an environmental assessment (EA) or environmental impact statement (EIS) integrate into their documents the following components:*

* 1. *A description of the low-income and minority population within the study area affected by the project, and a discussion of the method used to identify this population (e.g., analysis of Census data, minority business directories, direct observation, or a public involvement process).*
  2. *A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population.*
  3. *A discussion of all positive effects that would affect the identified minority and low-income population, such as an improvement in transit service, mobility, or accessibility.*
  4. *A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects, including, but not limited to, any special features of the relocation program that go beyond the requirements of the Uniform Relocation Act and address adverse community effects such as separation or cohesion issues; and the replacement of the community resources destroyed by the project.*
  5. *A discussion of the remaining effects, if any, and why further mitigation is not proposed.*
  6. *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 predominantly low-income and minority areas with mitigation implemented in predominantly non-minority or non-low-income areas. Recipients and subrecipients that determine there is no basis for such a comparison should describe why that is so.*

MBTA included the six elements required for EAs and EIS’ in its CEs when it was not required by the Circular. Even though CEs only required the completion of the NEPA CE checklist, MBTA was advised that, since it already included the six elements in its CEs, it should consider continuing this practice to ensure that EJ considerations were fully contemplated for all of its construction projects.

MBTA did not include the six elements in its EAs as required by the Circular. Specifically, for the Wonderland, Park Place, and Fitchburg (submitted during the site visit) projects, there was either insufficient demographic analysis (no discussion of race), insufficient comparison of impacts to minority and low-income communities to impacts to non-minority or non-low-income communities, or both. In the future, beginning with MBTA’s Green Line Extension Project, MBTA was advised to include all six elements in all construction project analyses for which an EA or EIS was prepared. This project traversed both a minority and non-minority community, so MBTA was reminded to ensure that environmental enhancements and mitigation efforts during and after construction were comparable.

1. 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 MBTA, no deficiencies were found regarding MBTA’s compliance with FTA requirements to Submit Title VI Program. MBTA submitted its most recent *Title VI Report* to FTA dated May 2011. The Report was prepared in accordance with the current guidance, FTA Circular 4702.1A, dated May 13, 2007. However, a few of the areas were not fully detailed and, on June 14, 2011, MBTA received a conditional approval from FTA with a requirement to provide additional information in three areas. The following table summarizes MBTA’s 2011 *Title VI Report* with respect to the current Circular:

| **ELEMENTS REQUIRED FOR TITLE VI PROGRAM** | |
| --- | --- |
| **GENERAL REPORTING REQUIREMENTS AND GUIDELINES**  **(Per FTA C. 4702.1A, IV, 7. a. (1) – (5))** | **In MBTA Title VI Program Submittal?** |
| * A summary of public outreach and involvement activities undertaken since the last submission and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities. | Yes (need to include a plan for outreach efforts to minorities and low-income persons) |
| * A copy of the agency’s plan for providing language assistance for persons with limited English proficiency that was based on the DOT LEP Guidance or a copy of the agency’s alternative framework for providing language assistance. | Yes (Policy did not fully describe four-factor assessment) |
| * A copy of the agency procedures for tracking and investigating Title VI complaints. | Yes |
| * A list of any Title VI investigations, complaints, or lawsuits filed with the agency since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to the agency submitting the report, not necessarily the larger agency or department of which the entity is a part. | Yes |
| * A copy of the agency’s notice to the public that it complies with Title VI and instructions to the public on how to file a discrimination complaint. | Yes |
| **Program-specific requirements AND GUIDELINES**  **(Per FTA C. 4702.1A, V, 6. a. (1) – (4))** | |
| * A copy of the agency’s demographic analysis of its beneficiaries. This should include either any demographic maps and charts prepared or a copy of any customer surveys conducted since the last report that contain demographic information on ridership, or the agency’s locally developed demographic analysis of its customer’s travel patterns. | Yes |
| * Copies of system-wide service standards and system-wide service policies adopted by the agency since the last submission. | Yes |
| * A copy of the equity evaluation of any significant service changes and fare changes implemented since the last report submission. | Yes (Submission did not define threshold for evaluation; no equity analysis for Green Line Extension Project) |
| * A copy of the results of either the level of service monitoring, quality of service monitoring, demographic analysis of customer surveys, or locally developed monitoring procedures conducted since the last submission. | Yes |

#### On August 12, 2011, MBTA submitted the additional documents to FTA.

#### FINDINGS OF THE PROGRAM SPECIFIC REQUIREMENTS AND GUIDELINES FOR RECIPIENTS SERVING LARGE URBANIZED AREAS

1. 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 MBTA, no deficiencies were found regarding MBTA’s compliance with FTA requirements for Demographic Data. MBTA selected the use of demographic and service profile maps and charts as the option to collect and analyze demographic data.

This Option requires the following items:

|  |  |
| --- | --- |
| **Elements Required for Demographic Data**  **(Per FTA C. 4702.1A, V, 1. a.)** | **Included in MBTA’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. | Yes |
| A chart for each Census tract or TAZ that shows the actual numbers and percentages for each minority group within the zone or tract. | Yes |

MBTA had two different service areas, one for the urban fixed-route transit system and another for the commuter rail system. Because these areas served different communities, MBTA appropriately identified the average minority and low-income levels for each service area. MBTA used the threshold for low-income that was adopted by the Boston Region Metropolitan Planning Organization to designate environmental justice areas. For the urban area, a low-income household was defined as having an income less than $32,120. For the commuter rail service area, low-income household was defined as having an income of less than $32,582. While MBTA’s maps did not differentiate between minority groups, MBTA was able to provide the detailed charts that were used to prepare the maps showing the actual numbers and percentages for each minority group within each traffic analysis zone (TAZ).

1. 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 MBTA, no deficiencies were found regarding MBTA’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 | Service Policies |
| * Vehicle Load | * Vehicle Assignment |
| * Distribution of Transit Amenities | * Transit Security |
| * Vehicle Headway |  |
| * Service Availability |  |
| * On-time Performance |  |

MBTA had adopted quantifiable service standards and/or system-wide service policies that were described in its MBTA Service Delivery Policy (most recently updated in 2010). These standards addressed the following factors:

Accessibility

* Coverage Guidelines
* Span of Service Standards
* Frequency of Service Standards (Vehicle Headway)

Reliability

* Schedule Adherence

Safety and Comfort

* Vehicle Load

Cost-Effectiveness

* Bus Net Cost per Passenger

As shown, on Table 4-4, from the MBTA May 2011*Title VI Report*, the minimum frequency or vehicle headway standards, by mode and time of day, were comprehensive and provided a consistent standard to compare service provided in minority and non-minority and in low-income and non-low income communities.



MBTA’s 2011 *Title VI Report* also contained standards for the distribution of transit amenities, such as bus shelters, benches, timetables and route maps, snow clearance, elevator and escalator reliability, station parking and automated vehicle locating and fare collecting technologies. Finally, MBTA had written standards for vehicle assignment and transit security for each mode of service operated by MBTA. These system-wide standards and policies were the indicators used to monitor transit service to assure compliance with Title VI requirements. The service standards and policies were adequate to meet FTA requirements.

1. 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 MBTA, deficiencies were found regarding MBTA’s compliance with FTA requirements for Evaluation of Service and Fare Changes. In its 2011 *Title VI Report*, MBTA defined “major” service changes as ones that would have a significant effect on riders, resource requirements, route structure or service delivery, including:

* Major service restructuring
* Implementation of new routes or services
* Elimination of a route or service
* Elimination of a part of a route
* Span of Service changes greater than one hour
* Route extensions of greater than one mile

MBTA did not fully define what it meant by the elimination of “part” of a route, which would require MBTA to conduct a Title VI evaluation of the elimination of “any” part of a route. MBTA was asked, as a part of the June 14, 2011 Conditional Approval of its May 2011 *Title VI Report*, to provide additional clarity on its major service change policy.

In its 2011 *Title VI Report*, MBTA indicated that it had not implemented any changes to services that met the above-stated definition of “major” service change. However, MBTA was in the planning stages of a Green Line Extension (GLE) project that would add four miles of new light-rail track to the MBTA system. In October 2010, the Central Transportation Planning Staff (CTPS), on behalf of MBTA, completed an Environmental Justice Analysis of the GLE as a part of the environmental assessments. Also, in April 2011 CTPS prepared a Service and Fare Equity Analysis memo regarding the GLE. This document referenced the prior Environmental Justice work and FTA Title VI requirements. The project did not reduce or eliminate service to provide more options for public transportation. No bus service would be eliminated as a result of the GLE. Also, no fare changes were proposed.

The table, below, provides a comparison of FTA requirements and MBTA submittals.

| **ELEMENTS REQUIRED FOR EVALUATION OF SERVICE AND FARE CHANGES (PER FTA C. 4702.1A, V, 4.A.)** | Included GLE Equity Analysis? |
| --- | --- |
| 1. ASSESS THE EFFECTS OF THE PROPOSED FARE OR SERVICE CHANGE ON MINORITY AND LOW-INCOME POPULATIONS. | |
| *Route changes – produce maps of service changes overlaid on a demographic map of the service area* | Yes |
| *Span of service – Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted* | Not Applicable |
| *Fare changes – Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted* | Not Applicable |
| 1. ASSESS THE ALTERNATIVES AVAILABLE FOR PEOPLE AFFECTED BY THE FARE INCREASE OF MAJOR SERVICE CHANGE. | |
| *Service changes – 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.* | Yes |
| *Fare changes – 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.* | Not Applicable |
| 1. DESCRIBE ACTIONS THE AGENCY PROPOSES TO MINIMIZE, MITIGATE, OR OFFSET ANY ADVERSE EFFECTS OF CHANGES ON MINORITY AND LOW-INCOME POPULATIONS. | Not Applicable |
| 1. 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. | Not Applicable |

On August 12, 2011, MBTA submitted to FTA clarification of its definition of “major” service change and copies of its Title VI Evaluation of the GLE.

These actions were adequate to close the deficiencies in this area.

1. 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 MBTA, no deficiencies were found regarding MBTA’s compliance with FTA requirements for Monitoring Transit Service. MBTA conducted comprehensive annual monitoring to ensure that potential problems were found in a timely manner. MBTA selected both Option A: Level of Service Methodology, and Option C: Quality of Service Monitoring, as described in the table below:

|  |
| --- |
| **Elements Required for Monitoring – Option A: Level of Service Methodology**  **(Per FTA C. 4702.1A, V, 5. a.)** |
| 1. 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. |
| 1. Assess the performance of each route in the sample for each of the recipient’s service standards and policies. |
| 1. Compare the transit service observed in the assessment to the established service policies and standards. |
| 1. 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. |
| **Elements Required for Monitoring – Option C: Title VI Analysis of Customer Surveys**  **(Per FTA C. 4702.1A, V, 5. c.)** |
| 1. For their most recent survey, recipients should compare the responses from individuals who identified themselves as members of minority groups and/or in low-income brackets, and the responses of those who identified themselves as white and/or in middle and upper-income brackets. |
| 1. To the extent that survey data is available, recipients should determine whether the different demographic groups report significant differences in the travel time, number of transfers, and overall cost of the trip or if different demographic groups gave significantly different responses when asked to rate the quality of service, such as their satisfaction with the system, willingness to recommend transit to others, and value for fare paid. |
| 1. If the agency concludes that different demographic groups gave significantly different responses, it should take corrective action to address the disparities. |

MBTA included a matrix, similar to that shown on the next page, in its May 2011 *Title VI Report* to describe responsibilities and the frequency of the level of service monitoring.

MBTA used its web-based trip planning tool for quality of service monitoring to compare travel times, number of transfers required, cost, and cost per mile for both peak and off-peak trips from census tracts representing a cross-section of the service area population to the three most frequently traveled destinations. The results of this monitoring revealed that minority areas had longer travel times and shorter trip lengths, and that the number of transfers per trip and per mile were higher for minority areas. As mitigation, MBTA indicated that it would look at strategies such as route interlining to reduce transfers and minimize transfers. MBTA also analyzed the results of its 2008-2009 Customer Surveys to assess service quality ratings by minority and non-minority and low-income and non-low income passengers. The results of the analysis identified a number of quality rankings where minorities and/or low-income riders ranked factors lower than non-minority and/or low-income riders. In each of these cases, MBTA identified strategies that it has implemented to address the disparities.

In summary, MBTA was doing extensive service monitoring. The Review team advised MBTA to review and perhaps adjust its categorization of minority stations and minority lines to better reflect the users of the routes/lines, rather than the residents of the census tract where the station or stop was located.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Table 6-1 MBTA Title VI Quality-of-Service Monitoring** | | | | |
| **Service Indicator** | **Department(s) Responsible** | **Planned Frequency of Compliance Assessments** | | **Even/Odd** |
| **1. Vehicle Load, Vehicle Headway, and On-Time Performance** | | | | |
| Bus | Service Planning | Every 2 Years | | Even |
| Heavy Rail & Light Rail | Subway Operations & Service Planning | Every 2 Years | | Even |
| Commuter Rail | Railroad Operations | Every 2 Years | | Even |
| **2. Transit Access** | | | | |
| All Modes | Service Planning | Every 2 Years | | Even |
| **3. Distribution of Transit Amenities** | | | | |
| Bus Shelters | Operations and Services Development | | Every 2 Years | Even |
| Station Condition & Amenities | CTPS | | Every 2 Years | Odd |
| Neighborhood Maps | Operations and Services Development | | Every 2 Years | Odd |
| AFC Fare Gates, Fare Vending Machines, & Retail Sales Terminals | AFC | | Annually | N/A |
| Variable Message Signs | Subway, Silver Line, & Railroad Operations | | Every 2 Years | Odd |
| Station Elevator and Escalator Location and Operability | Operations Support | | Annually | N/A |
| Station Parking & Utilization | Planning & Development | | Every 3 Years | N/A |
| **4. Vehicle Assignment** | | | | |
| Bus | Bus Operations | | Annually | N/A |
| Heavy Rail & Light Rail | Subway Operations | | Annually | N/A |
| Commuter Rail | Railroad Operations | | Annually | N/A |
| **5. Transit Security** | | | | |
| Callboxes | Transit Police | | Every 3 Years | N/A |
| Surveillance Cameras | Bus Operations & Transit Police | | Every 3 Years | N/A |
| Passenger Inspections | Transit Police | | Annually | N/A |

VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

| **Title VI Requirements For Recipients Serving Large Urbanized Areas** | | **Site Review Finding** | **Description of Deficiencies** | **Corrective Action(s)** | **Response Days/Date** | | **Date Closed** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **GENERAL REQUIREMENTS** | | | | | | | |
| 1. Inclusive Public Participation | | D | No strategy or plan for inclusive participation | MBTA must submit to the FTA Equal Opportunity Specialist in Headquarters and the FTA Region I Civil Rights Officer:   * A written strategy or plan for outreach to minorities and low-income communities at the planning and programming stages. * A summary listing of public outreach and involvement activities undertaken to ensure that minority and low-income people had meaningful access | 120 Days | | 8/12/11 |
| 1. LEP Language Assistance Plan | | D | No four-factor assessment  LAP does not fully meet FTA requirements. | MBTA must submit to the FTA Equal Opportunity Specialist in Headquarters and the Region I Civil Rights Officer:   * A complete four-factor assessment of the language needs of its service areas * A revised Language Assistance Plan that provides a detailed listing of language assistance measures, a revised list of vital documents that will be translated, specific discussion of the content of LEP training and a specific timeframe for monitoring and updating the LEP Plan. | 120 Days  120 Days | | 8/12/11 |
| 1. Title VI Complaint Procedures | | ND |  |  |  | |  |
| 1. List of Title VI Investigations, Complaints, and Lawsuits | | ND |  |  |  | |  |
| 1. Notice to Beneficiaries of Protection Under Title VI | | ND |  |  |  | |  |
| 1. Annual Title VI Certification and Assurance | | ND |  |  |  | |  |
| 1. Environmental Justice Analyses of Construction Projects | | ND |  |  |  | |  |
| 1. Prepare and Submit a Title VI Program | | ND |  |  |  | |  |
| **PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR LARGE URBANIZED AREAS** | | | | | | | |
| 1. Demographic Data | ND | |  |  | |  |  |
| 1. System-wide Service Standards and Policies | ND | |  |  | |  |  |
| 1. Evaluation of Fare and Service Changes | D | | Definition of “major” service change for Title VI analyses not clear  Title VI Evaluations service changes not provided | MBTA must submit to the FTA Region I Civil Rights Officer:   * A definition of “major” service change * Title VI evaluations of 2008 and 2009 service changes | | 120 Days | 8/12/11 |
| 1. Monitoring Transit Service | ND | |  |  | |  |  |

Findings at the time of the site visit: ND = No Deficiencies; D = Deficiency; NA = Not Applicable;

NR = Not Reviewed; AC = Advisory Comment

VIII. A**TTENDEES**

| **NAME** | **ORGANIZATION/TITLE** | **PHONE NUMBER** | **E-MAIL ADDRESS** |
| --- | --- | --- | --- |
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1. Per the 2000 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)
2. According to information provided by MBTA, per the 2000 Census, there were a total of 1,708,008 household in the MBTA service area. [↑](#footnote-ref-2)