



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

1200 New Jersey Avenue, S.E.  
Washington, DC 20590

April 23, 2010

Mr. Mark Aesch  
Chief Executive Officer  
Rochester-Genesee Regional Transportation Authority  
1372 East Main Street  
Rochester, New York, 14609

Dear Mr. Aesch:

Thank you for your response to the Federal Transit Administration's (FTA) letter and preliminary report of findings of the Title VI Compliance Review of the Rochester-Genesee Regional Transportation Authority (RGRTA) conducted from August 3-5, 2009. Enclosed is the final report that incorporates RGRTA's official response, dated December 10, 2009. As of the date of this letter, the final report became a public document and is subject to dissemination under the Freedom of Information Act of 1974. The enclosed final report incorporates some of the additions requested in official response, as appropriate.

Please use the summary table in Section VII of the final report as the format to report progress to FTA on the corrective actions RGRTA intends to implement as a result of our findings. Please identify each response by item number. The requested documentation, along with updates on the status of implementation of proposed corrective actions, should be provided in quarterly reports to FTA. Each report should include the planned and actual completion date of the corrective action, the current status and contact person information for each corrective action and specific reporting requests cited in this letter and on the enclosed table. The first report will be due on May 30, 2010 and should include activity during the months of January through April 2010 and any actions completed prior to that date that have not already been addressed. Additional reports will be due on August 31, 2010; November 31, 2010; and each calendar quarter thereafter until FTA releases RGRTA from this reporting requirement.

Once we have reviewed your progress reports, we will either request clarification or additional corrective action or will close out the finding if your response sufficiently addresses the FTA Title VI Circular requirements.

The following section summarizes the outstanding deficiencies in the Title VI Compliance Review and RGRTA's response (a full description of the findings are contained in the report and RGRTA's unabridged response is included as attachment A).

## Remaining Compliance Deficiencies: RGRTA Title VI Compliance Review

### 1. Language Access to LEP Persons

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

**Finding:** During this Title VI Compliance Review of RGRTA, deficiencies were found regarding RGRTA's compliance with FTA requirements for Language Access to LEP persons. During the site visit, RGRTA provided the Review Team a document entitled "Refugees Resettled in New York State by Provider Area". The document showed trends as it related to changes in refugee populations in the RTS and Regional service areas. While this can be a useful tool, it does not address the requirements of the Circular. RGRTA did provide some additional information regarding its LEP populations but did not provide all the required elements of Language Assistance Plan.

#### Corrective Action Proposed by RGRTA:

- *Before the end of 2009, RGRTA will begin requiring its operations to contact radio control whenever approached by an LEP and to maintain a log of such contacts that can be produced in report formats.*
- *Before the end of 2009, RGRTA will begin to more formally monitor LEP with our Customer Service Representatives.*
- *Reports will be run quarterly on a continuous basis for review.*
- *RGRTA will continue its interaction with community and religious groups regarding LEP transportation concerns.*
- *RGRTA will continue to conduct the Quarterly Customer Satisfaction Survey.*
- *After six months of gathering data from the foregoing activities, RGRTA will perform the four-factor analysis required by FTA Circular 4702.1A and determine responsible steps to take to carry out a language implementation plan pursuant to the recommendations in the DOT LEP Guidance. RGRTA will submit steps to FTA for review.*
- *RGRTA will continue the above actions and will review both the four-factor analysis and its responsible steps on an annual basis and update its LEP activities as appropriate.*

**FTA does not accept RGRTA's proposed plan to correct this deficiency. The requirement to develop a Language Assistance Plan for LEP persons dates back to December 2005. A listing of "steps" that RGRTA intends to take after six months of study is not acceptable. RGRTA should refine its plan on an annual basis, using the additional data as it becomes available.**

**FTA's Corrective Actions and Schedule Remain: Within 90 days, RGRTA must submit to the FTA Headquarters Office of Civil Rights a copy of its Language Assistance Plan that meets with the requirement to provide meaningful access to Limited English Proficient (LEP) persons.**

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

**Requirement:** *FTA recipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients shall disseminate this information to the public through measures that can include but shall not be limited to a posting on its Web site.*

**Finding:** During this Title VI Compliance Review of RGRTA, deficiencies were found regarding RGRTA's compliance with FTA requirements for Notice to Beneficiaries of Protection under Title VI. The notification that was submitted to the Review team did not contain a description of the procedures that members of the public should follow in order to request additional information on the recipient's nondiscrimination obligations, as required in FTA Circular 4702.1 A, Chapter IV Section 5.a.

At the time of the Compliance Review, the notice to beneficiaries had not been adequately disseminated to the public. The Policy was posted on RGRTA's website but RGRTA could not document that it had distributed the Policy in any other manner. RGRTA stated that it intended to notify the public of their rights through such methods as placing the Statement on cards in each bus and by disseminating it to the Regional Service Providers.

**Corrective Action Proposed by RGRTA:**

*RGRTA responded that the notice to beneficiaries had been amended to include the language identified by the draft report as missing, and that the inside bus sign/stickers were being priced and procured. In addition, RGRTA anticipated ordering and installing amended bus signs/stickers on all buses in fleets of all subsidiaries of RGRTA within thirty (30) days.*

**FTA's Corrective Actions and Schedule Remain: Within 90 days of this letter, RGRTA must submit to the FTA Headquarters Office of Civil Rights:**

- **A corrected Title VI Policy statement that notifies the public of the procedures members of the public should follow in order to request additional information on the recipient's nondiscrimination obligations.**
- **Documentation of the Policy dissemination in places other than the RGRTA website.**
- **Documentation of the Policy dissemination by the Regional Service Providers.**

### 3. Systemwide Service Standards and Policies

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

**Findings:** During this Title VI Compliance Review of RGRTA, deficiencies were found regarding RGRTA's compliance with FTA requirements for Systemwide Service Standards and Policies. RGRTA provided written systemwide service standards and/or service policies as per the FTA recommendations, however, RGRTA could not document that two of those service standards (vehicle load and vehicle headway) were being used as a part of its planning and operations. There was no quantifiable amenities standard for bus transit shelters. There was no clear vehicle assignment policy.

#### Corrective Action Proposed by RGRTA:

*RGRTA responded that system-wide service standards would be updated to reflect current practices and to assure that current practices comply with Title VI, by February 28, 2010.*

*In addition, RGRTA indicated the Director of Transit Operations and the Director of Transportation Services have already identified the current practices and those practices are being documented. Further, the Transportation Team had already updated the vehicle assignment survey and would continue to do this on a regular basis.*

**FTA's Corrective Actions and Schedule Remain: Within 90 days of this letter, RGRTA must submit to the FTA Headquarters Office of Civil Rights updated systemwide service standards and policies that are being utilized by RGRTA to guard against discriminatory service design or operations decisions, as described in FTA Circular 4702.1A.**

### 4. 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 RGRTA, deficiencies were found regarding RGRTA's compliance with FTA requirements for Evaluation of Service and Fare Changes. RGRTA did not document that it had conducted Equity Evaluations of

any major service changes during the past three years, as required by FTA Circular 4702.1A, V, 4.a.

RGRTA provided the Review Team with a report entitled *Fare Model Update and Results (Revised)*, dated April 2008. According to the report, RGRTA “undertook a fare study in 2005 that led to a streamlined, more understandable fare structure.... The purpose of this report is to estimate ridership and revenue impacts resulting from proposed new fare changes.” The model measured two things (i) the direct effects of a fare change on ridership and revenue and (ii) how riders shift among fare media. There were no criteria or measurements for evaluating Title VI effects.

Corrective Action Proposed by RGRTA:

RGRTA offered to provide written documentation of its business decision related to the fare decrease in 2008 as well as the ridership figures since enacting the decrease, by February 28, 2010.

In addition, RGRTA indicated it will memorialize its practices with regard to “significant” service changes. It will then adopt policies as to what service changes will require equity evaluation. RGRTA ... anticipate(s) finalizing and implementing the policies by February 28, 2010 and conducting and documenting any necessary equity evaluations with respect to prior service and fare changes by March 31, 2010.

RGRTA also stated that it would conduct an additional survey for the Route 27 changes that were implemented earlier in 2009. RGRTA provided copies of its presentation to the Board of RGRTA and its business case for terminating the service.

**FTA does not accept a “business decision” analysis for the 2008 fare change or the 2009 service change in place of an equity evaluation as described in FTA Circular 4702.1A, V, 4a.**

**FTA Corrective Actions and Schedule Remain: Within 90 days of this letter, RGRTA must submit to the FTA Headquarters Office of Civil Rights the following documentation:**

- **An Equity Evaluation of the 2008 fare change.**
- **An Equity Evaluation of all “significant” service changes implemented or planned during the past three years (this includes service reductions, eliminations, and expansions).**

**5. 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 RGRTA, deficiencies were found regarding RGRTA's compliance with FTA requirements for Monitoring Transit Service. In its 2009 – 2010 *Comprehensive Plan*, RGRTA described its "Performance Measures" that included the "Transit Organization Performance Scorecard (TOPS)". TOPS "*combines measurements of financial success, quality customer service, productivity of service and employee success into one comprehensive measurement tool...*" TOPS measures RTS as well as the other Regional service providers. TOPS contained a "Customer Satisfaction Index (CSI)". The CSI combined 11 different customer service components, but, notably, there were no Title VI components. RGRTA also provided a RTS Bus Rider Questionnaire, an Executive Summary of a Commuter Express report, but did not produce the results of any Title VI monitoring activities. RGRTA's monitoring did not identify respondents by race, ethnicity, limited English proficiency or income level, therefore, RGRTA could not conduct the required Title VI monitoring.

*Corrective Action Proposed by RGRTA:*

*RGRTA responded that it had updated the Customer Satisfaction Surveys that are routinely conducted, including its Quarterly Customer Survey, to include low-income and LEP questions, and compare the data as required in the Circular. In addition, RGRTA indicated it will follow this same procedure in the future. RGRTA would continue to include "Title VI" related questions in these surveys and weigh the findings.*

**FTA Corrective Actions and Schedule Remain: Within 90 days of this letter, RGRTA must submit to the FTA Headquarters Office of Civil Rights procedures for monitoring transit service and a copy of the results of the monitoring, in accordance with FTA Circular 4702.1A.**

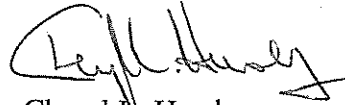
We recognize the efforts RGRTA is making to correct the deficiencies identified in the report and we anticipate its continued endeavors to take further corrective actions as noted in this letter. Please respond to the findings of this Review in a progress report addressed to the following:

Mr. John Prince  
FTA Region II Civil Rights Officer  
One Bowling Green, Room 429  
New York, NY 10004-1415

Ms. Amber Ontiveros  
Equal Opportunity Specialist  
FTA Office of Civil Rights  
1200 New Jersey Avenue, SE  
Washington, DC 20590

We appreciate the cooperation and assistance that you and your staff have provided us during this review. If you have any questions about this matter, please contact Ms. Amber Ontiveros, Office of Civil Rights at (202) 366-3150 or at her email address, [Amber.ontiveros@dot.gov](mailto:Amber.ontiveros@dot.gov).

Sincerely,



Cheryl D. Hershey  
Director, Office of Civil Rights

Cc: Brigid Hynes-Cherin, FTA Region II Administrator  
Sandra McCrea, FTA Office of Civil Rights  
Amber Ontiveros, FTA Office of Civil Rights  
John Prince, FTA Region II Civil Rights Officer  
John Potts, The DMP Group, LLC