**TITLE VI COMPLIANCE REVIEW**

**OF THE**

**Maryland Transit Administration**

**Baltimore, MD**

**Final Report**

**October 2010**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

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GENERAL INFORMATION

Grant Recipient: Maryland Transit Administration

City/State: Baltimore, MD

Grantee No: 1401

Executive Official: Mr. Ralign Wells

Administrator

Maryland Transit Administration (MTA)

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Site Visit Dates: April 13-16, 2009 and April 23, 2010

Compliance Review

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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 Maryland Transit Administration (MTA) 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, FTA MA 13 (October 1, 2006).

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 Maryland Transit Administration (MTA) Title VI Program was necessary.

The Office of Civil Rights authorized the DMP Group to conduct the Title VI Compliance Review of MTA. The primary purpose of this Compliance Review was to determine the extent to which MTA has met its General Reporting and Program-Specific Requirements, in accordance with FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients”. Members of the Compliance Review team also discussed with MTA 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.

#### 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 Maryland Transit Administration (MTA) was established in 1971 as a modal administration of the Maryland Department of Transportation (MDOT). At that time, MTA was primarily a local bus operator serving the City of Baltimore and surrounding communities. Today, MTA is a complex organization, responsible for directly operating public transportation service in the Baltimore urbanized area on four modes of service: fixed-route bus, ADA paratransit, heavy rail, and light rail. MTA is also responsible for oversight of contractor operated commuter bus, commuter rail, and ADA paratransit service. In addition to providing public transportation service in and around Baltimore, MTA is responsible for administering FTA funding to eleven urbanized areas outside of Baltimore, more than 15 non-urbanized areas and over 30 non-profit agencies that operate transportation services for senior citizens and persons with disabilities. The Governor designated the MTA to administer the FTA grant application and program management for transportation programs in Maryland with the exception of the Washington Metropolitan Area Transit Authority (WMATA) in the Washington DC metropolitan area.

MTA is responsible for administering the following FTA-funded programs for public transportation services throughout the State of Maryland:

* Urbanized Area Formula Program (Section 5307)
* Capital Program (Section 5309)
* Non-Urbanized Formula Program (Section 5311)
* Job Access Reverse Commute (Section 5316)
* New Freedoms (Section 5317)

At the time of the Review, MTA directly operated 47 local and express bus routes throughout metropolitan Baltimore. Bus service was operated on a 24-hour basis, seven days per week. MTA provided complementary ADA paratransit service with its own workforce and three private contractors. MTA also contracted with three private carriers to operate 18 commuter bus routes. These routes operated weekdays during morning and evening peak hours, primarily carrying passengers from various origins in Maryland to downtown Baltimore and Washington, DC.

The Baltimore Metro is a fully grade separated, double-tracked heavy rail system that runs 34 miles, serving 14 stations in the northwest corridor. Metro service operated Monday through Friday, five am to midnight, and six am to midnight on Saturdays, Sundays, and holidays. Metro had eight minute headway during peak service, ten minute headway during the midday, and 15 to 20 minute headways during the other operating hours. MTA stored and maintained the fleet at the Metro Maintenance Facility at Wabash Avenue.

The Central Light Rail Line operated over 56 route miles and served 33 stations. MTA had a fleet of 53 articulated light rail vehicles (LRVs) and operated up to 33 vehicles during peak hours. Light Rail service was provided six am to 11 pm on Monday through Friday, seven am to 11 pm on Saturday and 11 am to seven pm on Sunday. Light Rail operated at nine to 17 minute intervals. The vehicles were stored and maintained at two rail facilities; North Avenue and Cromwell.

MTA contracted with CSX and Amtrak to operate commuter rail service. The commuter rail service, known as MARC, operates three lines (Penn, Brunswick, and Camden) over 471 route miles serving 42 stations.

MTA’s Office of Planning & Engineering was responsible for monitoring, managing, and providing technical assistance to the Locally Operated Transit Systems (LOTS) in each of Maryland’s 23 counties plus several towns and cities who are subrecipients of Section 5307, 5309, 5310, and 5311 funds. MTA also provided planning and technical assistance to local operators and jurisdictions, as well as MPO liaison activities and overall state transit planning. The recently established Local Transit Support Division reported to MTA’s Deputy Administrator for Planning & Engineering.

The FTA-funded programs were administered by MTA’s Grants Management Section, which submits and monitors the federal grants. The Grants Management Section was directly responsible for all grant documents and payment request submittals to the FTA. The Grants Management Section reported to the Director of Planning. The Director of Planning reported to the MTA Deputy Administrator and interacted directly with both MTA and MDOT senior management on a daily basis. Other offices within MTA and MDOT provide grant monitoring and technical assistance on an as-needed basis.

There were 11 urbanized area subrecipients eligible to receive Section 5307 funding and operate fixed route and demand response services. These subrecipients were:

* Annapolis Transit
* Alleghany County Transit
* Carroll County Planning Department
* County Commissioners of Charles County
* Hartford Transit
* Howard Transit
* Montgomery County – Ride On
* Prince Georges’ County – The BUS
* Transit Service of Frederick County
* Tri-County Council for the Lower Eastern Shore
* Washington County Transportation Department

There were 18 subrecipients of Section 5311 funds and 34 active subrecipients that received Section 5310 funding. There were six active subrecipients of Section 5316 funding and nine recipients of Section 5317 funding. The Section 5316 and 5317 subrecipients provided fixed route and demand response services.

The Administrator was MTA’s Chief Executive Officer and was responsible for implementing the policies of the Secretary of the MDOT. As of March 31, 2010, MTA was organized under the following management structure that reported directly to the Administrator:

* Assistant Administrator
* Chief of Staff
* Legal Counsel
* Safety, Quality Assurance & Risk Management
* Audits
* Fair Practices
* Labor Relations
* Police
* Deputy Administrator for Operations
* Deputy Administrator for Finance & Administration
* Deputy Administrator for Planning & Engineering

The Title VI function was in the Office of Fair Practices. The Director of the Office of Fair Practices reported to the Administrator and was responsible for EEO, ADA, Title VI, and DBE. Within the Office of Fair Practices, there were four units and 11 positions. There was a Deputy Director position that was vacant at the time of site visits. There were two positions in the ADA unit, and one of those positions was vacant. There were three positions in DBE and one of those positions was vacant. There were three positions in the EEO unit and one position in the Title VI unit (Title VI Coordinator). During the initial site visit, the Title VI Coordinator position was filled. During the on-site follow-up, the Title VI Coordinator position was vacant. MTA indicated that it was recruiting for the vacant position. There were plans to combine the ADA and Title VI responsibilities because the open positions could not be filled due to hiring restrictions.

MTA completed the several noteworthy FTA-funded projects in the past three years. Major projects included:

* La Plata Park and Ride facility in La Plata, Charles County
* Installation of new Revenue Data Collection Equipment and Fare Boxes
* Replacement of 30 articulated buses
* Enhancements to improve the reliability of 81 escalators in Metro and Light Rail stations

On-going FTA-funded projects included:

* Silver Spring Station Improvements at WMATA Metrorail station
* Baltimore Metro Station Fire Management System
* MARC Diesel Locomotive Procurement for 26 remanufactured locomotives
* MARC IIB Overhaul project involving a ten-year overhaul of 34 MARC IIB cars
* Expansion of the Park and Ride facility in the Dunkirk area of Calvert County
* A new Park and Ride facility in Waldorf for commuter bus patrons.
* A new Charlotte Hall Park and Ride facility
* A new Park and Ride facility for Prince Frederick
* A new MARC Mid-Day Storage facility to be constructed at the Wedge Yard within the Washington Union Station Terminal
* Improvements to the MARC Halethorpe Station
* A 20-year mid-life overhaul of 26 MARC II cars

The State of Maryland has 24 main local jurisdictions, including 23 counties and Baltimore City. The State is further divided into 157 municipalities. It covers 9,773 square miles and had a 2000 population of 5,296,486. A demographic profile of the State from the 2000 Census, as presented on the following table, shows that 64 percent of the population is White non-Hispanic, 4.3 percent is Hispanic, 27.9 percent is Black and 4.3 percent is Asian. A demographic profile of the City of Baltimore shows that 31.6 percent of the population is White non-Hispanic, 1.7 percent is Hispanic, 64.3 percent is Black and 1.5 percent is Asian.

**Racial/ Ethnic Breakdown of the State of Maryland**

2000 – U.S. Census

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | Baltimore City | | Rest of Maryland | | Statewide Totals Maryland | |
| **Number** | **%** | **Number** | **%** | **Number** | **%** |
| White | 205,982 | 31.6 | 3,185,326 | 68.9 | 3,391,308 | 64.0 |
| Black | 418,951 | 64.3 | 1,058,460 | 22.8 | 1,477,411 | 27.9 |
| American Indian and Alaska Native | 2,097 | 0.3 | 13,326 | 0.3 | 15,423 | 0.3 |
| Asian | 9,985 | 1.5 | 200,944 | 4.3 | 210,929 | 4.0 |
| Hawaiian/Pacific Islander | 222 | 0.0 | 2,081 | 0.0 | 2,303 | 0.1 |
| Other Race | 4,363 | 0.7 | 91,162 | 2.0 | 95,525 | 1.8 |
| Two or More | 9,554 | 1.5 | 94,033 | 2.0 | 103,587 | 1.9 |
| Hispanic Origin[[1]](#footnote-2) | 11,061 | 1.7 | 216,855 | 4.7 | 227,916 | 4.3 |
| Total Population | **651,154** | **100%** | **4,645,332** | **100%** | **5,296,486** | **100%** |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Low-Income | 143,514 | 22.9 | 295,162 | 6.4 | 435,951 | 8.2 |
| Limited English Proficiency[[2]](#footnote-3) | 47,280 | 7.8 | 575,434 | 12.4 | 611,422 | 11.5 |

V. SCOPE AND METHODOLOGY

#### Scope

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

1. General Requirements and Guidelines - all applicants, recipients and subrecipients shall maintain 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 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 submit the following:
11. Demographic Data;
12. Systemwide Service Standards and Policies;
13. Evaluation of Service and Fare Changes;
14. Monitoring Transit Service;
15. Program-Specific Requirements and Guidelines for State DOTs or Other Administering Agencies - State DOTs and other State administrating agencies, administrating Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area, Job Access and Reverse Commute (JARC), and New Freedom funding programs, as well as and designated recipients in large urbanized areas for JARC and New Freedom, shall also submit the following:
16. A copy of procedures to certify that the statewide planning Process is in compliance with Title VI;
17. A description of the procedures the agency uses to pass through FTA financial assistance in a non-discriminatory manner;
18. A description of the procedures the agency uses to provide assistance to potential subrecipients in a non-discriminatory manner;
19. A description of how the agency monitors its subrecipients for compliance with Title VI and the results of the monitoring.

#### Methodology

This Title VI Compliance Review was conducted concurrently with an EEO Compliance Review.The findings of the EEO Compliance Review will be presented in a separate report.The initial step of the Compliance Reviews consisted ofinterviews with the FTA Headquarters Civil Rights staff to discuss specific Title VI issues and concerns regarding MTA. Relevant documents from FTA’s files were reviewed as background. Next, an agenda letter was prepared and sent to MTA by FTA’s Office of Civil Rights. The agenda letter notified MTA of the planned Compliance Reviews, requested preliminary documents, and informed MTA of additional documents needed and areas that would be covered during the on-site portion of the Review. It also informed MTA of the staff and other organizations and individuals that would be interviewed. 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 Requirements and Guidelines; (2) Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas; and (3) Program-Specific Requirements and Guidelines for State DOTs and Other Administering Agencies. The General Reporting Requirements now include implementation of the Environmental Justice (EJ) and Limited English Proficiency (LEP) Executive Orders. The following documents were requested for the Title VI Compliance Review:

* MTA’s most recent Title VI Update that was submitted to FTA.
* Description of MTA’s large urban service area, including general population and other demographic information using the most recent Census data.
* Current description of MTA’s large urban fixed route bus service, contracted bus service, complementary ADA paratransit service, bus rapid transit service and rail service, and commuter rail service, including system maps, public timetables, transit service brochures, etc.
* Roster of current MTA large urban revenue fleet for rail, commuter rail, bus, and paratransit, to include acquisition date, fuel type, seating configurations and other amenities.
* Description of transit amenities maintained by MTA at large urban rail stations, BRT stations, bus transfer centers and bus stops. Amenities include shelters, benches, restrooms, telephones, passenger information systems, etc.
* MTA’s most recent State Management Plan(s)/Program Management Plan(s) for FTA-funded Section 5310, 5311, 5316, and 5317 programs.
* List of all MTA subrecipients by FTA program area, e.g., FTA Section 5307, 5310, 5311, 5316, and 5317 subrecipients.
* Sample copies of current funding agreements/contracts between MTA and its FTA-funded subrecipients, including Section 5307, 5310, 5311, 5316, and 5317 subrecipients.
* A map or chart of the distribution of FTA Section 5310, 5311, 5316, and 5317 funding throughout the State. The areas covered by each subrecipient and the dollars awarded in the past three years should be noted, as well as the number of vehicles, where appropriate. The map or chart should also identify areas where minority and low-income populations exceed the Statewide averages.
* Any studies or surveys conducted by MTA, 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 urban public transit service and regarding transit planning and service provided by FTA Section 5307, 5310, 5311, 5316, and 5317 subrecipients, during the past three years.
* Summary of MTA’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 MTA’s plan for providing language assistance for persons with Limited English Proficiency that is based on the USDOT LEP Guidance.
* MTA’s procedures for investigating and tracking Title VI complaints and documentation that the procedures for filing complaints are available to members of the public upon request.
* A list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the MTA that allege discrimination on the basis of race, color, or national origin during the past three years. 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 the MTA in response to the investigation, lawsuit, or complaint.
* Description of efforts made by MTA to apprise members of the public of the protections against discrimination afforded to them by Title VI.
* Copies of any environmental justice assessments conducted for construction projects during the past three years and, if needed, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities, including FTA Section 5307, 5310, 5311, 5316, and 5317 subrecipients.
* A copy of MTA’s demographic analysis of its large urban area 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 rider ship, or the MTA’s locally developed demographic analysis of its customers’ travel patterns.
* Quantitative system-wide service standards and qualitative system-wide service policies adopted by the MTA for its large urban area public transit service to guard against discriminatory service design or operations decisions.
* Documentation of the MTA’s methodology for evaluating significant system-wide service and fare changes and proposed improvements at the planning and programming stages for its large urban area public transit service 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 should have established guidelines or thresholds for what it considers a “major” service change to be). If MTA has made significant service changes or increased fares in the past three years or is currently planning such changes, provide documentation of MTA’s Title VI evaluations of the service or fare changes.
* Documentation of periodic service monitoring activities undertaken by MTA for its large urban area public transit service, 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’s monitoring determined that prior decisions have resulted in disparate impacts, provide documentation of corrective actions taken to remedy the disparities.
* A demographic profile of the State that includes identification of the locations of socioeconomic groups, including low-income and minority populations, as covered by the Executive Order on Environmental Justice and Title VI.
* MTA’s statewide transportation planning process that identifies the needs of low-income and minority populations.
* MTA’s analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.
* A copy of the procedures used for certifying that the statewide planning process complies with Title VI.
* A description of how MTA develops its competitive selection process or annual program of projects for Section 5310, 5311, 5316, and 5317 programs submitted to FTA as part of its grant applications. This description should emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority and low-income populations, including Native American tribes, where present.
* A description of MTA’s criteria for selecting transit providers to participate in any FTA grant program.
* A record of requests for Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area Formula Funding, JARC, and New Freedom funding. The record should identify those applicants that would use grant program funds to provide assistance to predominantly minority and low-income populations. The record should also indicate whether those applicants were accepted or rejected for funding.
* A description of MTA’s procedures to assist potential subrecipients in applying for Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area Formula Funding, JARC, and New Freedom funding, including any efforts to assist applicants that would serve predominantly minority and low-income populations.
* A description of how MTA monitors its Section 5307, 5310, 5311, 5316, and 5317 subrecipients for compliance with Title VI and a summary of the results of this monitoring, including:
* The process for ensuring that all subrecipients are complying with the General Reporting Requirements of FTA Circular 4704.1A.
* The process for subrecipients who provide transportation services to verify that their level and quality of service is provided on an equitable basis, including the development of system-wide service standards and verification that service provided to predominantly minority and low-income communities meets these standards.
* A description of the assistance MTA provides to subrecipients, upon their request, to help them comply with Title VI General Reporting Requirements. The following are examples of information that may be provided to subrecipients.
* Sample notices to the public informing beneficiaries of their rights under Title VI and procedures on how to file a Title VI complaint.
* Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient.
* Demographic information on the race, income, and English proficiency of residents served by the subrecipient.

MTA assembled most of the documents prior to the initial 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 initial site visit to MTA occurred April 13-16, 2009. The individuals participating in the Reviews are listed in Section VIII of this report. This Title VI Compliance Review was conducted concurrently with an EEO Compliance Review. A joint EEO/Title VI Entrance Conference was conducted at the beginning of the Compliance Reviews with MTA senior management staff, an Equal Opportunity Specialist from the FTA Headquarters Office of Civil Rights and the contractor Review team. During the Entrance Conference, the Review team explained the goals of the Reviews and the needed cooperation of staff members. A detailed schedule for conducting the on-site visit was discussed. The Review team also showed the participants a U. S Department of Justice video on Title VI. After the joint Entrance Conference, the Review team separated into two groups. The Title VI Compliance Review team met with staff from the Office of Civil Rights 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.

The Review team then met with various staff members from the MTA departments to discuss how MTA incorporates FTA Title VI requirements into its public transportation system.

During the site visit, arrangements were made for a tour of MTA’s facilities, bus routes, rail lines, observation of vehicle assignments to routes, review of actual headways and ridership on sample minority and non-minority routes, and interviews with MTA’s staff and community representatives.

Several MTA bus routes were toured, including Routes 9, 10, 11, 29 and 36. The Review team also toured the Kirk Bus Division Modernization Project.

The Review team also visited Transit Services of Frederick County, a Section 5311 subrecipient.

At the end of the site visit, a joint Title VI and EEO Exit Conference was held with MTA senior management staff, FTA Headquarters staff, and the contractor Review team. At the Exit Conference, initial findings and corrective actions were discussed with MTA. The Review identified a number of deficiencies and MTA worked with the contractor Review team to implement corrective actions. In April of 2010, contractor Review team conducted an on-site follow-up of MTA’s Title VI efforts as part of MTA’s Triennial and State Management Review. This Draft Report incorporates the corrective actions taken from April 2009 to April 2010 and reflects the observations of the Review team in April 2010 to assess implementation of the corrective actions.

VI. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on MTA's compliance with the General Requirements and Guidelines, the Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas, and the Program-Specific Requirements and Guidelines for State DOTs and Other Administering Agencies. This section describes the requirements, guidance and findings at the time of the Compliance Review site visit and during the on-site follow-up during April 2010. In summary, at the time of the initial site visit in April 2009, deficiencies were identified in nine of the 16 requirements of the Title VI Circular: LEP Language Assistance Plan, Notice to Beneficiaries of Protection Under Title VI, System-wide Service Standards and Policies, Evaluation of Fare and Service Changes, Monitoring Transit Service, Statewide Planning Activities, Program Administration, Providing Assistance to Subrecipients, and Monitoring Subrecipients. Advisory Comments were made in two areas: List of Title VI Investigations, Complaints, and Lawsuits, and Environmental Justice Analyses of Construction Projects.

Subsequent to the site visit and confirmed at the on-site follow-up in April 2010, MTA provided sufficient documentation to close the deficiencies in all nine areas and address the advisory comments.

#### FINDINGS OF THE GENERAL 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, no deficiencies were found regarding MTA’s compliance with FTA guidance for Inclusive Public Participation. MTA presented sufficient documentation to demonstrate that its public participation satisfied the requirements of the Circular. During the site visit, the MTA Title VI Coordinator provided documentation to show that she had attended numerous public meetings on behalf of the MTA to ensure that the viewpoints of minority and low-income persons were considered. These include public hearings on fare and service changes and meetings of the MTA’s Citizens Advisory Committee (CAC).

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, deficiencies were found regarding MTA’s compliance with FTA requirements for Language Access to LEP persons.

Prior to the site visit, MTA provided a Language Assistance Plan for its core bus service. During the initial site visit, MTA demonstrated that it did include the LEP four factor assessment and the development of a Language Assistance Plan as required by the current FTA Circular 4702.1A for their core bus service, but did not provide the same detailed plan for heavy rail, light rail, commuter rail, or commuter bus.

Following the site visit, MTA provided documentation to show that it had made significant progress in developing Language Assistance Plans for all modes. The recent retirement of the Title VI Officer, had delayed full completion, however, MTA’s Director of the Office of Fair Practices was committed to implementation.

After the site visit, MTA provided the following response regarding LEP plans for its subrecipients:

*Statewide Planning will work one-to-one with each sub-recipient to ensure that LEP plans are developed. This will be accomplished through the use of a task order consultant. We are currently working to identify a consultant with the appropriate expertise to provide this technical assistance. It is anticipated that a consultant will be under contract in July 2009 and that each of our sub-recipients will have an updated LEP plan in place by December 2009. SWP will work to ensure the LEP plans remain current and are implemented by making the LEP update a work element in each of the LOTS five-year Transportation Development Plan (TDP) update, and by requiring each grantee submit as part of their annual grant application material that describes and supports the fact they did LEP activities over the past year. As noted in the Compliance Review, LEP plans do not currently exist. The requirement to include LEP as a work element in the TDP process has already been implemented and the requirement to have the sub-recipient provide additional documentation regarding LEP activity will be added to our FY 2011 application.*

During the on-site follow-up in April 2010, it was determined that MTA had obtained LEP Plans from most its subrecipients.

The deficiency in this area is now closed.

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 the site visit of the Title VI Compliance Review of MTA, no deficiencies were found regarding MTA’s compliance with FTA requirements for Title VI Complaint Procedures. During the Review, MTA provided documentation to show that it had a Title VI complaint procedure that conformed to FTA C 4702.1A. Information on how to file a complaint was on the MTA website and in its Title VI brochure. During the initial site visit, MTA discussed its internal process for handling Title VI complaints. The Office of Fair Practices handled all civil rights complaints, including Title VI. There was a written internal complaint procedure for the Office.

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, no deficiencies were found regarding MTA’s compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. The Review team did note, however, that the original list submitted by MTA only included lawsuits. As a result, the Review team advised MTA to document customer Title VI complaints that come through the customer service center. The MTA Office of Fair Practice should investigate all complaints and report to management.

Subsequent to the initial site visit, MTA revised its documentation of Record of Title VI Investigations, Complaints, and Lawsuits to include all Title VI complaints.

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, deficiencies were found regarding MTA’s compliance with FTA requirements for Notice to Beneficiaries of Protection Under Title VI. At the time of the initial Compliance Review site visit, MTA had developed a Title VI Brochure and car card that included two of the three required elements, as shown on the following table:

|  |  |  |
| --- | --- | --- |
| **Elements Required in Title VI Notification**  **(Per FTA Circular 4702.1A Chapter IV Section 5.a)** | **Included in MTA 2009 Policy?** | **Included in MTA 2010 Policy?** |
| A statement that the agency operates programs without regard to race, color, and national origin | Yes | 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 | Yes |
| A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient. | Yes | Yes |

The Review team noted that the 2009 brochure lacked any information or instruction on how an individual could get “additional information” if so interested. The Review team also noted that while the brochure and car card were adequately distributed throughout the core bus system, they were not adequately distributed on heavy rail, light rail, commuter rail and commuter bus.

After the site visit, MTA submitted an updated brochure and car card along with notices to be installed in kiosks and placed throughout the rail system. The updated brochure did include information on how an individual could get additional information if so interested. During the on-site follow-up, the Review team confirmed that MTA was adequately distributing the updated brochure throughout all transit modes. A copy of the Title VI kiosk poster is shown on the next page.

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, no deficiencies were found regarding MTA’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. MTA executed its FY 2010 Annual Certifications and Assurances in TEAM on 10/16/2009. MTA 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 MTA, no deficiencies were found regarding MTA’s compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. During the Compliance Review, MTA provided documentation on conducting EJ analyses on construction projects as part of its environmental review. A review of the documents showed MTA generally followed FTA guidance for EJ analyses of construction projects, especially for larger projects. During the initial site visit, MTA did not document that it had conducted EJ analyses for its small projects that do not require an elaborate environmental review. MTA was advised to take steps to ensure that all projects subject to an environmental review have an EJ component. Subsequent to the initial site visit, MTA issued a Memorandum that documented that *an Environmental Justice analysis will be added to the environmental documentation phase of all projects subject to an environmental review*.

During the on-site follow-up visit in April 2010, MTA also submitted documentation of its efforts with respect to EJ analyses on smaller construction projects. These efforts included a requirement to conduct EJ analyses of the following five factors:

* Identify and map locations of low-income and minority populations using U.S. Census Bureau data;
* Conduct assessment of disproportionately high and adverse project impacts;
* Draw conclusions on impacts to identified EJ communities/populations;
* Develop strategies to avoid, reduce or mitigate impacts to EJ communities/populations; and
* Document and evaluate the public involvement process and coordination with any impacted EJ community/population.

The Review team noted that these factors were not the same as and were not a subset of the six elements described in FTA Circular 4702.1A. The Review team acknowledged that, for smaller projects requiring a Categorical Exclusion (CE), MTA did not have to analyze all six elements, however, in discussing the five elements being used, MTA indicated that they would modify its procedures to reflect those elements described in the Circular.

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, no deficiencies were found regarding MTA’s compliance with FTA requirements to Submit Title VI Program. MTA submitted its most recent Title VI Report to FTA on 9/9/2008 and had received approval through 12/10/2010.

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

This section covers 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 MTA, no deficiencies were found regarding MTA’s compliance with FTA requirements for Demographic Data. Using the options presented in FTA C. 4702.1A, V, 1.a., MTA selected Option A: Demographic and Service Profile Maps and Charts.

This Option requires the following items:

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

MTA submitted documentation to demonstrate that it was capable of producing the demographic and service maps and charts as described in FTA Circular 4702.1A.

1. System-Wide 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, deficiencies were found regarding MTA’s compliance with FTA requirements for System-Wide 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 |  |

At the time of the site visit, MTA had adopted quantifiable service standards and/or system-wide service policies for its core bus service. Service standards and/or system-wide service policies were not provided for heavy rail, light rail, commuter bus, or commuter rail. In addition, MTA did not have a service standard for bus shelters.

After the initial site visit, MTA’s Director of Service Development submitted a technical memorandum regarding shelter placement for bus shelters. The memorandum provided a good description of how MTA identified candidate shelter sites. While the memorandum indicated that passenger boardings and transfer activity formed the basis of its shelter placement decisions, no quantifiable standard was mentioned. During the on-site follow-up review in April 2010, MTA indicated that it was adding a quantifiable standard to its bus shelter standard.

The Review team noted that the technical memorandum included useful information about current bus shelter placements that could be used for monitoring purposes. For example, a *May 2009 analysis shows that 404 of 478 shelters, or 84.5% of MTA owned shelters, serve low income or minority communities. Broken down by type, 147 of 192 old shelters (76.6%), all 12 QB40 shelters (100%), and 245 of 274 CBS Outdoor shelters (89.4%) serve low income or minority communities.*

After the site visit, MTA also submitted a Title VI Bus Standard Operating Procedure document that explained how new buses were assigned. According to this document, *new buses are assigned equitably to divisions based on the needs of the division, not on the needs of an individual route. Specific equipment assignments for a route are not made within the division; each route is served with the first bus available. The average bus age for a particular route in a division is taken as a constant, given that bus assignments are not route specific.*

After the site visit, MTA submitted system-wide service standards and/or system-wide service policies for heavy rail, light rail, commuter bus and commuter rail. Standards and policies were developed for ridership, vehicle load, scheduled headway, on-time performance, distribution of amenities, service availability, vehicle assignment, transit security, and on-time performance. Of these, the only quantifiable standards were for on-time performance.

During the on-site follow-up of April 2010, MTA provided documentation that it was updating its service standards and policies to be based on quantifiable measures.

The deficiencies in this area are 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, deficiencies were found regarding MTA’s compliance with FTA requirements for Evaluation of Service and Fare Changes. During the initial site visit, MTA did not document that it had evaluated the impact of service and fare changes on the minority and/or low-income communities as required by FTA Circular 4702.1A. MTA did indicate that it analyzed the impacts of all route and service changes prior to implementation. MTA had not had a fare increase in several years.

The table below summarizes the elements required for the evaluation of service and fare changes as described in FTA C 4702.1A:

|  |
| --- |
| **Elements Required for Evaluation of Service and Fare Changes (Per FTA C. 4702.1A, V, 4.a.)** |
| 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 |
| 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. |
| Describe actions the agency proposes to minimize, mitigate, or offset any adverse effects of changes on minority and low-income populations. |
| 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 |

After the initial site visit, MTA’s Director of Service Development submitted a document clarifying that, in addition to analyzing impacts of all route and service changes, MTA Service Development would further conduct analyses for route and service change as required by FTA Circular 4702.1A that caused any of the following:

* *Modify 20% or more of the route’s miles or hours of service.*
* *Require 20% or more of the current ridership to make an additional transfer.*
* *Cause a 25% or greater increase in travel time for a passenger traveling the entire original route, including wait time for transfers.*

MTA’s analyses would also quantify benefits of the proposed route or schedule changes such as improved travel time or transfer opportunities. MTA also provided documentation that it would, in the future, evaluate the impact of fare changes on the minority and/or low-income communities as required by FTA Circular 4702.1A.

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 the MTA, deficiencies were found regarding MTA’s compliance with FTA requirements for Monitoring Transit Service. At the initial site visit, MTA did provide documentation of Title VI monitoring being conducted for core bus service using the level of service methodology, however, there was no documentation provided of Title VI monitoring of heavy rail, light rail, commuter rail or commuter bus service. At the time of the initial site visit, the Review team noted that, even though MTA generally did an adequate job of monitoring core bus service, it should take a closer look at equity in the placement of bus shelters.

As mentioned above in Section 10, “Systemwide Service Standards and Policies”, after the site visit, MTA’s Director of Service Development submitted a technical memorandum regarding shelter placement and planning dated June 23, 2009. While the document was submitted as a response to the request for service standards, it also included useful information that could be used in a Title VI monitoring effort with respect to shelter placement. The document included an analysis of shelters on minority and low-income routes compared to those on non-minority, non-low income routes.

During the on-site follow-up with MTA in April 2010, MTA indicated that the next Title VI monitoring effort for all transit modes would occur once the 2010 Census data becomes available. The Review team advised that waiting for the 2010 Census results would not comply with the requirement to do Title VI monitoring every three years. Since MTA’s last monitoring effort was in 2007 (and system changes have occurred in that time), MTA should conduct a Title VI monitoring effort and include the results in its November 2010 Title VI Program Update. During the onsite follow-up, MTA provided assurances that it would conduct its Title VI monitoring effort for all modes prior to the submittal of its November 2010 Title VI Program Update.

The deficiency in this area is now closed.

#### FINDINGS OF THE PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR STATE DEPARTMENTS OF TRANSPORTATION OR OTHER STATE ADMINISTERING AGENCIES

This section covers Program-Specific Requirements and Guidelines for State DOTs and other State administrating agencies, administrating Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area, Job Access and Reverse Commute (JARC), and New Freedom funding programs, as well as and designated recipients in large urbanized areas for JARC and New Freedom.

13. Statewide Planning Activities

**Guidance:** *State DOTs should have an analytic basis in place for certifying their compliance with Title VI. Examples of this analysis can include, a demographic profile of the State that includes identification of the locations of socioeconomic groups, including low-income and minority populations as covered by the Executive Order on Environmental Justice and Title VI, a statewide transportation planning process that identifies the needs of low-income and minority populations or an analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.*

**Findings:** During this Title VI Compliance Review of MTA, deficiencies were found regarding the FTA requirements for Statewide Planning Activities. MTA did not provide documentation of an analytical basis in place for certifying compliance with Title VI that conforms to the requirements of FTA Circular 4704.1A. Examples of this analysis include:

* A demographic profile of the State that includes identification of the locations of socioeconomic groups, including low-income and minority populations as covered by the Executive Order on Environmental Justice and Title VI.
* A statewide transportation planning process that identifies the needs of low-income and minority populations.
* An analytical process that identifies the benefits and burdens of State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.

MTA did not document that it had addressed Title VI issues in the development of its Statewide Transportation Improvement Program (STIP).

During the on-site follow-up, MTA provided documentation that it was developing an analytical basis in place for certifying compliance with Title VI that conforms to the requirements of FTA Circular 4704.1A. The analytical basis would be submitted as part of the November 2010 MTA Title VI Program Update.

The deficiency in this area is now closed.

14. Program Administration

**Guidance:**  *State DOT recipients should document that they pass through Federal Transit Administration (FTA) funds under the Transportation for Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area Formula Funding, JARC, and New Freedom grant programs without regard to race, color, or national origin and that minority populations are not being denied the benefits of or excluded from participation in these programs.*

**Findings:** During this Title VI Compliance Review of MTA, deficiencies were found regarding MTA’s compliance with FTA requirements for Program Administration. During the Review, MTA provided several documents that described the requirements for its Section 5307, 5310, 5311, 5316, and 5317 subrecipients. The documents included:

* MTA Statewide Planning Standard Operating Procedures
* Locally Operated Transit System (LOTS) Program Manual

The LOTS Program Manual that was provided prior to the site visit contained twelve chapters the described the process for such activities as Planning and Applying for LOTS Funding, Financial Management and Compliance Monitoring, Marketing and Outreach. During the site visit, MTA provided LOTS Program Manual Chapter 13 entitled *Non-Discrimination*, which contained information on compliance with Title VI, EEO, and DBE. MTA did not document that it had implemented the requirements in Chapter 13.

After the initial site visit, MTA provided documentation that it was implementing the requirements of *Chapter 13 Non-Discrimination*. MTA obtained supplemental data relative to Title VI compliance from subrecipients prior to the FY2010 grants being finalized. The request for the additional data was sent to subrecipients on June 15, 2009. MTA also modified its annual grant applications to require subrecipients to provide additional information to demonstrate compliance with Title VI.

During the on-site follow-up, MTA confirmed that it was implementing the Program Administration requirements described in FTA C 4702.1A. The deficiency in this area is now closed.

15. Providing Assistance to Subrecipients

**Guidance:** *FTA recommends that agencies assist their subrecipients in complying with the general reporting requirements in Chapter IV. The State DOT or other administrating agency should provide assistance at the request of a subrecipient or as deemed necessary and appropriate.*

**Findings:** During this Title VI Compliance Review of MTA, deficiencies were found regarding MTA’s compliance with FTA guidance for Providing Assistance to Subrecipients. During the initial site visit, MTA did not document that it was providing assistance to subrecipients as described in FTA C 4702.1A (other than distribution of Chapter 13 of the LOTS manual at a meeting).

After the initial site visit, MTA provided documentation that it was providing assistance to subrecipients as required. MTA submitted the following:

*In terms of providing technical assistance to the sub-recipients relative to Title VI requirements, there have been several events held by SWP* (Statewide Planning) *in which Title VI requirements were reviewed and explained. The “meeting” as referenced in the Compliance Review to distribute Chapter 13, entitled “Non-discrimination” of our LOTS Program Manual was in fact a two-day workshop which was a mandatory meeting for all sub-recipients receiving funds to operate public transit. The entire workshop was dedicated to Title VI, EEO, and DBE requirements.*

*Moving forward, SWP plans to provide additional technical assistance by scheduling a mandatory workshop for all sub-recipients to reinforce the material contained in Chapter 13. This meeting will be held on July 29, 2009.*

*Technical assistance is being scheduled to provide one-to-one guidance in developing LEP, EEO, and Title VI plans. This work will be completed over the next twelve months.*

During the on-site follow-up, MTA confirmed that it was implementing the requirements regarding Providing Assistance to Subrecipients as described in FTA C 4702.1A. The deficiency in this area is now closed.

16. Monitoring Subrecipients

**Guidance:** *State DOTs or other State administering agencies should monitor their subrecipients for compliance with Title VI.*

**Findings:** During this Title VI Compliance Review of MTA, deficiencies were found regarding MTA’s compliance with FTA requirements for Monitoring Subrecipients. During the initial site visit, MTA did not document that it was monitoring its subrecipients as described in FTA C 4702.1A.

After the initial site visit, MTA provided documentation that it was monitoring its subrecipients as required. MTA submitted the following:

*In addition to continuing with our existing practices identified in our State Management Plan that includes a requirement that sub-recipients make an annual certification submittal and conducting full and comprehensive compliance reviews every three years, SWP has implemented the following:*

*Each sub recipient will receive a minimum of two site visits a year. During each site visit the MTA representative will complete a site review checklist. This list has been amended to include items which will trigger the MTA representative to do an on-site documentation review of the following:*

* *View transit vehicles to ensure signage regarding Title VI is properly displayed.*
* *Review current printed materials to ensure Title VI information is properly included (bring copies back and make them attachments to final report of site visit).*
* *Review list of EEO, Title VI and ADA complaints/lawsuits (bring copy back and make it an attachment of final report of site visit).*

*There are several operators located in urbanized areas with populations in excess of 200,000. Historically the SWP has held these operators to the same standards as those who qualified for small urban (50,000 to 200,000 population) status. Based on the results of the compliance review, SWP now has a clearer understanding of the specific program requirements that the operators in areas with populations of 2000,000 and greater must be held to. To ensure the appropriate specific program requirements are applied to the appropriate sub-grantees SWP has developed the following processes:*

* *Develop a list of all sub-grantees that categorizes each by size based on population.*
* *As stated above we are currently working to schedule one-to-one with each of our sub-recipients to formally access the appropriate level of documentation each sub-recipient needs to provide to assure compliance with the Title VI requirements. Once this assessment is complete, one-to-technical assistance will continue as each sub-recipient develops the plans and documents that are necessary.*

*The following items have been included as attachments to this action plan:*

* *A copy of a memo to John Newton, Manager of Environmental Planning confirming the change in protocol to include a Environmental Justice analysis in each environmental review of LOTS construction projects.*

*Statewide Planning Response to EEO/Title VI Compliance Review*

* *A copy of a letter to the sub-recipients asking them to provide to the MTA a current copy of their Title VI policy statement, a description of how each sub-recipient conveys EEO rights to employees and what paper trail exists to document that employee have received this information, a list of all EEO, Title VI, and ADA complaints they have received in the past 24 months, or if none, certify that there are none, and an updated policy regarding fare and services changes that reflects the concept that Title VI and Environmental Justice concerns will be part of the consideration given to the decision making process.*
* *A copy of the letter inviting our sub-recipients to the Title VI, EEO workshop.*
* *A copy of our updated site visit check list.*
* *A copy of the list of sub-grantees based on population threshold.*

*Statewide Planning Response to EEO/Title VI Compliance Review*

*Additionally we have updated our comprehensive sub- recipient compliance review check list to be more reflective of the most current program guidance from FTA, and are in the process of providing all sub-recipients with car cards that contain the mandated Title VI language.*

During the on-site follow-up, MTA confirmed that it was implementing the requirements for Monitoring Subrecipients as described in FTA C 4702.1A. MTA provided several Title VI plans from its subrecipients that contained the Title VI requirements such as the Notice to Beneficiaries (and documentation of distribution to the public), LEP Plans, and Complaint Procedures. The deficiency in this area is now closed.

VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

| **Title VI Requirements For State DOTs** | | **Site Review Finding** | **Description of Deficiencies** | **Corrective Actions** | **Response Days/Closed Dates** |
| --- | --- | --- | --- | --- | --- |
| **GENERAL REQUIREMENTS** | | | | | |
| 1. Inclusive Public Participation | | ND |  |  |  |
| 1. LEP Language Assistance Plan | | D | * Inadequate LAPs for heavy rail, light rail, commuter rail, or commuter bus. * No LAP plans from subrecipients. | MTA must submit documentation that:   * It has developed LAPs that pertain to heavy rail, light rail, commuter rail, and commuter bus. * It has obtained LAPs from its subrecipients. | Closed  4/23/2010 |
| 1. Title VI Complaint Procedures | | ND |  |  |  |
| 1. List of Title VI Investigations, Complaints, and Lawsuits | | AC | MTA is advised to document customer Title VI complaints that come through customer service center. |  | Closed  4/23/2010 |
| 1. Notice to Beneficiaries of Protection Under Title VI | | D | Inadequate Notice to Beneficiaries (brochure needs to address “additional information”).  No documentation of Notice distribution for heavy rail, light rail, commuter rail, or commuter bus. | MTA must submit documentation that:  It has revised its Notice to contain all the required elements  It has distributed the Notice for heavy rail, light rail, commuter rail, or commuter bus. | Closed  5/29/2009 |
| 1. Annual Title VI Certification and Assurance | | ND |  |  |  |
| 1. Environmental Justice Analyses of Construction Projects | | AC | MTA was advised to ensure that it will conduct EJ analyses for smaller projects that qualify for Categorical Exclusion (CE). | . | Closed  6/15/2010 |
| 1. Prepare and Submit a Title VI Program | | ND |  |  |  |
| **PROGRAM SPECIFIC REQUIREMENTS FOR LARGE URBANIZED AREAS** | | | | | |
| 1. Demographic Data | ND | |  |  |  |
| 1. System-wide Service Standards and Policies | D | | No service standard for bus shelters.  No service standards for heavy rail, light rail, commuter rail, or commuter bus. | MTA must submit documentation of service standards for heavy rail, light rail, commuter rail, or commuter bus. | Closed  4/22/2010 |
| 1. Evaluation of Fare and Service Changes | D | | No Title VI evaluation of service changes. | MTA must submit documentation that   * It has a definition of major service change. * It has developed a procedure to conduct Title VI evaluations of fare and service changes. | Closed  4/22/2010 |
| 1. Monitoring Transit Service | D | | No documentation of Title VI monitoring for heavy rail, light rail, commuter rail, or commuter bus. | MTA must submit an assurance that it will perform Title VI monitoring of all its transit modes for inclusion in the upcoming Title VI Program Update. | Closed  4/22/2010 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **PROGRAM SPECIFIC REQUIREMENTS FOR STATE DOTS** | | | | |
| 1. Statewide Planning Activities | D | * No demographic profile of the State, to include small urban areas. * No identification of the needs of low-income and minority populations. * No analytical process to identify the benefits and burdens of State’s transportation system investments for different socioeconomic groups. | MTA must submit documentation of a plan to have an analytical basis in place for certifying compliance with Title VI as described in FTA C 4702.1A C. VI.1. | Closed  4/22/2010 |
| 1. Program Administration | D | Insufficient documentation of conformance with the Program Administration requirements for Section 5310, 5311, 5316, and 5317 subrecipients. | MTA must submit documentation of conformance with the Program Administration requirements as described in FTA C 4702.1A C. VI.2. | Closed  4/22/2010 |
| 1. Providing Assistance to Subrecipients | D | Inadequate documentation of providing assistance to subrecipients on compliance with Title VI. | MTA must submit documentation of providing assistance to subrecipients as described in FTA C 4702.1A C. VI.4. | Closed  4/22/2010 |
| 1. Monitoring Subrecipients | D | Insufficient documentation of monitoring subrecipients for compliance with general or program-specific (if applicable) requirements. | MTA must submit documentation of monitoring subrecipients as described in FTA C 4702.1A C. VI.3. | Closed  4/22/2010 |

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

NR = Not Reviewed; AC = Advisory Comment

1. **A**TTENDEES

| **NAME** | **TITLE/**  **ORGANIZATION** | **PHONE** | **E-MAIL** |
| --- | --- | --- | --- |
| **GRANTEE -** | | | |
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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-2)
2. This represents the LEP population of the various jurisdictions from the 2000 Census. [↑](#footnote-ref-3)