

San Diego Metropolitan Transit System (MTS)

Title VI Compliance Review

Final Report

December 2012

Federal Transit Administration



**PRE PA RE D BY**

The DMP Group, LLC

Washington, DC





**Table of Contents**

I. GENERAL INFORMATION 1

II. JURISDICTION AND AUTHORITIES 2

III. PURPOSE AND OBJECTIVES 3

IV. BACKGROUND INFORMATION 5

V. SCOPE AND METHODOLOGY 9

VI. FINDINGS AND RECOMMENDATIONS 13

1. Inclusive Public Participation 13

2. Language Access to LEP Persons 15

3. Title VI Complaint Procedures 19

4. Record of Title VI Investigations, Complaints, and Lawsuits 19

5. Notice to Beneficiaries of Protection Under Title VI 20

6. Annual Title VI Certification and Assurance 21

7. Environmental Justice Analysis of Construction Projects 21

8. Submit Title VI Program 22

9. Demographic Data 24

10. System-wide Service Standards and Policies 26

11. Evaluation of Service and Fare Changes 29

12. Monitoring Transit Service 32

VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS 34

VIII. ATTENDEES 36

1. GENERAL INFORMATION

Grant Recipient: San Diego Metropolitan Transit System

(MTS)

City/State: San Diego, California

Grantee Number: 2301

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Chief Executive Officer

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Site Visit Dates: July 17–19, 2012

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 San Diego Metropolitan Transit System (MTS) is a recipient of FTA funding assistance and is therefore subject to the Title VI compliance conditions associated with the use of these funds pursuant to the following:

* Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d)
* Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.)
* Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.)
* Department of Justice regulation, 28 CFR part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs” (December 1, 1976, unless otherwise noted)
* DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964” (June 18, 1970, unless otherwise noted)
* Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, “Environmental Impact and Related Procedures” (August 28, 1987)
* Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, “Planning Assistance and Standards” (October 28, 1993, unless otherwise noted)
* DOT Order 5610.2 “U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations” (April 15, 1997)
* DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons (December 14, 2005)
* Section 12 of FTA’s Master Agreement 17 (October 1, 2011)

1. PURPOSE AND OBJECTIVES

#### Purpose

The Federal Transit Administration (FTA) Office of Civil Rights periodically conducts discretionary reviews of grant recipients and sub-recipients 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 MTS’s Title VI Program was necessary.

The Office of Civil Rights authorized The DMP Group, LLC, to conduct the Title VI Compliance Review of MTS. The primary purpose of this Compliance Review was to determine the extent to which MTS 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 MTS 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 on the Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas as defined by FTA Circular 4702.1A, to discuss the proposed changes in FTA Circular 4702.1B, 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 complaint filed against MTS.

#### 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 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.

1. BACKGROUND INFORMATION

The Metropolitan Transit Development Board (MTDB) was created in 1975 by the passage of California Senate Bill 101 and came into existence on January 1, 1976. In 1984, the Governor signed Senate Bill 1736, which expanded the MTDB Board of Directors from 8 to 15 members. In 2002, Senate Bill 1703 merged MTDB’s long-range planning, financial programming, project development, and construction functions into San Diego County’s metropolitan planning organization, known as the San Diego Association of Governments (SANDAG). In 2005, MTDB changed its name to the Metropolitan Transit System (MTS).

MTS has a 15-member Board of Directors that generally meets once or twice a month. The Members are selected as follows: four appointed from the San Diego City Council; one appointed from each city council of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee; one appointed from the San Diego County Board of Supervisors; and one San Diego County resident elected by other Board members to serve as Chair.

The jurisdiction of MTS comprises 570 square miles of the urbanized areas of San Diego County as well as the rural parts of East County (i.e., 3,240 total square miles providing service to nearly 2.2 million San Diego County residents).

MTS provides bus and rail services directly or by contract with private operators. MTS determines the routing, stops, frequency of service, and hours of operation for its existing services. Light rail service is operated on three lines (the Blue, Orange, and Green lines) through 53 stations and 54.3 miles of double-track rail. A total of 91 fixed routes are operated by MTS Bus. Americans with Disabilities Act (ADA) complementary paratransit service is provided by MTS Access. The following grid shows the hours of operation for the bus and rail lines:

|  |  |  |
| --- | --- | --- |
| **Span of Service** | **Bus** | **Rail** |
| Weekdays | 4:05 am – 3:03 am | 4:07 am – 1:55 am |
| Saturdays | 4:15 am – 3:03 am | 4:25 am – 1:43 am |
| Sundays | 4:59 am – 12:01 am | 4:25 am – 1:43 am |

To operate service, MTS maintains a fleet of approximately 593 motor buses, 145 paratransit vehicles, and 144 light-rail vehicles. MTS operates these vehicles out of 19 transit centers, 6 bus garages, and 1 rail facility.

MTS’s operating costs are approximately $220 million; $89 million (40 percent of annual operating cost) comes from fares. MTS also receives funding from various federal, state, and local sources. The primary sources other than fares are California Transportation Development Act (TDA) funds, FTA Sections 5307 and 5309 funds, and TransNet funds (local sales tax). MTS’s ridership is 82 million passengers annually, or 263,000 each weekday. MTS provides approximately 2 million hours of service across 29 million miles each year. Service adjustments occur three times per year and as needed to improve efficiency and performance.

MTS licenses and regulates taxicabs, jitneys, and other private for-hire passenger transportation services by contract with the cities of San Diego, El Cajon, Imperial Beach, La Mesa, Lemon Grove, Poway, and Santee.

MTS has more than 1,400 employees in the following eight major departments: San Diego Transit; San Diego Trolley; Human Resources; Legal; Finance; Marketing; Security; and Planning, Government Affairs, and Taxicab Administration. In addition to those divisions, there is also the Chief Executive Officer’s office.

The following are the fares by route type for MTS:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Route** | **One**  **Way** | **Day  Pass** | **Senior/**  **Disabled/**  **Medicare** | **Regional**  **Monthly  Pass** | **Youth Regional Monthly Pass** | **Senior/**  **Disabled/**  **Medicare**  **Monthly Pass** |
| Trolley | $2.50 | $5 | $1.25 | $72 | $36 | $18 |
| Shuttle Routes | $2.25 | $5 | $1.10 | $72 | $36 | $18 |
| Local/Urban Routes | $2.25 | $5 | $1.10 | $72 | $36 | $18 |
| Express Routes | $2.50 | $5 | $1.25 | $72 | $36 | $18 |
| Premium Express Routes | $5 | $12 | $2.50 | $100 | $50 | $25 |
| Rural Routes | $5–$10 | N/A | $2.50 / $5 | N/A | N/A | N/A |
| 2 children <5 years with any paying passenger | FREE | FREE | N/A | N/A | N/A | N/A |

The Chief Executive Officer has overall responsibility for carrying out MTS’s commitment to the Title VI program. The Office of the Chief of Staff has been delegated the responsibility of coordinating program procedures, overseeing implementation, and monitoring and reporting on progress.

The following table represents a demographic profile of data provided by MTS of its service area. The table shows the 2000 and 2010 population by racial/ethnic group, the increase (or decrease) in population from 2000 to 2010, and the percentage of the racial/ethnic group population to the total population in both 2000 and 2010. The table also shows the 2000 and 2010 population of individuals below the poverty level (Low-Income) and individuals who speak English less than “very well” (Limited English).

From 2000 to 2010, the total population of MTS’s jurisdiction increased 7.5 percent. The White population increased 3.4 percent, the Black population decreased 1.5 percent, the Hispanic population increased 31.5 percent, the Asian population increased 27.1 percent, the American Indian/Alaskan Native population increased 8.2 percent, and the Hawaiian/Pacific Islander increased 10.5 percent. In 2010, 61.4 percent of the total population was White, 6.1 percent was Black, 32.2 percent was Hispanic, 12.8 percent was Asian, 0.8 percent was American Indian/Alaskan Native, and 0.5 percent was Hawaiian/Pacific Islander.

According to MTS, in 2000, 259,259 persons (12.8 percent of the population) had income below the poverty level and 133,110 persons (6.6 percent of the population) had limited English proficiency (LEP). In 2010, 271,813 persons (12.5 percent of the population) had income below the poverty level and 151,342 persons (6.9 percent of the population) had LEP.

**Demographics of San Diego MTS’s Jurisdiction**

**Racial/ Ethnic Breakdown**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **San Diego MTS Jurisdiction 2000** | | **San Diego MTS Jurisdiction 2010** | | | **Change in San Diego MTS’s Jurisdiction** | | | |
| **Number** | **Percent** | **Number** | **Percent** | | **Number** | | **Percent change ethnic group** | **Percent change total population** |
| White | 1,295,697 | 63.9% | 1,339,153 | 61.4% | | 43,456 | | 3.4% | -2.5% |
| Black | 136,173 | 6.7% | 134,102 | 6.1% | | -2,071 | | -1.5% | -0.6% |
| American Indian/ Alaska Native | 15,561 | 0.8% | 16833 | 0.8% | | 1,272 | | 8.2% | 0.0% |
| Asian | 218,935 | 10.8% | 278,195 | 12.8% | | 59,260 | | 27.1% | 2.0% |
| Hawaiian/ Pacific Islander | 9,701 | 0.5% | 10,720 | 0.5% | | 1,019 | | 10.5% | 0.0% |
| Other Race | 253,144 | 12.5% | 287,272 | 13.2% | | 34,128 | | 13.5% | 0.7% |
| Two or More | 99,378 | 4.9% | 115,368 | 5.3% | | 15,990 | | 16.1% | 0.4% |
| Hispanic Origin[[1]](#footnote-1) | 534,761 | 26.4% | 703,412 | 32.2% | | 168,651 | | 31.5% | 5.9% |
| **Total** | **2,028,589** | **100%** | **2,181,643** | **100%** | | **153,054** | |  | **7.5%** |
|  |  |  |  | |  | |
| Low Income | 259,259 | 12.8% | 271,813 | | 12.5% | |
| Limited English | 133,110 | 6.6% | 151,342 | | 6.9% | |

Source: San Diego MTS

1. SCOPE AND METHODOLOGY

#### Scope

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

1. General Reporting Requirements and Guidelines – All applicants, recipients and sub-recipients 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
9. Inclusive Public Participation
10. Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas – All applicants, recipients and sub-recipients that provide public mass transit service in areas with populations over 200,000 shall also submit the following:
11. Demographic Data
12. System-wide Service Standards and Policies
13. Evaluation of Service and Fare Changes
14. Monitoring Transit Service

#### Methodology

Initial interviews were conducted with the FTA Headquarters Civil Rights staff and the FTA Region IX Civil Rights Officer to discuss specific Title VI issues and concerns regarding MTS. An agenda letter covering the Compliance Review was sent to MTS advising it of the site visit and indicating additional information that would be needed and issues that would be discussed. The review team focused on the General Reporting Requirements and Guidelines that are contained in FTA Title VI Circular 4702.1A that became effective on May 13, 2007. The General Reporting Requirements and Guidelines included implementation of the Environmental Justice (EJ) and Limited English Proficiency (LEP) Executive Orders.

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

* Description of MTS’s service area, including general population and other demographic information using the most recent Census data.
* Current description of MTS’s public transit service, including system maps, public timetables, transit service brochures, etc.
* Roster of current MTS revenue fleet, to include acquisition date, fuel type, seating configurations and other amenities.
* Description of transit amenities maintained by MTS for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.
* MTS Organization Chart.
* Any studies or surveys conducted by MTS, its consultants or other interested parties (colleges or universities, community groups, etc.) regarding ridership, service levels and amenities, passenger satisfaction, passenger demographics or fare issues for its public transit service during the past three years.
* Summary of MTS’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.
* Copy of MTS’s four factor analysis of the needs of persons with Limited English Proficiency.
* Copy of MTS’s plan for providing language assistance for persons with limited English proficiency that is based on the USDOT LEP Guidance.
* MTS’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.
* List of any investigations, lawsuits, or complaints naming MTS that alleges discrimination on the basis of race, color, or national origin during the past three years. This list must include:
* the date the investigation, lawsuit, or complaint was filed
* a summary of the allegation(s)
* the status of the investigation, lawsuit, or complaint
* actions taken by MTS in response to the investigation, lawsuit, or complaint
* Copy of MTS’s Notice to Beneficiaries of Protections under Title VI.
* Documentation of efforts made by MTS to notify members of the public of the protections against discrimination afforded to them by Title VI.
* Copies of any environmental justice assessments conducted for construction projects during the past three years and, if needed, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities.
* Copy of MTS’s demographic analysis of its beneficiaries. This can include either demographic maps and charts prepared or a copy of any customer surveys conducted since the last Title VI submittal that contain demographic information on ridership, or MTS’s locally developed demographic analysis of its customer’s travel patterns.
* Quantitative system-wide service standards and qualitative system-wide service policies adopted by MTS to guard against discriminatory service design or operations decisions.
* Documentation of MTS’s methodology for evaluating significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact (Note: per Circular 4702.1A Chapter V part 4, this requirement applies to “major service changes” only and MTS should have established guidelines or thresholds for what it considers a “major” service change to be). If MTS has made significant service changes or fare changes in the past three years or is currently planning such changes, provide documentation of MTS’s Title VI evaluations of the service or changes.
* Documentation of periodic service monitoring activities undertaken by MTS, 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 MTS’s monitoring determined that prior decisions have resulted in disparate impacts, provide documentation of corrective actions taken to remedy the disparities.

MTS assembled the documents prior to the site visit and provided them to the review team for advance review. A detailed schedule for the three-day site visit was developed.

The site visit to MTS occurred July 17–19, 2012. The individuals participating in the Compliance Review are listed in Section VIII of this report. An Entrance Conference was conducted at the beginning of the Compliance Review with MTS senior management, MTS staff, FTA Headquarters and Regional 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 Compliance Review and the needed cooperation of staff members. A detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the review team met with MTS’s Chief of Staff and other 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 MTS. The review team then met with MTS staff to discuss how MTS incorporated FTA Title VI requirements into its public transportation program. During the site visit, the review team toured several MTS bus and rail routes, as described below.

At the end of the site visit, an Exit Conference was held with MTS staff, Headquarters and Regional staff, and the contractor Review team. At the Exit Conference, initial findings and corrective actions were discussed with MTS.

**Site Visits**

With MTS’s assistance, the review team selected two minority/low-income and two non-minority/non-low-income bus routes to tour. The review team also rode the Orange Line light-rail, which traversed low-income minority and non-low-income and non-minority neighborhoods. The objective of the tours was to get a sense of MTS’s service area in relation to Title VI and to identify any obvious disparities in the distribution of transit amenities along its routes. The tour of the Orange Line revealed that there were no disparities in the distribution of transit amenities that had an adverse impact on the minority and low-income communities. The tour of the selected bus routes revealed the following:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Amenity** | **Route 3** | | | | **Route 115** | | **Route 936** | |
| ***Minority/ Low-Income*** | | ***Non-Minority/ Non-Low-income*** | | ***Minority/ Low-Income*** | | ***Non-Minority/  Non-Low-income*** | |
| **Bus stops** | 66 | Ratio of stops w/amenity | 30 | Ratio of stops w/amenity | 49 | Ratio of stops w/amenity | 63 | Ratio of stops w/amenity |
| **Benches** | 35 | 53% | 26 | 87% | 54 | >100% | 37 | 59% |
| **Shelters** | 5 | 7.5% | 10 | 33% | 18 | 37% | 15 | 24% |
| **Trash cans** | 22 | 33% | 18 | 60% | 23 | 47% | 21 | 33% |

While the table above reveals some disparity in transit access between the routes toured, it did not appear to be systemic. While the non-minority/non-low-income portion of Route 3 had a significantly higher ratio of amenities to bus stops than the low-income/minority portion of the route, it was noted that the majority of the NLIM portion of Route 3 was in downtown San Diego and serviced major trip generators.

1. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on MTS’s compliance with the General Reporting Requirements and Guidelines and 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, no deficiencies were identified in 10 of the 12 areas reviewed. Deficiencies were identified in the areas of Demographic Data and Evaluation of Fare and Service Changes.

Following the site visit, MTS submitted corrective actions adequate to close both deficiencies. No deficiencies remain.

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

1. Inclusive Public Participation

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

**Findings:** During this Title VI Compliance Review of MTS, no deficiencies were found regarding MTS’s compliance with FTA guidance for Inclusive Public Participation. During the Compliance Review, MTS described its public outreach process, which included attending regular community outreach meetings in minority and low-income communities throughout its service area. MTS also provided documentation that it held outreach events in transit centers that serve high numbers of minority and low-income riders to get input and feedback on proposed projects affecting these riders and their communities.

MTS also stated that it regularly made presentations during public advocacy group forums or meetings to assist in reaching distinct or special populations that may be affected by proposed changes. MTS provided the following list of public advocacy groups, which were confirmed by the review team to be effective in facilitating engagement with and feedback from minority and low-income persons:

* Mid City Community Advocacy Network
* City Heights Business Association
* City Heights Community Development Corporation
* South County Economic Development Council
* Border Transportation Council
* Southeastern Development Corporation

MTS provided notice to minority and low-income communities about public participation opportunities on transit vehicles and in minority newspapers. All meeting notices placed on transit vehicles were provided in English and Spanish. *The Voice and Viewpoint* (African-American) and *La Prensa* (Latino) were two minority newspapers used by MTS to notify the public of meeting opportunities.

Frequent communication with the San Diego City Council was also cited by MTS as another method for receiving feedback and input from minority and low-income persons on its planning decisions. It was noted that half of San Diego’s eight-member City Council were minority (three Latinos and one African-American.)

In its most recent Title VI program submittal, MTS provided a list of public outreach and involvement activities undertaken from FY2009 to FY2011. All of these activities were associated with system service and/or fare changes that MTS implemented three times annually, known as “shake-ups.” There was no way to determine which or how many of these activities were undertaken to engage minority and/or low-income persons. The review team recommended that for future Title VI program submittals, MTS should identify which events were public participation opportunities for minority and low-income persons.

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 MTS, no deficiencies were found regarding MTS’s compliance with FTA requirements for Language Access to LEP persons. Prior to the site visit, MTS submitted its LEP four-factor analysis and Language Assistance Plan (LAP) and informed the review team that both were prepared by the local Metropolitan Planning Organization (MPO), SANDAG. As described by MTS, SANDAG was responsible for transit planning for the region, which included conducting a LEP four-factor analysis and developing a LAP for both of the region’s transit operators, MTS and North County Transit District (NCTD). The geographical scope of the LEP four-factor analysis and LAP prepared by SANDAG was all of San Diego County. While MTS did not operate transit service throughout all of San Diego County, through GIS mapping, SANDAG identified concentrations of LEP-speaking persons within the MTS service area, allowing MTS to effectively plan for and provide language assistance to its LEP riders. Specifically, SANDAG prepared maps that showed concentrations of its top four LEP speaking language groups (Spanish, Vietnamese, Chinese, and Tagalog) within the MTS service area. The following table describes the LEP four-factor analysis and LAP prepared by SANDAG on behalf of MTS, and whether MTS satisfied the requirements of FTA Circular 4702.1A and current DOT LEP Guidance:

| **Elements Required for LEP Four Factor Analysis and Language Assistance Plan**  **(per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)** | | | |
| --- | --- | --- | --- |
|  | **Included in MTS**  **Plan** | **Notes/Comments** | |
| **Part A – Four-Factor Analysis** | | | |
| 1. Demography – the number or proportion of LEP persons eligible to be served or likely to be encountered | Yes | To determine the number and proportion of LEP persons in its service area, SANDAG on behalf of MTS used the following data sources:   * U.S. Census 2000 * 2010 American Community Survey (ACS) Data * 2006–2010 ACS 5-Year Data * U.S. Department of Labor (DOL) Special Census 2000 Tabulation * California Department of Education (CDE) English Learner Data * San Diego County Department of Mental Health Database of Interpreter Services   SANDAG, on behalf of MTS, reported that 17 percent of San Diego County was LEP and the top four LEP-speaking language groups were Spanish, Vietnamese, Chinese, and Tagalog. Data collected from the CDE and San Diego Department of Mental Health confirmed the Census 2000 and ACS statistics. The CDE data also revealed the presence of Somali and Chaldean speaking LEP persons. The San Diego Department of Mental Health also revealed the presence of a Somali speaking LEP population. | |
| 1. Frequency of Contact – the frequency with which LEP individuals come in contact with the program and/or activities | Yes | To determine how often LEP persons came into contact with its programs and/or activities, MTS used the following methods:   * Interviewing Community Based Organizations (CBOs) – Some of the CBOs interviewed included Alliance for African Assistance, Cambodian Dancers, Casa Familiar, Little Saigon, National Asian American Coalition, San Diego Hispanic Chamber of Commerce, and Union of Pan Asian Communities. CBO interviews confirmed frequent use of MTS services. * LEP Focus groups – MTS, in conjunction with CBOs, conducted 10 focus group meetings (4 Spanish, 2 Vietnamese, 2 Tagalog, and 2 Chinese) in highly-concentrated LEP neighborhoods. According to MTS, a large majority of the 109 participants indicated frequent transit use. * Surveys of customer service, operator, security, and other customer-facing staff – based on 310 surveys, MTS confirmed frequent use of its transit services by LEP persons. The majority of LEP interactions reported by MTS staff were from Spanish-speaking individuals. * Spanish language intercept surveys – Conducted at five transit centers located in communities with high LEP concentrations. A total of 93 of the respondents indicated they spoke English “not at all” or “not well”; 64% indicated they used the bus, trolley, or Sprinter service at least three times a week; 23% used these services at least once a week.   MTS concluded that LEP-speaking persons came into frequent contact with its services, and the majority of them were Spanish-speaking. | |
| 1. Importance – the nature and importance of the program, activity, or service to people's lives; | Yes | MTS included questions about which MTS services were important to them in the CBO interviews, focus group meetings, and intercept surveys. MTS determined the following to be most important to LEP riders:   * Provided transit to work, school, and shopping for many who did not have personal vehicles. * Translated documents and signage (Chinese and Vietnamese in particular) * Bilingual staff * Translated security information * Translated annunciator announcements on buses * Multilingual fare vending machines | |
| 1. Resources – the resources available and costs | Yes | MTS identified a comprehensive list of language assistance measures (detailed in Part B below) that it provided with related costs, and stated that it will continue to budget for the provision of these measures in the foreseeable future. Included in the assessment of its resources were costs associated with oral and written translation measures (including vital documents), continued community outreach, and ongoing training of customer-facing staff. | |
| **Part B – Develop Language Assistance Plan** | | | |
| 1. Identification of LEP Persons | Yes | | See Factor 1 above. |
| 1. Language Assistance Measures | Yes | | The following is a summary of language assistance measures included in MTS’s LAP:  **Written Language Assistance**   * Bilingual or multilingual versions of the following:   + “How to ride” brochures   + Spanish language fare payment instructions   + Spanish language system maps and timetables   + Printed Spanish language service change announcements   + Spanish language notices pertaining to upcoming events   + Passenger newsletter   + Web translations   + As resources become available and materials are updated, more and more pictographs in stations and in vehicles are being implemented   + Ticket vending machines with Spanish language functions   **Oral language Assistance**   * Bilingual staff * On Call translation services * Contracting for interpreters on an “as needed” basis * Utilizing community volunteers to interpret information * Using bilingual staff to interpret information on an “as needed” basis * Bilingual English/Spanish customer service staff as well as Tagalog assistance * Bilingual English/Spanish IVR utilized   **Community Outreach**   * Train the trainers availability for all CBOs on how to ride transit * Spanish language TV advertisements * Spanish language radio advertisements * Spanish language newspaper advertisements * Advertisements in ethnic media * Bilingual staff at all community outreach events * Translators present at community meetings as needed * Opportunity for both oral, as well as written, comments   MTS’s LAP also included a list of future language assistance measures it planned on implementing and a list of language assistance measures suggested by SANDAG in response to comments received from CBO interviews, focus group meetings, and intercept surveys. |
| 1. Training of Staff | Yes | | While MTS had not implemented LEP training for its staff, it had developed a plan for implementing staff LEP training and indicated during the Compliance Review that training would be implemented. MTS’s staff LEP training plan included the following:   * Revising required annual training to incorporate LEP training * Providing an initial Language Assistance Plan training to all staff * Conducting follow-up with front line staff to ensure that they are utilizing LEP interaction procedures covered in the training * Conducting periodic reviews to assess the effectiveness of LEP training video or other LEP training material and update as necessary * Create LEP Language Assistance Guidelines for all staff to reference |
| 1. Provide Notice to LEP Persons | Yes | | MTS provided notice of language assistance on its website, on printed materials announcing public involvement opportunities, and via customer service and operator staff. |
| 1. Monitor and Update the LAP | Yes | | In its plan, MTS indicated that it will monitor and update its LAP every four years. This interval was established by SANDAG in accordance with FTA Circular 4702.1A, which required MPOs to update its FTA Title VI Program submittal every four years. MTS was advised that since it is not an MPO, and since it has a large population of LEP-speaking persons, it should update its LAP at a minimum every three years. |

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 MTS, no deficiencies were found regarding MTS’s compliance with FTA requirements for Title VI Complaint Procedures. MTS’s complaint procedures were detailed in a document titled “Policies and Procedures No. 48,” approved by the MTS Board on May 13, 2004. During the site visit, it was discovered that while its complaint procedures required a complaint to be filed in writing, in practice, complaints could be filed over the telephone and by downloading and filling out MTS’s complaint form from its website. The Review team recommended that MTS update its “Policies and Procedures No. 48” to reflect actual practices.

As documented in “Policies and Procedures No. 48,” if a complainant disagreed with MTS’s investigation determination, he/she could file an appeal with FTA. The Review team recommended that MTS should consider revising its “Policies and Procedures No. 48” to allow for initial investigation determination to be made at one level of the agency, and appeals to be heard and determined by a higher level of the agency. In its Title VI Policy posted on its website, MTS should continue to list FTA as an additional resource for filing Title VI complaints.

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 MTS, no deficiencies were found regarding MTS’s compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. MTS submitted a list of two Title VI complaints filed between 2009 and 2012. One complaint was closed and one remained open. As explained by MTS, the open complaint involved “resistance and verbal obstruction from [the] complainant during security contact.” At the time of the site visit, MTS had filed a criminal lawsuit against the complainant and the lawsuit was still pending.

The list of complaints provided by MTS included all elements required by FTA Circular 4702.1A, IV, 3 as follows:

1. The date the investigation, lawsuit, or complaint was filed
2. A summary of the allegation(s)
3. The status of the investigation, lawsuit, or complaint
4. Actions taken by the recipient or in response to the investigation, lawsuit, or complaint.

It was noted that MTS’s list of complaints included two fields, “Notes” and “Outcome.” To understand the action taken by MTS in response to the complaint, the Review team had to read the notes/comments in both fields. It was suggested that MTS combine the two fields into one field and name it “Action Taken.”

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 MTS, no deficiencies were found regarding MTS’s compliance with FTA requirements for Notice to Beneficiaries of Protection under Title VI. MTS’s Title VI Notice contained all of the elements required by FTA Circular 4702.1A, IV, 5.a, as illustrated in the following table:

| **Elements Required in Title VI Notice to Beneficiaries**  **(per FTA Circular 4702.1A Chapter IV Section 5.a)** | **Included in MTS Notice?** |
| --- | --- |
| A statement that the agency operates programs without regard to race, color, and national origin. | Yes |
| A description of the procedures that members of the public should follow in order to request additional information on the recipient’s nondiscrimination obligations. | Yes |
| A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient. | Yes |

MTS distributed its notice on vehicles and at its administrative offices and provided multiple examples of its notice printed on rider guides, service and fare change notices, special event notices, and notices of public involvement opportunities. MTS also provided an example of a service change notice translated into Spanish. MTS posted on its website its Title VI Policy, which included a statement that the agency operates programs without regard to race, color, or national origin and procedures for filing a Title VI complaint.

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 MTS, no deficiencies were found regarding MTS’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. MTS executed its fiscal year 2011 Annual Certifications and Assurances in TEAM on November 16, 2011. MTS 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 MTS, no deficiencies were found regarding MTS’s compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. In a memorandum dated June 22, 2012, MTS stated the following:

State law provides that the San Diego metropolitan planning organization, SANDAG, carries out all construction projects for the transit operators. Any construction undergone by MTS is minor in nature, and would entail rehabilitation or repair of existing facilities. Therefore, MTS has not conducted any environmental justice assessments during the audit term.

MTS does not currently receive FTA funding for any construction projects that would require EJ Analyses. During the site visit, the review team discussed the requirements for Environmental Justice Analysis of Construction projects, advising MTS that in the event it were responsible for future construction projects, it needed to complete an FTA Categorical Exclusion (CE) Checklist, Environmental Assessment (EA), or Environmental Impact Statement (EIS), as appropriate. If MTS were ever to prepare an EA or EIS, it must do so in accordance with FTA Circular 4703.1, “Environmental Justice Policy Guidance for FTA Recipients”. During the site visit, the review team discussed FTA Circular 4703.1 with MTS.

1. Submit Title VI Program

**Requirement:** *FTA recipients that are State Departments of Transportation or Other Administrating Agency 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 MTS, no deficiencies were found regarding MTS’s compliance with FTA requirements to Submit Title VI Program. Prior to the site visit, the review team reviewed MTS’s most recent Title VI Program, dated June 2012, and found that it included all of the elements required by FTA Circular 4702.1A, IV, 7, as described in the following table:

| **ELEMENTS REQUIRED FOR TITLE VI PROGRAM** | |
| --- | --- |
| **General Reporting Requirements and Guidelines**  **(per FTA C. 4702.1A, IV, 7. a. (1) – (5))** | **In MTS Title VI Program Submittal?** |
| A summary of public outreach and involvement activities undertaken since the last submission and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities. | Yes |
| A copy of the agency’s plan for providing language assistance for persons with limited English proficiency that was based on the DOT LEP Guidance or a copy of the agency’s alternative framework for providing language assistance. | Yes |
| A copy of the agency procedures for tracking and investigating Title VI complaints. | Yes |
| A list of any Title VI investigations, complaints, or lawsuits filed with the agency since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to the agency submitting the report, not necessarily the larger agency or department of which the entity is a part. | Yes |
| A copy of the agency’s notice to the public that it complies with Title VI and instructions to the public on how to file a discrimination complaint. | Yes |
| **Program-Specific Requirements and Guidelines**  **(per FTA C. 4702.1A, V, 6. a. (1) – (4))** | |
| A copy of the agency’s demographic analysis of its beneficiaries. This should include either any demographic maps and charts prepared or a copy of any customer surveys conducted since the last report that contain demographic information on ridership, or the agency’s locally developed demographic analysis of its customer’s travel patterns. | Yes |
| Copies of system-wide service standards and system-wide service policies adopted by the agency since the last submission. | Yes |
| A copy of the equity evaluation of any significant service changes and fare changes implemented since the last report submission. | Yes |
| A copy of the results of either the level of service monitoring, quality of service monitoring, demographic analysis of customer surveys, or locally developed monitoring procedures conducted since the last submission. | Yes |

While MTS’s most recent Title VI Program submittal included all of the required elements per FTA Circular 4702.1A, its organization and presentation of the required elements could be improved. For example, under the General Reporting Requirements and Guidelines section of its submittal under the heading “Requirement to Develop Title VI Complaint Procedures,” MTS stated that its complaint procedures could be found in “Section 5 of this chapter.” The heading for Section 5 was “Requirement to Notify Beneficiaries of Protection under Title VI.” At the end of this section, MTS stated that its complaint procedures could be found in Appendix B. During the site visit, the review team provided other examples that made its submittal at times confusing to follow, and provided technical assistance to MTS on how it could better organize future Title VI Program submittals. For example, the review team advised MTS to create one heading per required element and include the related Title VI Program information underneath each respective heading, rather than provide the required information by reference to other sections of the submittal.

The review team advised MTS to reference current and future FTA Title VI Circular guidance and only provide what is required. In its June 2012 Title VI Program submittal, MTS provided its Title VI Certifications and Assurances and a section on Environmental Justice Analysis of Construction Projects. These elements were required in the prior FTA Circular 4702.1. The elements are not required by the current FTA Circular 4702.1A.

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

1. Demographic Data

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

**Finding**: During this Title VI Compliance Review of MTS, deficiencies were found regarding MTS’s compliance with FTA requirements for Demographic Data. MTS’s Title VI demographic data was prepared by SANDAG in accordance with FTA Circular 4702.1A, “Option A: Demographic and Service Profile Maps and Charts and Option B: Survey Information on Customer Demographics and Travel Patterns” (used primarily by MTS for conducting fare and service change evaluations). The geographical scope of its demographic data was all of San Diego County. Since the MTS service area is only a portion of San Diego County, MTS must create maps and use demographic data for its service area only. In addition, in its June 2012 Title VI Program submittal, MTS’s minority and non-minority service area percentages were in conflict. As prepared by SANDAG on behalf of MTS, San Diego County was 65 percent minority. According to the 2010 U.S. Census, San Diego County was 64 percent non-minority. After discussing the minority and non-minority percentages with MTS and representative from SANDAG’s planning department, it was agreed that MTS and SANDAG must reassess its minority and non-minority thresholds and confirm their accuracy.

Regarding MTS’s compliance with Demographic Data Options A and B, the following table identifies what is required for each and whether they were included in MTS’s Title VI Demographic Data:

|  |  |
| --- | --- |
| **Elements Required for Demographic Data**  **(per FTA C. 4702.1A, V, 1. a.) – Option A** | **Included in MTS 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 |
| **Elements Required for Demographic Data**  **(per FTA C. 4702.1A, V, 1. b.) – Option B** | **Included in MTSTitle VI Submittals?** |
| Recipients may collect information on the race, color, national origin, income, and travel patterns of their riders. FTA recommends that recipients collect the following information (recipients may request additional information from their riders, as appropriate, or request different information that is more applicable to the type of service they provide):  (1) Information on riders’ race, color, and national origin.  (2) Whether the rider speaks or understands English “not well” or “not at all.”  (3) Information on riders’ income or income range.  (4) The mode of transit service that riders use most frequently (when applicable).  (5) The frequency of transit usage.  (6) The typical number of transfers made.  (7) The fare payment type and media most frequently used (when applicable).  (8) Riders’ auto availability.  (9) Riders’ opinion of the quality of service they receive (this could include questions such as satisfaction with the system, willingness to recommend transit to others, and value for fare paid).  (10) In administering the above option, grantees should keep the following guidance in mind:   * + - 1. Timing. The information recommended in Section 1.b.(1) can be integrated into customer surveys routinely employed by transit agencies and can be collected at the time that such surveys are routinely performed.       2. Language access. The recipient should take steps to translate customer surveys into languages other than English, or to provide interpretation services in the course of conducting customer surveys consistent with the DOT LEP guidance. | Yes |

Prior to the site visit, MTS provided the following demographic maps:

* MTS Census Tracts
* MTS Transit Service – Transit Facilities, Rail/Premium Express Stations, Activity Centers, Trolley Lines
* MTS Low-Income Population
* MTS Minority Population
* MTS LIM (Low-Income/Minority) Population

In addition to the demographic maps listed above, MTS provided a demographic chart that reported minority and low-income data by Census tract, as well as a document titled “Results of the 2009 Onboard Transit Passenger Survey for the San Diego Region,” which documented its collection of ridership demographics per Option B, described in the table above.

After the site visit, in a memorandum dated August 2, 2012, MTS submitted updates to its June 2012 Title VI Program submittal that included updated demographic maps and charts for its service area only. In accordance with 2010 U.S. Census data, MTS revised its service area minority percentage to 54 percent. All maps and charts were updated accordingly.

The deficiency in this area is now closed.

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 MTS, no deficiencies were found regarding MTS’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 |  |

In its most recent Title VI Program submittal, MTS established the following system-wide service standards:

* **Vehicle Load** – SANDAG, on behalf of MTS, evaluated passenger comfort based on load factor by measuring standee density. The measurement of standee density included vehicle size and the available floor room of each vehicle and also took into account the type of service provided.
  + Guideline – Regional and Community Service – no standees.
  + Guideline – All Other Services – No more than 20 percent of revenue hours exceeding one standee per four square foot on local street operation.
* **Vehicle Headway** – SANDAG set minimum headway goals by time of day (peak or off-peak), route class (Regional Rail, Regional Bus, Corridor Service, Local Bus Service, Community Bus, and Rural Service), and by population density (Urban, Suburban, or Rural areas), as follows:

|  |  |  |
| --- | --- | --- |
| **Service Type** | **Peak** | **Off-Peak** |
| Urban/Suburban Regional Rail | 30 min | 120 min |
| Urban/Suburban Regional Bus | 20 min | 30 min |
| Urban Corridor Bus | 20 min | 20 min |
| Urban Local Bus | 30 min | 60 min |
| Suburban Local Bus | 60 min | 60 min |
| Suburban Corridor Bus | 20 min | 150 min |
| Urban Community Bus | 60 min | 60 min |
| Suburban Community Bus | 60 min | 120 min |

**On-Time Performance** – SANDAG setminimum standards for on-time performance by service type, as follows:

|  |  |
| --- | --- |
| Regional Service | 92% of all services shall depart and arrive within 5 minutes of scheduled times (none early). |
| Corridor Service | 90% of all services shall depart and arrive within 5 minutes of scheduled times (none early). |
| Local and Community Service | Local and Community Service – 80% of all services shall depart and arrive within 5 minutes of scheduled times (none early). |

* **Distribution of Transit Amenities** – MTS established a quantitative system to determine whether a transit stop was eligible for a particular transit amenity. As described in the chart below, MTS established five categories (levels) of transit stops, each defined by the number of daily passenger boardings. MTS then established which transit amenities were either standard or optional by level, as follows:

|  | **Level 1**  **<50** | **Level 2**  **>=50** | **Level 3**  **>100** | **Level 4**  **>200** | **Level 5**  **>500** |
| --- | --- | --- | --- | --- | --- |
| Accessible | S | S | S | S | S |
| Built-in Sign | - | - | - | O | S |
| Bus Pads | \* | \* | \* | \* | s |
| Expanding Sidewalk | O | O | S | S | S |
| Individual Bus Bays | - | - | - | - | S |
| Lighting | - | O | O | O | O |
| Nonpublic Roadway | - | - | - | - | S |
| Park-and-Ride | - | O | O | O | O |
| Passenger Shelter | O | O | S | S | S |
| Permanent Structure | - | - | - | - | S |
| Public Roadway | S | S | S | S | - |
| Red Curbs | S | S | S | S | O |
| Route Designation | S | S | S | S | S |
| Route Map | O | O | S | S | S |
| Seating | O | S | S | S | S |
| Sign and Pole | S | S | S | S | S |
| System Map | - | - | O | O | S |
| Telephone | - |  |  | O | S |
| Timetable | - | O | O | O | S |
| Trash Receptacle | O | O | O | S | S |

S = Standard, O = Optional, - = Not Applicable, \* = Required for stops with four or more buses per hour

* **Service Availability** – SANDAG defined service availability as follows:
  + 80 percent of residents or jobs within one-half mile of a bus stop or rail station in urban areas.
  + 100 percent of suburban residences within five miles of a transit stops.
  + 70 percent of residents and 75 percent of jobs within one mile of a bus stop or rail station in suburban areas.
  + One return trip provided at least two days per week to destinations from rural villages identified on the Smart Growth Concept Map.

In its most recent Title VI Program submittal, MTS established the following system-wide service policies:

* **Vehicle Assignment** – MTS Bus vehicles were assigned randomly taking into account route conditions and characteristics, including the following:
  + Capacity – Articulated buses were assigned to routes requiring the greatest amount of passenger capacity. Smaller buses were used on neighborhood routes with lower ridership demands.
  + Service Type – Dedicated fleets were assigned to MTS’s commuter express routes (over-the-road coaches), and its SuperLoop project (branded buses).

MTS light rail vehicles were assigned based on route characteristics. At the time of the site visit, MTS had two types of light-rail vehicles, Siemens U2 and Siemens SD100. The Siemens U2 vehicles were older and less powerful than the SD100s. MTS stated that it was in the process of retiring the U2s. In the meantime, the SD100 vehicles were assigned to routes where hills were prevalent because they were more powerful.

* + **Transit Security** – MTS deployed Code Compliance Inspectors throughout its system to enforce transit security. In addition, where there were stations or locations throughout its transit system that experienced disproportionately high rates of crime and vandalism, MTS provided extra security. MTS stated that surveillance equipment was used in high crime areas and in areas that were most vulnerable to terrorist threats MTS’s system-wide service standards and system-wide service policies met the requirements of FTA Circular 4702.1A.

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 MTS, deficiencies were found regarding MTS’s compliance with FTA requirements for Evaluation of Service and Fare Changes. MTS was not responsible for fare policy or the establishment of fares for its service, as this function was the responsibility of SANDAG, the local MPO. MTS did, however, plan and implement service changes. As described during the site visit, at least twice per year, MTS implemented system “shake-ups” that involved a collection (or batch) of service reductions, service additions, or both. Periodically MTS also made other service changes that were not a part of a “shake-up.” During this Compliance Review, the following service changes were evaluated:

* June 2009 “shake-up”
* February 2010 “shake-up”
* November 2011 Route 830 service change
* January 2009 Sorrento Valley Coaster Connection service change

When making service changes, FTA Circular 4702.1A requires that grantees define what constitutes a major service change. In addition, during the planning stage of any service change, grantees must do the following:

|  |
| --- |
| **Elements Required for Evaluation Of Service Changes  (per FTA C. 4702.1A, V, 4a.) – Option A** |
| 1. Assess the effects of the proposed service change on minority and low-income populations. |
| 1. Route changes: For proposed major service changes that would reduce or expand frequency of service or add or eliminate routes, the recipient should produce maps of the routes that would be eliminated, reduced, added, or expanded, overlaid on a demographic map of the service area, that highlights those Census tracts or traffic analysis zones where the total minority and low-income population is greater than the service area average. |
| 1. Span of service: For proposed changes that would reduce or expand hours and days of service, the recipient should analyze any available information generated from ridership surveys that indicates whether minority and low-income riders are more likely to use the service during the hours and/or days that would be eliminated. |
| 1. Assess the alternatives available for people affected by the major service change. |
| For proposed service changes, the recipient should analyze what, if any, modes of transit or transit routes are available for people affected by the service expansions or reductions. This analysis should compare the travel time and cost of the current route with the travel time and cost to the rider of the alternatives. |
| 1. Describe the actions the agency proposes to minimize, mitigate, or offset any adverse effects of proposed service changes on minority and low-income populations. |
| 1. Determine which, if any of the proposals under consideration would have a disproportionately high and adverse effect on minority and low-income riders. Recipients can implement a major service reduction that would have disproportionately high and adverse effects provided that the recipient demonstrates that the action meets a substantial need that is in the public interest and that alternatives would have more severe adverse effects than the preferred alternative. |
| **Elements Required for Evaluation of Service Changes  (per FTA C. 4702.1A, V, 4b.) – Option B** |
| Recipients have the option of modifying the above option or developing their own procedures to evaluate significant system-wide service changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. This locally developed alternative shall include a description of the methodology used to determine the impact of the service change, a determination as to whether the proposed change would have discriminatory impacts, and a description of what, if any, action was taken by the agency in response to the analysis conducted. |

MTS satisfied all the requirements for Evaluation of Service Changes–Option A above; however MTS’s definition of major service change only contained a threshold for weekly in-service route mileage or hours. MTS defined a major service change as any change that affects more than 25 percent of a route’s weekly in-service miles or hours. Its major service change definition did not contain thresholds for the elimination of service, new service, route modification, or span of service. In its Metropolitan Transit System FY 2010 Mid-Year Service Adjustments PowerPoint presentation, dated January 7, 2010, MTS detailed $7 million worth of service changes, also known as its February 2010 “shake-up.” Included in this service “shake-up” were many routes that experienced one or a combination of changes in frequency, span, and length; one route was eliminated; and Sunday service was discontinued on 22 routes. Similar service changes were made in MTS’s June 2009 “shake-up.” MTS’s major service change definition did not address, or otherwise establish a “trigger” for, conducting a Title VI service change equity analysis for all the types of service changes it did.

MTS must expand its definition of Title VI “major service change” to reflect its actual practices regarding elimination of service, new service, and changes in route miles as a result of route modification. MTS must also add a threshold for span of service.

During the site visit, the review team discussed the following related requirements and guidance with MTS:

* FTA Circular 4702.1A.V.4
* FTA Administrator’s Dear Colleague Letter dated March 8, 2011, titled “Civil Rights”
* “Transit Service & Fare Equity Analysis Under Title VI of the Civil Rights Act of 1964 – Training Overview for FTA Funding Recipients” webinar PowerPoint presentation.

MTS was advised to review the Title VI Service and Fare Equity Analysis Presentation found on the FTA website at <http://fta.dot.gov/civilrights/12328_5445.html>. This presentation provides additional guidance and best practices for conducting Title VI service and fare equity analyses.

After the site visit, in a memorandum dated August 2, 2012, MTS provided draft language of the proposed new section of its Policy 42, which codified MTS’s procedures for conducting Title VI equity evaluations of its service changes. MTS’s draft language stated the following:

42.6a Analysis. The following changes would require that a Title VI analysis be presented to the MTS Board of Directors before a final implementation decision is made:

* A change that is greater than 25 percent of a route’s weekly in service miles or hours.
* An increase or reduction in the average weekly span-of-service of more than 25 percent.
* The implementation of a new route or the discontinuation of an existing route.
* A routing change that affects more than 25% of a route’s Directional Route Miles and more than 25% of the route’s bus stops.

On September 20, 2012 MTS’s Board approved the changes to Policy 42.

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 MTS, no deficiencies were found regarding MTS’s compliance with FTA requirements for Monitoring Transit Service. In a document titled “The Coordinated Plan 2012-2016 Technical Appendix,” SANDAG, on behalf of MTS, described its most recent MTS Title VI Monitoring effort conducted in the fall of 2011. SANDAG selected Option B: Quality of Service Methodology. Accordingly, SANDAG identified the top three travel destinations from its most recent onboard passenger survey and randomly selected 20 low-income, minority, non-low-income, and non-minority Census tracts in which MTS operated service. The following quality of service variables were evaluated for travel on MTS from each Census tract to each of the three most frequently traveled destinations:

* Average peak hour travel time to destinations
* Average non-peak hour travel time to destinations
* Number of transfers required to reach the destination
* Total cost of trip to the destination
* Cost per mile of trip to the destination

SANDAG concluded the following from its analysis:

Overall, the Low Income and Minority Census Tracts were shown to have faster service, lower fares, and similar transfers to the top three major destinations in each service area. However, the Low Income and Minority Census Tracts were generally shown to have a higher cost per mile based on the close proximity of these tracts to the major destinations.

MTS stated that it conducted Title VI Monitoring every three years. Since MTS made annual changes to its service, the Review team advised MTS to conduct Title VI Monitoring annually.

MTS’s Title VI Monitoring effort met the requirements of FTA Circular 4702.1A.

1. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

| **Title VI Requirements for Recipients Serving Large Urbanized Areas** | **Site Review Finding** | **Description of Deficiencies** | **Corrective Action(s)** | **Response Days/Date** | **Date Closed** |
| --- | --- | --- | --- | --- | --- |
| **GENERAL REQUIREMENTS** | | | | | |
| 1. Inclusive Public Participation | ND |  |  |  |  |
| 1. LEP Language Assistance Plan | ND |  |  |  |  |
| 1. Title VI Complaint Procedures | ND |  |  |  |  |
| 1. List of Title VI Investigations, Complaints, and Lawsuits | ND |  |  |  |  |
| 1. Notice to Beneficiaries of Protection Under Title VI | ND |  |  |  |  |
| 1. Annual Title VI Certification and Assurance | ND |  |  |  |  |
| 1. Environmental Justice Analyses of Construction Projects | ND |  |  |  |  |
| 1. Prepare and Submit a Title VI Program | ND |  |  |  |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR LARGE URBANIZED AREAS** | | | | | |
| 1. Demographic Data | D | Demographic data lacking | MTS must submit to the Region IX Civil Rights Officer updated demographic profile maps of its service area, excluding those areas of San Diego County where it does not operate service. MTS must also confirm what percentage of its service area is minority. | **60 Days** | **Closed**  **8/2/2012** |
| 1. System-wide Service Standards and Policies | ND |  |  |  |  |
| 1. Evaluation of Fare and Service Changes | D | Definition of major service change lacking | MTS must submit to the Region IX Civil Rights Officer an updated definition of “major service change” to reflect its actual practices regarding elimination of service, new service, and changes in route miles as a result of route modification. MTS must also add a threshold for span of service. | **60 Days** | **Closed**  **8/2/2012** |
| 1. Monitoring Transit Service | ND |  |  |  |  |

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

NR = Not Reviewed; AC = Advisory Comment

1. ATTENDEES

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1. Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)