**TITLE VI COMPLIANCE REVIEW**

**OF THE**

**NEW YORK**

**METROPOLITAN TRANSPORTATION AUTHORITY**

**BUS COMPANY**

**(MTA BUS)**

**New York, New York**

**Final Report**

**April 2010**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

**Prepared By**

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1. GENERAL INFORMATION

Grant Recipient: New York Metropolitan Transportation Authority (MTA)

Grant Subrecipient: Metropolitan Transportation Authority Bus Company (MTA Bus)

City/State: New York, New York

Grantee Number: 1786

Executive Officials: Jay H. Walder

Chairman and CEO

Metropolitan Transportation Authority

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Site Visit Dates: May 12 – 15, 2009

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 Metropolitan Transportation Authority Bus Company (MTA Bus) is a subrecipient 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.
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 MTA Bus Title VI Program was necessary.

The Office of Civil Rights authorized The DMP Group, LLC to conduct the Title VI Compliance Review of MTA Bus. The primary purpose of this Compliance Review was to determine the extent to which MTA Bus 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 MTA Bus 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 MTA Bus.

#### 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 MTA Bus Company (MTA Bus) is a public benefit subsidiary corporation of the New York Metropolitan Transportation Authority (MTA). MTA Bus was created in September 2004 to assume the operations of seven privately owned bus companies that operated under franchises granted by the New York City Department of Transportation (NYC DOT). In January 2005, MTA Bus began the consolidation of the operation of the seven bus lines into MTA Bus, beginning with the merger of Liberty Lines Express. The consolidation proceeded with the merger of services operated by Queens Surface Corporation in February 2005, New York Bus Service in July 2005, Command Bus in December 2005, Jamaica Bus and Green Bus Line in January 2006, and Triboro Coach in February 2006.

MTA Bus is responsible for both the local and express bus operations of the seven companies, consolidating and maintaining current buses, purchasing new buses to replace the aging fleet currently in service, and adjusting schedules and route paths to better match travel demand. MTA Bus operates 46 local bus routes in the Bronx, Brooklyn, and Queens and 35 express bus routes between Manhattan and the Bronx, Brooklyn, or Queens as well as Yonkers and western Nassau County. It has a fleet of over 1,300 buses serving almost 400,000 riders daily. MTA Bus operates from eight different facilities, known as Depots. Table 1, below, shows the current location name, former company name, the NYC DOT location name, and the number of buses assigned to each depot.

**Table 1 – MTA Bus Operating Facilities**

|  |  |  |  |
| --- | --- | --- | --- |
| **Current**  | **Former Company** | **NYC DOT** | **# of Buses** |
| **Location Name** | **Name** | **Location Name** | **Assigned** |
|  |  |  |  |
| **Baisley Park Depot** | Jamaica Buses, Inc. | Jamaica Depot | 104 |
| **College Point Depot** | Queens Surface Corporation | Queens Surface Corporation | 324 |
| **Eastchester Depot** | New York Bus Service | New York Bus Service | 134 |
| **Far Rockaway Depot** | Green Bus Lines | Green Bus Lines Annex | 103 |
| **JFK Depot** | Green Bus Lines | Green Bus Lines | 188 |
| **LaGuardia Depot** | Triboro Coach Corporation | Triboro Coach Corporation | 252 |
| **Spring Creek Depot** | Command Bus Company, Inc. | Command Bus Company, Inc. | 144 |
| **Yonkers Depot** | Liberty Lines Express, Inc. | Liberty Lines Express, Inc. | 96 |
| **Total Buses** |  **1,345** |
|  |  |  |  |
|  |  |  |  |

Fares on the former franchise bus routes are now the same as those for MTA New York City Transit and MTA Long Island Bus: $2.25 for local buses at all times and $5.50 for express buses. Fares include a free transfer within a two-hour window to any subway or local bus, or to an express bus with payment of a fare differential. The Reduced-Fare Program for senior citizens and persons with disabilities are also the same. The current fare structure for MTA Bus is as follows:

|  |  |  |
| --- | --- | --- |
| **Selected Fare Types** | **Full Fare** | **Reduced Fare** |
| Base Pay-Per-Ride MetroCard Fare | $2.25 | $1.10 |
| Cash (Bus only) | $2.25 | $1.10 |
| Single-Ride Ticket | $2.25 | N/A |
| **Unlimited Ride MetroCard**1-Day7-Day14-Day30-Day | $8.25$27.00$51.50$89.00 | N/A$13.50$25.75$44.50 |
| **Express Bus**CashPay-Per-Ride MetroCard Fare7-Day Express Bus Plus Unlimited Ride MetroCard | $5.50$5.50$45 | $2.75$2.75N/A |

The demographics of the MTA Bus service area are shown in Table 2. According to the 2000 Census, the area had a predominance of minority residents at 64.3 percent - Black population at 25.6 percent, persons of Hispanic or Latino origin at 27.8 percent, and Asians at 9.9 percent. About 19.4 percent of the population was Limited English Proficient and 21.0 percent of the population was considered low-income.

**Table 2 – Demographics of City Of Metropolitan Transportation Authority Bus Company Service Area**

**Racial/ Ethnic Breakdown of MTA Bus Service Area**

Source: 2000 U.S. Census

|  |  |  |  |
| --- | --- | --- | --- |
|   | **Bronx County** | **Kings County** | **Nassau County** |
| **Racial/ Ethnic Group** | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| White | 193,651 | 14.83% | 796,451 | 34.30% | 257,503 | 75.84% |
| Black | 416,338 | 31.89% | 847,293 | 36.49% | 26,530 | 7.81% |
| American Indian and Alaska Native | 3,488 | 0.27% | 4,411 | 0.19% | 336 | 0.10% |
| Asian | 38,558 | 2.95% | 176,689 | 7.61% | 25,552 | 7.53% |
| Hawaiian/Pacific Islander | 474 | 0.04% | 774 | 0.03% | 78 | 0.02% |
| Other Race | 8,227 | 0.63% | 15,855 | 0.68% | 1,168 | 0.34% |
| Hispanic Origin[[1]](#footnote-2) | 644,705 | 49.39% | 480,580 | 20.70% | 28,368 | 8.35% |
| **Total Population** | **1,305,441** |   | **2,322,053** |   | **339,535** |   |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|   | **New York County** | **Queens County** | **Westchester** | **Totals** |
| **Racial/ Ethnic Group** | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| White | 703,871 | 46.67% | 732,895 | 34.30% | 133,347 | 46.95% | 2,817,718 | 35.70% |
| Black | 234,698 | 15.56% | 422,831 | 19.79% | 71,858 | 21.32% | 2,019,548 | 25.58% |
| American Indian and Alaska Native | 2,465 | 0.16% | 6,275 | 0.29% | 526 | 0.53% | 17,501 | 0.22% |
| Asian | 143,291 | 9.50% | 389,303 | 18.22% | 10,277 | 18.70% | 783,670 | 9.93% |
| Hawaiian/Pacific Islander | 572 | 0.04% | 861 | 0.04% | 96 | 0.06% | 2,855 | 0.04% |
| Other Race | 5,536 | 0.37% | 28,098 | 1.31% | 1,663 | 12.44% | 60,547 | 0.77% |
| Hispanic Origin1 | 417,816 | 27.70% | 556,605 | 26.05% | 63,717 | 26.59% | 2,191,791 | 27.77% |
| **Total Population** | **1,508,249** |   | **2,136,868** |   | **281,484** |   | **7,893,630** |   |

|  |  |  |
| --- | --- | --- |
| **Other Demographic Categories** | Number | Percent |
| Limited English Proficiency[[2]](#footnote-3) | 1,531,766 | 19.41% |
| Low-Income | 1,673,506 | 21.01% |

V. SCOPE AND METHODOLOGY

#### Scope

The Title VI Compliance Review of MTA Bus examined the following requirements 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.
10. Program-Specific Requirements and Guidelines - all applicants, recipients and subrecipients that provide public mass transit service in areas with populations over 200,000 shall also submit the following:
11. Demographic Data;
12. Systemwide Service Standards and Policies;
13. Evaluation of Service and Fare Changes; and
14. Monitoring Transit Service.

#### Methodology

Initial interviews were conducted with the FTA Headquarters Civil Rights staff and the FTA Region II Civil Rights Officer to discuss specific Title VI issues and concerns regarding MTA Bus. An agenda letter covering the Review was sent to MTA Bus 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 Guidelines; and (2) Program-Specific Requirements and Guidelines 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.

MTA Bus was requested to provide the following information regarding the Title VI Requirements of FTA Circular 4702.1A:

* Any updates or changes to the most recent Title VI Program that was submitted to FTA by MTA Bus.
* Description of MTA Bus’ service area, including general population and other demographic information using the most recent Census data.
* Current description of MTA Bus’ transit service, including system maps, public timetables, transit service brochures, etc.
* Roster of current MTA Bus’ revenue bus fleet, to include acquisition date, fuel type, seating configurations and other amenities.
* Description of transit amenities maintained by MTA Bus. Amenities include shelters, benches, restrooms, telephones, passenger information systems, transit centers, etc.
* Any studies or surveys conducted by MTA Bus, its consultants or other interested parties (colleges or universities, community groups, etc.) regarding ridership, service levels and amenities, passenger satisfaction, passenger demographics, major service reductions, or fare issues during the past three years.
* Summary of MTA Bus’ 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 since the most recent Title VI Program submittal.
* Summary of MTA Bus’ current efforts for providing language assistance for persons with Limited English Proficiency since the most recent Title VI Program submittal that is based on the USDOT LEP Guidance.
* A list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming MTA Bus that allege discrimination on the basis of race, color, or national origin since the most recent Title VI Program submittal. This list must include the date of 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 MTA Bus in response to the investigation, lawsuit, or complaint.
* A description of efforts made by MTA Bus to notify beneficiaries of their rights and protections against discrimination afforded to them by Title VI since the most recent Title VI Program submittal.
* Copies of any environmental justice assessments conducted for FTA funded construction projects since the most recent Title VI Program submittal 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 any MTA Bus demographic analyses of its beneficiaries since the most recent Title VI Program submittal.
* Quantitative system-wide service standards and qualitative system-wide service policies adopted by MTA Bus since the most recent Title VI Program submittal to guard against discriminatory service design or operations decisions.
* Documentation of any updates since the most recent Title VI Program submittal to the MTA Bus 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 MTA Bus should have established guidelines or thresholds for what it considers a “major” service change to be). If MTA Bus has made significant service changes or increased fares during the past three years or is currently planning such changes, provide documentation of MTA Bus’ Title VI evaluations of the service or fare changes.

* Documentation of periodic service monitoring activities undertaken by MTA Bus, during the past three years, 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. If MTA Bus’ monitoring determined that prior decisions have resulted in disparate impacts, provide documentation of corrective actions taken to remedy the disparities.
* Documentation of periodic service monitoring activities undertaken by MTA Bus, 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 MTA Bus’ monitoring determined that prior decisions have resulted in disparate impacts, provide documentation of corrective actions taken to remedy the disparities.

MTA Bus 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 three-day site visit was developed.

The site visit to MTA Bus occurred May 12 – 15, 2009. The individuals participating in the Review are listed in Section VIII of this report. A Title VI Entrance Conference was conducted at the beginning of the Compliance Review with the FTA Region II Regional Civil Rights Officer, MTA Headquarters staff, MTA Bus senior management staff and the contractor Review team. The Review team 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 Review and the needed cooperation of staff members. A detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the Title VI Compliance Review team met with MTA Bus staff responsible for Title VI Compliance. During this meeting, discussions focused on a detailed examination of documents submitted in advance of the site visit and documents provided at the site visit by the MTA Bus.

The Review team then met with various staff members from the MTA Bus to discuss how MTA Bus incorporates the FTA Title VI requirements into its public transportation system. At the end of the site visit, an Exit Conference was held with MTA Bus senior management staff, the FTA Region II Regional Civil Rights Officer, the FTA Region II Director of the Office of Operations and Program Management, and the contractor Review team. A list of attendees for the Title VI Compliance Review is included at the end of this report. At the Exit Conference, initial findings and corrective actions were discussed with MTA Bus.

**Community Interviews**

Several community representatives were interviewed. The community representatives represented input from the Asian, African American and Hispanic communities. Most of the representatives were not aware of and indicated that MTA Bus had not made their communities aware of services changes and construction projects via minority newspapers and/or magazines. They acknowledged that MTA Bus had advertised on the buses and sometimes through Internet notices regarding these service changes.

The primary concerns in the communities were: (1) the overcrowding and infrequent service, and (2) the inconsistency with the MTA Bus placement of shelters, buses, and other amenities on the minority routes relative to non-minority routes. Additionally, one community representative indicated that South Brooklyn was poorly served, that minorities do not have adequate access to public transit, and that the bus system was not adequate. Another community representative indicated that parts of the line that went through Harlem had adequate access, but once the bus went past Lennox (central Harlem), there was limited access.

With respect to fare changes, most of the community representatives said that the recent fare increase was not equitable. Some cited that it was not equitable for everyone but that it was more inequitable for the minority population in the area. Another community representative indicated that the increase in the fare did not have a comparable increase in the quality of service. The one community representative that did say the increase was equitable said that the MTA Bus fare was a decent fare and on par relative to other systems of transportation.

It was believed that MTA Bus adequately communicated with the Hispanic speaking population in the service area, however, the Asian population was underserved. One community representative indicated that there was a large barrier for Asians to use the system and that the Asian community had to devise a methodology to assist new Asian immigrants in learning the system, such as counting stops.

Most of the community representatives interviewed were aware of general complaints by minorities regarding the level or quality of service but no specific complaints about MTA Bus. The community representatives gave a number of suggestions for improving service to the minority community, including:

* “More honesty and transparency with everyone; minorities don’t want to be abused. MTA not being forthright in what communicating.”
* Advertise more in minority newspapers and television.
* Have more town hall meetings in appropriate communities – i.e., if there are Brooklyn issues, then have meeting in Brooklyn in an accessible community venue.
* MTA Bus should spend more time at the community board level.
* MTA Bus should have more outreach to the community itself (i.e., Hispanic outreach in Spanish - “two page English article does not get across to the right population”).
* The East and West Bus Lane travel lane is a different color now than when first painted; now faded and horrible.
* There are issues with parking spaces for businesses on the Fordham BRT.
* Provide more maps and signage in the Asian languages.
* Hire more Asian employees at MTA Bus.
* Provide more express routes.

**Site Visit Observations**

A tour was made of the following comparable MTA Bus routes, with segments serving, minority, non-minority, non-low income and low-income communities:

* BM2 –Express Service (Minority)
* Q8 –Local Service (Minority)
* QM10 –Express Service (Non-Minority)
* Q11 –Local Service (Non-Minority)

During the tour, observations were recorded regarding the vehicles 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 and/or low-income segments was comparable to that found along the non-minority and/or non-low income segments. It was noted that there were fewer amenities (bus shelters) along the minority and/or low-income segments than found along the non-minority and/or non-low income segments. The bus shelters were not owned or maintained by MTA or MTA Bus.

**VI. FINDINGS AND RECOMMENDATIONS**

The Title VI Compliance Review focused on MTA Bus' compliance with the General Reporting Requirements and Guidelines and the Program-Specific Requirements and Guidelines for recipients serving large urbanized areas. This section describes the requirements and findings at the time of the Compliance Review site visit. In summary, deficiencies were identified in four of the twelve Title VI requirements. Following the site visit, MTA Bus took corrective actions adequate to close three of the deficiencies. The area where deficiencies remain is Language Access to LEP Persons.

#### FINDINGS OF THE GENERAL AND PROGRAM-SPECIFIC 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.*

**Findings:** During this Title VI Compliance Review of MTA Bus, no deficiencies were found regarding MTA Bus’ compliance with FTA guidance for Inclusive Public Participation. MTA Bus presented sufficient activities and documentation during the Review to demonstrate that its public participation process satisfied the requirements of the Circular. During the Review, MTA Bus provided documentation that it had participated in community board meetings that were open to the public, produced service notices (bulletins, posters, and handouts) in multiple languages, and disseminated certain information on its website in multiple languages.

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).*

**Findings:** During this Title VI Compliance Review of MTA Bus, deficiencies were found regarding MTA Bus’ compliance with FTA requirements for Language Access to LEP persons. MTA Bus provided documentation that service change notices were posted in multiple languages based on an analysis of the demographic data of the census tract(s) of the affected route(s). In addition, customer survey forms were issued in multiple languages in order to capture the input of LEP riders.

At the time of the Review, MTA Bus had not performed a four-factor analysis in accordance with the DOT LEP guidance or developed a plan to address the needs of the LEP population it served.

Subsequent to the site visit, MTA Bus provided a draft document entitled, *MTA Bus Company (MTA Bus) Title VI Assessment Limited English Proficient (LEP) Persons Action Plan,* that incorporated the parent company, MTA, and all of its subsidiary transit agencies, in an effort to develop a comprehensive formal LEP Action Plan. The draft Action Plan called for the establishment of an Action Committee at the MTA level and corresponding Sub-Committees at the level of each reporting Agency. The Action Committee and its Sub-Committees would be responsible for developing and implementing a LEP plan and policy utilizing the four-factor assessment as recommended by the DOT LEP Guidance, identified below:

|  |
| --- |
| **Elements Required for LEP Assessment and Language Access Plan (Per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)** |
| **Part A – Four Factor Assessment** |
| 1. Demography –The number or proportion of LEP persons eligible to be served or likely to be encountered
 |
| 1. Frequency of Contact - the frequency with which LEP individuals come in contact with the program and/or activities
 |
| 1. Importance - the nature and importance of the program, activity, or service to people's lives;
 |
| 1. Resources - the resources available and costs
 |
| **Part B – Develop Language Assistance Plan** |
| 1. Identification of LEP Persons
 |
| 1. Language Assistance Measures
 |
| 1. Training of Staff
 |
| 1. Provide Notice to LEP Persons
 |
| 1. Monitor and Update the LAP
 |

In a letter dated January 11, 2010, MTA Bus stated that within 120 days they will do the following:

*Implement the four-factor process as described in DOT’s LEP guidelines in the format of a four-step action plan:*

1. *An attempt to determine the number or proportion of LEP persons eligible or likely to be served by MTA Bus:*

*Using the US Census 2004 information on persons whose primary language is not English we plan to analyze on the basis of the defined total service area of MTA Bus, both local and* (ex)*press routes, the percentage of foreign-language speaking riders.*

1. *Determine the frequency with which LEP individuals come in contact with the LEP program:*

*Working to achieve a better LEP profile at the bus route level, we intend to conduct an analysis of the census tracts comprising routes where LEP language thresholds of +/- 5% are present.*

*Working with community boards and other organizations who can provide anecdotal evidence, we will seek to identify LEP groups.*

1. *Establish a priority list of LEP needs for MTA Bus riders:*

*In developing this list we will focus on Security/Safety related issues, Service Notices, Customer Surveys (reflecting origin/destination determination, and demographic data), information from our Government Relations, Communications and Public Relations Departments.*

1. *The resources available to the MTA and the overall cost:*

*In these challenging and financially troubled times, we will look for low cost/high yield approaches to identifying LEP needs and solving the solutions to the problems faced by LEP users of our MTA Bus system. Looking toward non-monetary resources (e.g., community groups, outsides agencies, special interest groups) our approach will be to identify LEP groups who can most benefit from our efforts.*

**Corrective Actions and Schedules**: Within 180 days, MTA Bus must submit to the FTA Region II Civil Rights Officer documentation of its LEP four-factor analysis and a Language Access Plan to address the identified LEP needs of the population it serves.

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.*

**Findings:** During this Title VI Compliance Review of MTA Bus, no deficiencies were found regarding MTA Bus’ compliance with FTA requirements for Title VI Complaint Procedures. At the time of the site visit, MTA Bus had a procedure for investigating and tracking Title VI complaints and had a Title VI complaint procedure that was available to members of the public. The complaint procedures were posted on public timetables and the website and it encouraged individuals to make their complaints in writing.

The Review team also confirmed that MTA Bus’ website did include a link to Filing a Title VI Complaint under General Information, and timetables in portable document format (pdf) that contained the complaint procedures. Below is MTA’s Title VI Complaint Procedure as posted on its website:

### **Filing a Title VI Complaint with MTA Bus Company**

*MTA is committed to providing non-discriminatory service to ensure that no person is excluded from participation in, or denied the benefits of, or subjected to discrimination in the receipt of its services on the basis of race, color or national origin as protected by Title VI of the Civil Rights Act of 1964 ("Title VI").*

*To request more information about Title VI or to submit a written complaint if you believe that you have been subjected to discrimination, you may contact the MTA Bus Company, Office of the General Counsel, 3320 Hutchinson Avenue, Bronx, NY 10475.*

*In addition to your right to file a complaint with MTA Bus Company, you have the right to file a Title VI complaint with the U.S. Department of Transportation, Federal Transit Administration, Office of Civil Rights. The regional office is located at One Bowling Green, Room 429, New York, 10004-1415.*

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.*

**Findings:** During this Title VI Compliance Review of MTA Bus, no deficiencies were found regarding MTA Bus’ compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. MTA Bus did maintain a record of Title VI investigations, complaints, and lawsuits. MTA Bus reported that it had six Title VI complaints filed against it that alleged discrimination on the basis of race, color, or national origin. MTA Bus investigated the complaints and the investigations determined that there was no discrimination based on the complainant’s race, color, or national origin. The complaints were closed.

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.*

**Findings:** During this Title VI Compliance Review of MTA Bus, deficiencies were found regarding MTA Bus’ compliance with FTA requirements for Notice to Beneficiaries of Protection Under Title VI. MTA Bus submitted its *Notice to Beneficiaries* contained in its public timetables prior to the site visit and the Review team reviewed it on the website. At the time of the site visit, MTA Bus’ Title VI *Notice to Beneficiaries* did not include all 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 MTA Bus’ Title VI *Notice to Beneficiaries*?** |
| --- | --- |
| 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 | No |
| A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient. | Yes |

Subsequent to the site visit, MTA Bus provided a *Notice to Beneficiaries*, entitled *Your Rights Under Title VI of the Civil Rights Act of 1964*, that contained all three required elements.

The *Notice* was posted on the website and will be disseminated to the public, primarily through its public timetables. MTA Bus provided a schedule for updating the Title VI language in all 80 of the public timetables, anticipated by summer of 2010.

The deficiency in this area is now closed.

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 MTA Bus, no deficiencies were found regarding MTA Bus’ 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. The parent company of MTA Bus, MTA, most recently executed its FY 2010 Annual Certifications and Assurances in TEAM on November 12, 2009. MTA checked as applicable, *01 Assurances Required For Each Applicant*. 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 MTA Bus, no deficiencies were found regarding MTA Bus' compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. MTA Bus did not have any projects during the review period that required an environmental justice analysis. However, MTA Bus indicated that they adopted MTA’s procedures for conducting an EJ analysis that was based on the previous Title VI Circular 4702.1. During the site visit, MTA Bus was advised to update its procedures for conducting EJ analysis to conform to the requirements of the current Title VI Circular 4702.1A.

Subsequent to the site visit, MTA Bus provided a document entitled *MTA BUS COMPANY Construction Project Impact Analysis Process* that stated that it *will conduct appropriate construction project impact analyses (CPIA) for applicable federally funded construction projects in compliance with Title VI Circular 4702.1A*. It did not state specifically that it would include the six-factor analysis listed in the Circular for all future construction projects.

The Title VI Circular provides guidance that the following six factors be included in an Environmental Justice analysis:

* *A description of the low-income and minority population within the study area affected by the project*
* *A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population*
* *A discussion of all positive effects that would affect the identified minority and low-income population*
* *A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects*
* *A discussion of the remaining effects, if any, and why further mitigation is not proposed*
* *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.*

MTA Bus is advised to incorporate the six-factor EJ analysis listed in the Circular for all future construction projects.

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 MTA Bus, no deficiencies were found regarding MTA Bus’ compliance with FTA requirements to Submit Title VI Program. MTA Bus submitted its most recent Title VI Program Report to FTA in June, 2008.

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 MTA Bus, no deficiencies were found regarding MTA Bus’ compliance with FTA requirements for Demographic Data. During the Review, MTA Bus provided adequate demographic data as required by the Circular. Using the options presented in FTA C. 4702.1A, V, 1.a., MTA Bus selected Option A: Demographic and Service Profile Maps and Charts. This Option required the following elements:

| **Elements Required for Demographic Data****(Per FTA C. 4702.1A, V, 1. a.)** | **Included in MTA Bus’****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 |

MTA Bus provided the Review team with a number of maps and reports. The maps provided were:

* Census Tract Base Maps
* Minority Maps – Local Service by County
* Minority Maps – Express Service by County
* Minority Maps – Trips Generators by County
* Income Maps – Local Service by County
* Income Maps – Express Service by County
* Income Maps – Trip Generators by County
* Income Maps – Highways by County
* Income Maps – MTA Bus Facilities by County
* Minority Distribution by County and Census Tract
* Income Distribution by County and Census Tract

The reports provided were:

* 2008 Telephone-based Customer Survey
* Express Ridership Count
* Local Ridership Count
* Cordon Count (Stationary Ridership Count)

During the Review, it was noted that the MTA Bus service area had significant racial and ethnic populations. According to the 2000 Census, the area had a predominance of minority residents at 64.3 percent - Black population at 25.6 percent, persons of Hispanic or Latino origin at 27.8 percent and Asians at 9.9 percent. MTA Bus is advised to provide additional maps showing individual minority populations for future Title VI analyses to ensure that each minority group is treated equitably.

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 MTA Bus, deficiencies were found regarding MTA Bus’ compliance with FTA requirements for Systemwide Service Standards and Policies. FTA Circular 4702.1A describes effective practices to fulfill the service standards and policies requirements. FTA recommends that recipients set standards and policies 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
 |  |

During the Review, MTA Bus provided a document entitled “Service Standard Requirements”. It contained many of the service standards/policies recommended in the Circular but did not adequately address all the Circular requirements.

Following the site visit, MTA Bus provided several documents that contained draft service standards and policies recommended by the Circular, including the following:

* MTA Bus Company (MTA Bus) Title VI Assessment On-Time Performance Guideline
* MTA Bus Company (MTA Bus) Title VI Assessment Service Availability Guidelines
* MTA Bus Company (MTA Bus) Title VI Assessment Vehicle Assignment Guideline

It is anticipated that MTA Bus will utilize these systemwide service standards and policies in its future Title VI analyses. The deficiency in this area is now closed.

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 MTA Bus, deficiencies were found regarding MTA Bus’ compliance with FTA requirements for Evaluation of Service and Fare Changes. MTA establishes fares for all of its operating subsidiaries, including MTA Bus. MTA did perform an equity evaluation of its most recent system-wide fare change. MTA’s most recent fare increase was implemented on June 28, 2009.

During the site visit, MTA Bus provided documentation that MTA performed a Title VI equity evaluation of proposed fare changes as part of its process of obtaining MTA Board of Directors approval of the fare increases. The Title VI equity evaluation was presented to the Board of Directors in Executive Session and was a major consideration in the determining the fare increase alternative that was selected for approval.

During the site visit, it was determined that MTA Bus did not perform Title VI equity evaluations of its major service changes as required by the Circular. MTA Bus indicated that it utilized the New York City Transit (NYCT) guidelines for establishing what it considered a “major” service change, as follows:

* Frequency of service modifications, where the magnitude of the change equals or exceeds 25 percent of the daily revenue miles scheduled.
* Span of service modifications, where the hours of service provided are changed by one or more hours.
* Route path modifications, where the change in the path of the route affects 25 percent or more of the current distance of that route.

During the site visit, several recent MTA Bus service changes were reviewed and it was determined that there were, in fact, service changes that were considered “major” under the locally adopted guidelines. MTA Bus did not perform a Title VI equity evaluation of those “major service changes” and did not have a service change analysis procedure.

The following table contains the elements required for the evaluation of service and fare changes:

| **ELEMENTS REQUIRED FOR EVALUATION OF SERVICE AND FARE CHANGES (PER FTA C. 4702.1A, V, 4.A.)** |
| --- |
| 1. ASSESS THE EFFECTS OF THE PROPOSED FARE OR SERVICE CHANGE ON MINORITY AND LOW-INCOME POPULATIONS.
 |
| *Service changes – produce maps of service changes overlaid on a demographic map of the service area* |
| *Span of service – Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted* |
| *Fare changes – Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted* |
| 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.* |
| *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.* |
| 1. DESCRIBE ACTIONS THE AGENCY PROPOSES TO MINIMIZE, MITIGATE, OR OFFSET ANY ADVERSE EFFECTS OF CHANGES ON MINORITY AND LOW-INCOME POPULATIONS.
 |
| 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
 |

Following the site visit, MTA Bus provided a document entitled *MTA Bus Company (MTA Bus) Title VI Assessment Service Change Impact Methodology* that contained its methodology for evaluating major service changes. MTA Bus will utilize this procedure to perform future Title VI service change equity evaluations.

The deficiency in this area is now closed.

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 MTA Bus, no deficiencies were found regarding MTA Bus’ compliance with FTA requirements for Monitoring Transit Service. During the Review, MTA Bus provided sufficient documentation to show that it had conducted Title VI monitoring of its public transit service. MTA Bus submitted its most recent Title VI monitoring effort as a part of the Title VI Program submittal to FTA Region II in 2008. MTA Bus utilized information from its customer satisfaction surveys to assist in performing the monitoring effort. Specifically, MTA Bus used the data from the October 2007 survey to determine customer satisfaction by minority, non-minority, low-income, and non-low income. The survey instrument did specifically collect income information but did not collect information on race and ethnicity. MTA Bus used census data to identify minority populations. MTA Bus is advised to modify its customer satisfaction survey instrument to include a specific question on race and ethnicity and a question to determine limited English proficiency (LEP).

VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

| **Title VI Requirements For Transit Providers** | **Site Review Finding** | **Deficiency Code(s)** | **Corrective Action(s)** | **Response Days/Date** | **Date Closed** |
| --- | --- | --- | --- | --- | --- |
| **GENERAL REQUIREMENTS** |
| 1. Inclusive Public Participation
 | ND |  |  |  |  |
| 1. Language Access to LEP Persons
 | D | Lacking assessment or provisions for LEP persons | MTA Bus must submit to the FTA Region II Civil Rights Officer documentation of its LEP four-factor analysis and a Language Access Plan to address the identified needs of the LEP population it serves. | 180 Days |  |
| 1. Title VI Complaint Procedures
 | ND |  |  |  |  |
| 1. Record of Title VI Investigations, Complaints, and Lawsuits
 | ND |  |  |  |  |
| 1. Notice to Beneficiaries of Protection Under Title VI
 | D | Title VI public notification deficiencies | MTA Bus must submit to the FTA Region II Civil Rights Officer documentation that it has developed and disseminated its Notice to Beneficiaries of Protection Under Title VI | 120 Days | 6/30/2009 |
| 1. Annual Title VI Certification and Assurance
 | ND |  |  |  |  |
| 1. Environmental Justice Analysis of Construction Projects
 | AC |  | MTA Bus is advised to incorporate the six-factor EJ analysis listed in the Circular for all future construction projects. |  | N/A |
| 1. Submit Title VI Program
 | ND |  |  |  |  |
| 1. Demographic Data
 | AC |  | MTA Bus is advised to provide additional maps showing individual minority populations for future Title VI analyses to ensure that each minority group is treated equitably. . |  | N/A |
| 1. Systemwide Service Standards and Policies
 | D | Service standards and/or policies lacking | MTA Bus must submit to the FTA Region II Civil Rights Officer documentation that it has systemwide service standards and policies as described in FTA Circular 4702.1A. | 120 Days | 6/30/2009 |
| 1. Evaluation of Service and Fare Changes
 | D | Impact of fare and/or service changes not adequately examined | MTA Bus must submit to the FTA Region II Civil Rights Officer documentationthat it has a procedure to evaluate major service changes. | 120 Days | 6/30/2009 |
| 1. Monitoring Transit Service
 | AC |  | MTA Bus is advised to modify its customer satisfaction survey instrument to include a specific question on race, ethnicity and LEP. |  |  |

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** |
| --- | --- | --- | --- |
| **GRANTEE – Metropolitan Transportation Authority (MTA)** |
|  |  |  |  |
| Gwendolyn Harleston | Assistant Director of Compliance, MTA | 646-252-1377 | gharlest@mtahq.org |
| Catherine Corless | Assistant Director, Grant Management, MTA HQ | 212-878-7033 | ccorless@mtahq.org |
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| Fred Benjamin | Assistant Vice President, NYCT | 646-252-5300 | fred.benjamin@nyct.com |
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| Joseph Bonicello | Manager, NYCT | 646-252-6875 | joseph.boniello@nyct.com |
|  |  |  |  |
| **AGENCY – Federal Transit Administration (FTA)** |
| John H. Prince, Jr. | Regional Civil Right Officer, Region II | 212-668-2179 | john.prince@dot.gov  |
| Larry Penner | Director, Office of Operations and Program Management, Region II | 212-668-2170 | larry.penner@dot.gov |
| **OTHER** |
| Martin Krieger | Consultant (*via Robert Zurlo*) | 646-252-8586  |  |
|  |  |  |  |
| **REVIEW TEAM – The DMP Group, LLC** |
| John Potts | Lead Reviewer, The DMP Group | 504-283-7661 | johnpotts@thedmpgroup.com  |
| Dana Lucas | Reviewer, The DMP Group | 301-585-2630 | dana.lucas@thedmpgroup.com  |
| Bridgett Gagné | Reviewer, The DMP Group | 301-585-2630 | bridgett.gagne@thedmpgroup.com  |

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-2)
2. Per *US CENSUS, 2004 AMERICAN COMMUNITY SURVEY, S1601. LANGUAGE SPOKEN AT HOME* [↑](#footnote-ref-3)