**TITLE VI COMPLIANCE REVIEW**

**OF THE**

**San Diego Association of Governments**

**(SANDAG)**

**San Diego, California**

**Final Report**

**October 2011**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

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1. GENERAL INFORMATION

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Grantee Number: 1620

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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 Association of Governments (SANDAG) is a recipient of FTA funding assistance and is therefore subject to the Title VI compliance conditions associated with the use of these funds pursuant to the following:

* Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d).
* Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.).
* Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).
* Department of Justice regulation, 28 CFR part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs” (December 1, 1976, unless otherwise noted).
* DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964” (June 18, 1970, unless otherwise noted).
* Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, “Environmental Impact and Related Procedures” (August 28, 1987).
* Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, “Planning Assistance and Standards,” (October 28, 1993, unless otherwise noted).
* DOT Order 5610.2, “U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations,” (April 15, 1997).
* DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons, (December 14, 2005).
* Section 12 of FTA’s Master Agreement 17, (October 1, 2010).

1. PURPOSE AND OBJECTIVES

#### Purpose

The Federal Transit Administration (FTA) Office of Civil Rights periodically conducts discretionary reviews of grant recipients and subrecipients to determine whether they are honoring their commitments, as represented by certification, to comply with the requirements of 49 U.S.C. 5332. In keeping with its regulations and guidelines, FTA determined that a Compliance Review of SANDAG’s Title VI Program was necessary.

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

#### Objectives

The objectives of FTA’s Title VI Program, as set forth in FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” are:

* Ensure that the level and quality of transportation service is provided without regard to race, color, or national origin;
* Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;
* Promote the full and fair participation of all affected populations in transportation decision making;
* Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations;
* Ensure meaningful access to programs and activities by persons with limited English proficiency.

The objectives of Executive Order 13166 and the “DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries” are for FTA grantees to take reasonable steps to ensure “meaningful” access to transit services and programs for LEP persons.

1. BACKGROUND INFORMATION

SANDAG is the regional decision-making agency as well as the technical and informational resource for the San Diego, California area’s 18 incorporated cities and the county government, which collectively make up the association of governments. SANDAG is governed by a Board of Directors composed of elected officials from each of the 19 members. Supplementing the voting members are advisory representatives from Imperial County, the U.S. Department of Defense, California Department of Transportation (Caltrans), San Diego Unified Port District, San Diego County Water Authority, Metropolitan Transit System (MTS), North San Diego County Transit District (NCTD), Southern California Tribal Chairmen's Association (SCTCA), and Mexico. The agency’s planning boundary is the jurisdictional limits of the County of San Diego; however, it works extra-regionally with agencies in Mexico and throughout southern California. The county has a 2010 population of 3,095,313.

SANDAG was originally created as a joint power authority formed under Section 6500 of the California Government Code in 1972 as the comprehensive planning organization. It adopted its current name in 1980 to better reflect its purpose. In 1987, SANDAG added the responsibilities of administering the region’s transportation program, known as TransNet, which is funded by a voter-approved 1/2 percent sales tax.

On January 1, 2003, state legislation (SB 1703) was enacted which changed the structure of SANDAG from a joint powers authority to a state-created regional governmental agency, making it a permanent rather than voluntary association of local governments with increased responsibilities and powers. SB 1703 consolidated all transportation planning and development functions into SANDAG so that these activities would occur on a multi-modal basis.

The roles and responsibilities of SANDAG, MTS, and NCTD are outlined in a master memorandum of understanding executed on April 23, 2004. SANDAG is responsible for transit planning, development, and construction while MTS and NCTD are responsible for transit operations. MTS and NCTD also manage small construction projects with SANDAG assistance. SANDAG is responsible for establishing regional fare policy.

The Chairman of SCTCA sits on SANDAG’s Board of Directors. The Board’s Border Committee considers the needs of 17 Indian Tribes on 18 reservations and Mexico. None of the Indian tribes in the region are recipients of grant funds from SANDAG. The Reservation Transportation Authority took on the role of Bureau of Indian Affairs (BIA) to pool funds and prioritizes projects for the region. SANDAG is also a member of the Tribal Transportation Advisory Committee that meets quarterly. The committee consists of public agencies working with Indian tribes.

The roles and responsibilities of the three entities are evolving. During Federal fiscal years (FYs) 2004 and 2005, SANDAG applied for all grants on behalf of itself and MTS while NCTD applied for its own grants. In FY 2006, MTS, formerly the Metropolitan Transit Development Board (MTDB), became a FTA grantee again. MTS now applies for and administers grants for preventive maintenance, bus procurements, and bus and light rail vehicle (LRV) parts.

In addition to using FTA funds for planning, development, and construction, SANDAG uses “flex” funds to subsidize private vanpools in accordance with FTA guidelines on the capital cost of contracting. SANDAG contracts with two private vanpool contractors, Enterprise Vanpool and VPSI, Inc. These contractors own and maintain the vehicles, which are leased to organizations at a subsidized rate.

The following table represents a demographic profile of the SANDAG service area using data from the 2000 and the 2010 Census. The table shows the 2000 and 2010 population by racial/ethnic group. From 2000 to 2010, the total population of San Diego County increased 10.0 percent. The White population increased 5.9 percent, the Black population decreased by 2 percent, the Hispanic population increased 32 percent, the Asian population increased by 34.5 percent, the Hawaiian/Pacific Islander population increased 13.1 percent, and the American Indian/Alaskan Native increased 8.2 percent. In 2010, 64 percent of the total population was White (an increase of 3.5 percent from 2000), 5.1 percent was Black (an decrease of 0.1 percent), 32 percent was Hispanic (an increase of 7.8 percent), 10.9 percent was Asian (an increase of 2.8 percent), 0.5 percent was Hawaiian/Pacific Islander (an increase of 0.1 percent), and 0.9 percent was American Indian/Alaskan Native (an increase of 0.1 percent). In 2000, 21.5 percent of San Diego County residents were low-income and 12.4 percent were LEP. At the time of the Final report, 2010 low-income and LEP data were unavailable.

**Table 1 – Demographics of the SANDAG Service Area**

Source: 2000 U.S. Census

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | San Diego City | | Chula Vista City | | National City | | Rest of San Diego County | | Total San Diego County | |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| White | 736,207 | 60.2% | 95,553 | 55.1% | 19,070 | 35.1% | 1,021,009 | 74.9% | 1,871,839 | 66.5% |
| Black | 96,216 | 7.9% | 8,022 | 4.6% | 3,026 | 5.6% | 54,216 | 4.0% | 161,480 | 5.7% |
| American Indian and Alaska Native | 7,543 | 0.6% | 1,352 | 0.8% | 513 | 0.9% | 14,929 | 1.1% | 24,337 | 0.9% |
| Asian | 166,968 | 13.6% | 19,063 | 11.0% | 10,077 | 18.6% | 53,694 | 3.9% | 249,802 | 8.9% |
| Hawaiian/Pacific Islander | 5,853 | 0.5% | 1,013 | 0.6% | 478 | 0.9% | 6,217 | 0.5% | 13,561 | 0.5% |
| Other Race | 151,532 | 12.4% | 38,404 | 22.1% | 18,181 | 33.5% | 152,730 | 11.2% | 360,847 | 12.8% |
| Two or More | 59,081 | 4.8% | 10,149 | 5.8% | 2,915 | 5.4% | 59,822 | 4.4% | 131,967 | 4.7% |
| Hispanic Origin[[1]](#footnote-1) | 310,752 | 25.4% | 86,073 | 49.6% | 32,053 | 59.1% | 322,087 | 23.%6 | 750,965 | 26.7% |
| Total Population | **1,223,400** | **100%** | **173,556** | **100%** | **54,260** | **100%** | **1,362,617** | **100%** | **2,813,833** | **100%** |
|  |  |  |  |  |  |  |  |  |  |  |
| Limited English Proficiency | 172,527 | 14.6% | 18,357 | 10.6% | 11,233 | 22.0% | 136,282 | 10.0% | 338,399 | 12.4% |
| Low-Income | 314,227 | 25.7% | 49,842 | 28.7% | 22,487 | 41.3% | 219,698 | 16.1% | 606,254 | 21.5% |

Source: 2010 U.S. Census

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | San Diego City | | Chula Vista City | | National City | | Rest of San Diego County | | Total San Diego County | |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| White | 769,971 | 58.9% | 130,991 | 53.7% | 24,725 | 42.2% | 1,055,755 | 71.1% | 1,981,442 | 64.0% |
| Black | 87,949 | 6.7% | 11,219 | 4.6% | 3,054 | 5.2% | 55,991 | 3.8% | 158,213 | 5.1% |
| American Indian and Alaska Native | 7,696 | 0.6% | 1,880 | 0.8% | 618 | 1.1% | 16,146 | 1.1% | 26,340 | 0.9% |
| Asian | 207,944 | 15.9% | 35,042 | 14.4% | 10,699 | 18.3% | 82,406 | 5.5% | 336,091 | 10.9% |
| Hawaiian/Pacific Islander | 5,908 | 0.5% | 1,351 | 0.6% | 482 | 0.8% | 7,596 | 0.5% | 15,337 | 0.5% |
| Other Race | 161,246 | 12.3% | 49,171 | 20.2% | 16,175 | 27.6% | 192,873 | 13.0% | 419,465 | 13.6% |
| Two or More | 66,688 | 5.1 | 14,262 | 5.8% | 2,829 | 4.8% | 74,646 | 5.0% | 158,425 | 5.1% |
| Hispanic Origin[[2]](#footnote-2) | 376,020 | 28.8% | 142,066 | 58.2% | 36,911 | 63.0% | 436,351 | 29.4% | 991,348 | 32.0% |
| Total Population | **1,307,402** | **100%** | **243,916** | **100%** | **58,582** | **100%** | **1,485,413** | **100%** | **3,095,313** | **100%** |

1. SCOPE AND METHODOLOGY

#### Scope

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

1. General Reporting Requirements and Guidelines – All applicants, recipients, and subrecipients shall maintain and submit the following:
2. Annual Title VI Certification and Assurance;
3. Title VI Complaint Procedures;
4. Record of Title VI Investigations, Complaints, and Lawsuits;
5. Language Access to LEP Persons;
6. Notice to Beneficiaries of Protection under Title VI;
7. Submit Title VI Program;
8. Environmental Justice Analysis of Construction Projects; and
9. Inclusive Public Participation.
10. Program-Specific Requirements and Guidelines for Large Urbanized Areas – All applicants, recipients and subrecipients that provide public mass transit service in areas with populations over 200,000 shall also submit a Title VI Evaluation of Service and Fare Changes.
11. Program-Specific Guidance for Metropolitan Transportation Planning Organizations – MPOs should have an analytical basis in place for certifying their compliance with the Title VI. Examples of this analysis can include:
12. Demographic Profile
13. Metropolitan Planning Process
14. Analytical Process for Identifying Impacts

#### 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 SANDAG. An agenda letter covering the Review was sent to SANDAG advising it of the site visit and indicating additional information that would be needed and issues that would be discussed. The Title VI Review team focused on the compliance areas that are contained in FTA Title VI Circular 4702.1A that became effective on May 13, 2007. These compliance areas are: (1) General Reporting Requirements and Guidelines; (2) Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas; and (3) Program-Specific Guidance for Metropolitan Transportation Planning Organizations. The General Reporting Requirements and Guidelines now include implementation of the Environmental Justice (EJ) and Limited English Proficiency (LEP) Executive Orders.

SANDAG was requested to provide the following information regarding the Title VI Requirements and Guidelines of FTA Circular 4702.1A:

* Description of SANDAG’s service area, including general population and other demographic information using the most recent Census data.
* SANDAG Organization Chart.
* Any studies or surveys conducted by SANDAG, 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 SANDAG’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 SANDAG’s four-factor analysis of the needs of persons with Limited English Proficiency.
* A copy of SANDAG’s plan for providing language assistance for persons with Limited English Proficiency that is based on the USDOT LEP Guidance.
* SANDAG’s procedures for investigating and tracking Title VI complaints and documentation that the procedures for filing complaints are available to members of the public upon request.
* A list of any investigations, lawsuits, or complaints naming SANDAG that alleges discrimination on the basis of race, color, or national origin during the past three years. This list must include:
* the date the investigation, lawsuit, or complaint was filed;
* a summary of the allegation(s);
* the status of the investigation, lawsuit, or complaint; and
* actions taken by SANDAG in response to the investigation, lawsuit, or complaint.
* Copy of SANDAG’s Notice to Beneficiaries of Protection Under Title VI.
* Documentation of efforts made by SANDAG 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.
* SANDAG’s most recent Title VI Update that was submitted to FTA.
* FTA Title VI Update Approval Letter.
* Documentation of SANDAG’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 SANDAG should have established guidelines or thresholds for what it considers a “major” service change to be). If SANDAG has made significant service changes or fare changes in the past three years or is currently planning such changes, provide documentation of SANDAG’s Title VI evaluations of the service or fare changes.
* A demographic profile of SANDAG’s metropolitan area that includes identification of the locations of socioeconomic groups, including low-income and minority populations.
* SANDAG’s metropolitan transportation planning process that identifies the needs of low-income and minority populations.
* SANDAG’s analytical process for identifying the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups, identifying imbalances and responding to the analyses produced.

SANDAG assembled most of the documents prior to the site visit and provided them to the Compliance Review team for advance review. A detailed schedule for the three-day site visit was developed.

The site visit to SANDAG occurred March 8 – 10, 2011. The individuals participating in the Review are listed in Section VIII of this report. An Entrance Conference was conducted at the beginning of the Compliance Review with SANDAG senior management staff, the FTA Headquarters Title VI, EEO, and DBE Team Leader, and the contractor Review team. The Review team showed the participants a U.S. Justice Department Title VI film during the Entrance Conference. Also, during the Entrance Conference, the Review team explained the goals of the Review and the needed cooperation of staff members. A detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the Title VI Compliance Review team met with the SANDAG General Counsel 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 SANDAG. The Review team then met with various staff members from SANDAG to discuss how SANDAG incorporated the FTA Title VI requirements into its transportation program.

At the end of the site visit, an Exit Conference was held with SANDAG staff, the FTA Region IX Civil Rights Officer, and the contractor Review team. At the Exit Conference, initial findings and corrective actions were discussed with SANDAG.

1. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on SANDAG's compliance with the General Reporting Requirements and Guidelines, one area of the Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas, and Program-Specific Guidance for Metropolitan Transportation Planning Organizations. This section describes the requirements and findings at the time of the Compliance Review site visit. In summary, no deficiencies were identified in eight of the twelve areas reviewed. Advisory comments were issued in M*etropolitan Planning Process* and *Analytical Process for Identifying Impacts*. Deficiencies were identified in the following four Title VI requirement areas:

* *Language Access to LEP Persons*
* *Title VI Complaint Procedures*
* *Notice to Beneficiaries of Protection Under Title VI*
* *Evaluation of Service and Fare Changes*

In response to the Draft report in a letter dated September 30, 2011, SANDAG submitted corrective actions to close the deficiencies in *Notice to Beneficiaries of Protection Under Title VI* and *Evaluation of Service and Fare Changes*. SANDAG also submitted documentation that sufficiently addressed the advisory comments in *Metropolitan Planning Process* and *Analytical Process for Identifying Impacts*.

At the time of this Final report, SANDAG has two outstanding deficiencies in *Language Access to LEP Persons* and *Title VI Complaint Procedures*.

#### 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 SANDAG, no deficiencies were found regarding SANDAG’s compliance with FTA guidance for Inclusive Public Participation. Prior to the site visit, SANDAG provided its *Public Participation Plan (PPP)*, dated December 18, 2009. The PPP was designed to ensure that the public had the opportunity to provide input so plans could reflect the public’s vision. SANDAG referenced the principles of social equity in its PPP. According to the PPP, “social equity means ensuring that all people are treated fairly and are given equal opportunity to participate in the planning and decision-making process.” SANDAG stated that a key component of its PPP was to ensure “the meaningful involvement of low income, minority...and other traditionally underrepresented communities.”

SANDAG’s primary method for conducting public outreach was described in its PPP as a coordinated effort on the part of SANDAG, public transit operators, county government, community groups and individuals to proactively “involve low-income households, Hispanic, African-American, Asian and Native American persons” through monthly Board of Directors meetings, weekly Policy Advisory Committees (PAC) meetings, working groups, community-based outreach, public workshops, and task forces. In addition, SANDAG used the following outreach methods:

* Customer mailing lists
* SANDAG Website
* Public Involvement Website ([www.sandag.org/ppp](http://www.sandag.org/ppp))
* Online calendar of events
* Region newsletter
* Social media
* Visual project simulations
* Web-based video and photo displays
* Interactive displays at kiosks in targeted public locations
* Minority print and broadcast media including (Asian Journal, Chinese News, Del Mar Times, Diario San Diego, El Latino, Hispanos Unidos and La Opinion.)
* Spanish radio and television (XLTN 104.5, XOCL 99.3, XHTY Uniradio, XEWT Televisa.
* Translated documents and notices
* Bilingual staff
* Public opinion surveys designed to include the public in the planning process and to keep SANDAG officials aware of issues that are of concern to the public.

SANDAG provided examples of its ongoing efforts to include minority and low-income communities, including the maintenance and engagement of community stakeholders and organizations, and a list of community meetings (and related meeting notices) sponsored by working groups associated with its *Mid-Coast Corridor Project*, *2050 Regional Transportation Plan, 2030 Regional Transit Plan (RTP)* and *I-15 Bus Rapid Transit* project. SANDAG’s stakeholders list included the following:

* Asian Business Association of San Diego
* Barrio Logan College Institute
* Barrio Logan Project Area Committee
* Campaign for Affordable Housing
* Center for Supportive Housing
* Chicano Federation
* Filipino-American Chamber of Commerce
* Justice Overcoming Boundaries
* Laborers International Union
* Navajo Community Planners
* San Diego Community Housing Corporation
* San Diego iHisHishdslkfhjas;ldkfjHispanic Chamber of Commerce
* San Diego Habitat for Humanity
* San Diego Urban League
* San Diego Workforce Partnership
* San Diego Youth and Community Services
* Southern California Tribal Chairmen’s Association
* Union of Pan Asian Communities

SANDAG also provided examples of translated public advisory committee meeting notices published in both Spanish and Asian minority newspapers.

In connection with its 2030 RTP, SANDAG implemented a Community-Based Outreach Program (CBOP). The SANDAG CBOP had the following objective:

*To help ensure direct and diverse impact into the 2030 RTP from residents throughout the San Diego region, SANDAG implemented an innovative program to secure participation from communities and individuals typically not included in the regional transportation planning process. SANDAG awarded grant funding to community-based organizations through a competitive bid process. The selected organizations conducted outreach activities to secure public involvement from stakeholders in their communities, to engage community-based participation in setting regional transportation priorities, and to generate feedback on the RTP.*

During the site visit, SANDAG explained that working groups and community-based organizations (CBOs) were its most effective way of conducting outreach and receiving input from its minority and low-income communities. Working groups and CBOs were often comprised of members who represented the interests of their respective communities. Examples of working groups and CBOs that were effective in facilitating input for minority and low-income communities were provided by SANDAG, as follows:

|  |  |  |
| --- | --- | --- |
|  | Minority Representation | Low-income Representation |
| Social Services Transportation Advisory Council (SSTAC) |  | X |
| Mid-Coast Corridor Transit Project Working Group | X | X |
| Regional Planning Stakeholders Working Group | X | X |
| Committee on Binational Regional Opportunities (COBRO) | X |  |
| Interagency Technical Working Group on Tribal Transportation Issues | X |  |
| All Congregations Together | X | X |
| Casa Familiar | X | X |
| Chula Vista Community Collaborative | X | X |
| El Cajon Collaborative | X | X |
| Linda Vista Community Collaborative | X | X |
| San Ysidro Business Association | X | X |

SANDAG also conducted public participation and involvement activities to coordinate transportation and land use planning with tribal nations through the SANDAG Borders Committee, the Interagency Technical Working Group on Tribal Transportation Issues, the Southern California Tribal Chairman’s Association, Reservation Transportation Authority, and other intertribal associations.

During the site visit, it was recommended that SANDAG reference FTA in current and future versions of its PPP. In its current PPP, dated December 18, 2009, SANDAG stated, “the PPP was developed in accordance with guidelines established by the Federal Highway Administration (FHWA).” During the site visit, SANDAG indicated that this was an oversight and the PPP would be updated to include reference to FTA and its Inclusive Public Participation requirements detailed in FTA Circular 4702.1A.IV.9.

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 SANDAG, deficiencies were found regarding SANDAG’s compliance with FTA requirements for Language Access to LEP persons. Prior to the site visit, SANDAG provided the document titled, “*The San Diego Association of Governments Plan for Limited English Proficiency Populations*,” dated January 21, 2011. This document only included Factor 1 of the Four-factor Analysis. During the site visit, SANDAG explained that it was necessary to collaborate with the local transit operators, MTS and NCTD, in order to complete Factors 2, 3 and 4, as well as the Language Assistance Plan (LAP). SANDAG was working to identify the resources, including funding, necessary to begin this collaborative effort, and provided a detailed methodology for completing its LEP plan. In its *Limited English Proficiency Language Services Plan Proposed Methodology – Four-factor Plan*, dated January 2010, SANDAG identified the steps that it, MTS, and NCDT would take to complete the four-factor analysis and LAP plan as required by FTA Circular 4702.1A.IV.4.

With respect to Factor 1, SANDAG sufficiently identified the number of LEP persons it served by using a variety of resources, as recommended in the DOT LEP Guidance, including data from the following:

* U.S. Census – provided population data on English proficiency (those who speak English “very well,” “well,” “not well,” and “not at all”) for four general language categories (Spanish, Indo-European, Asian, and Pacific Islander). SANDAG determined that while this data provided a general overview, it did not provide specific information for individual languages other than Spanish.
* American Community Survey 2006 – 2008 (ACS) – provided SANDAG with much greater detail than the Census 2000 data by including 39 specific language groups by language spoken at home and ability to speak English. This enabled the analysis of specific languages spoken in San Diego County.
* U.S. Department of Labor (DOL) – provided the ability to tabulate Census 2000 data to identify languages spoken in geographies called “Local Investment Areas (LWIAs). This data set was unique in that it includes a combination of the DOT recommended language proficiency categories included in the Census 2000 data (English spoken “not well” or “not at all”) with the 39 specific languages included in the ACS data. The DOL data enabled the identification of LEP individuals by specific languages.
* California Department of Education (CDE) English Learner – included information on the language spoken at home by students who were classified as English language learners. Provided an indication of the level of English proficiency in the associated households.
* San Diego County Department of Mental Health (SDCDMH) Database of Interpreter Services provided interpreters for individuals using its services through San Diego County. SDCDMH tracked requests for interpreter services by language type, including languages not listed in the ACS or DOL datasets. SANDAG determined that this data provided additional insight into other languages spoken in the region where individuals have reached out for government services but needed assistance due to limited English proficiency.

After analyzing the data from the five sources, SANDAG concluded that there were 13 specific languages in San Diego County with more than 1,000 individuals who were Limited English Proficient. The top five languages and corresponding percentages of the total population are as follows:

* Spanish – 5.41 percent
* Vietnamese – .38 percent
* Tagalog – .24 percent
* Chinese – .17 percent
* Korean – .09 percent

The Review team confirmed SANDAG understood what was required by FTA Circular 4702.1A.IV.4 and recommended in the DOT LEP Guidance and communicated that it must provide a timetable for completing its four-factor analysis and Language Assistance Plan. The following table shows what SANDAG needs to do to fully comply with the Circular:

| **Elements Required for LEP Four-Factor Analysis and Language Access Plan**  **(Per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)** | | |
| --- | --- | --- |
|  | **Included in SANDAG’s**  **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 |  |
| 1. Frequency of Contact - the frequency with which LEP individuals come in contact with the program and/or activities | No | No analysis conducted. |
| 1. Importance - the nature and importance of the program, activity, or service to people's lives; | No | No analysis conducted |
| 1. Resources - the resources available and costs | No | No analysis conducted. |
| Part B - Develop Language Assistance Plan | | |
| * Identification of LEP Persons | No | No LAP Plan |
| * Language Assistance Measures | No | No LAP Plan |
| * Training of Staff | No | No LAP Plan |
| * Provide Notice to LEP Persons | No | No LAP Plan |
| * Monitor and Update the LAP | No | No LAP Plan |

In response to the Draft report in a letter dated September 30, 2011, SANDAG stated that it has taken the following steps to complete its four-factor analysis and LAP:

1. *In May 2011 the SANDAG Board of Directors approved a new work element in the Overall Work Plan for FY 2012 dedicated to enhancing Title VI and Environmental Justice analysis and communications. SANDAG planning, research, legal, and communications staffs are assigned to work on this effort.*
2. *Several meetings were held with staff of the two transit operators in the region between April and September 2011 to coordinate exchange of information needed to conduct the analysis for Factors 2-4.*
3. *Schedule created to complete Factors 2-4 Analysis and Language Assistance Plan by June 30, 2012.*
4. *A new employee position, entitled LEP Outreach Coordinator, has been approved and the recruitment to fill the position commenced in August 2011. The Coordinator position will be filled by October 31, 2011 to coordinate efforts to complete items [1] and [3] above.*
5. *SANDAG staff attended the FTA Title VI and LEP training in Berkley, CA.*

SANDAG also provided the following summary of the proposed schedule for completing its four-factor analysis and LAP:

|  |  |
| --- | --- |
| *August 2011* | *Advertise for LEP Outreach Coordinator Position.* |
| *September 2011* | *SANDAG staff attend FTA Title VI and LEP training in Berkley, CA.* |
| *October 2011* | *LEP Outreach Coordinator joins SANDAG team. Coordination with planning and research teams to identify LEP communities and to develop plan to conduct Factors 2-3 analysis.* |
| *November 2011 – February 2012* | *Implement outreach plan to determine frequency of contact and nature and importance of program.* |
| *March 2012* | *Produce reports for Factors 2 and 3.* |
| *April 2012* | *Analyze resources available and costs to develop Factor 4 report.* |
| *May – June 2012* | *Develop Language Assistance Plan based on completed Four-factor Analysis. Follow SANDAG Public Participation Plan guidelines for securing input on LAP. Present findings to SANDAG Board for review and approval.* |

**Corrective Actions and Schedules:** Nolater than April 27, 2012, SANDAG must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights documentation that they have completed a LEP four-factor analysis and developed a Language Assistance Plan, as required by FTA Circular 4702.1A.

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 SANDAG, deficiencies were found regarding SANDAG’s compliance with FTA requirements for Title VI Complaint Procedures. Prior to the site visit, SANDAG provided two documents related to Title VI complaint processing: *SANDAG Procedures for Tracking and Investigating Title VI Complaints (SPTITC)* and *Board Policy No. 009 (BP9)*. These two documents introduced conflicting information with respect to how Title VI complaints were handled by SANDAG. During the site visit, SANDAG explained that SPTITC was an unofficial internal document and BP9 represented SANDAG’s official Title VI complaint procedures.

SANDAG’s BP9 contained the following issues with respect to FTA Circular 4702.1A.IV.2:

* + Complaint procedures did not include a statement establishing applicability to discrimination complaints based on race, color or national origin. In paragraph one of BP9, *Applicability*, SANDAG stated:

*BP9 is designed to address disputes concerning the following:*

* + - 1. *Disagreements regarding a requested service, accommodation, or modification of a SANDAG practice or requirement;*
      2. *Inaccessibility of a program, publication, or activity;*
      3. *Harassment or discrimination based on the basis of disability;*
      4. *Violation of privacy in the context of disability.*
  + Complainants were required to file complaints within 15 days of becoming aware of the SANDAG act or omission that was the subject of the complaint. SANDAG must modify the time limits on when a complaint based on discrimination can be filed.
  + Paragraph 4.6 of BP9 stated that complainants could have representation when filing a complaint, but “an attorney is not an appropriate representative.” SANDAG’s Office of General Counsel was established as the Compliance Officer responsible for handling complaints. If SANDAG could have an attorney processing complaints on behalf of the agency, complainants should be allowed to be represented by an attorney.
  + SANDAG Title VI complaint procedures did not clearly reference other outside agencies to which Title VI complaints can be filed (FTA, DOJ).

In response to the Draft report in a letter dated September 30, 2011, SANDAG stated:

*SANDAG has revised its Board Policy No. 009: Discrimination Complaint Procedures. The revisions modify the Title VI complaint procedures to address all of the issues raised by the Title VI compliance review. The revised Board policy is set for approval by the SANDAG Board of Directors at its October 28, 2011 meeting.*

SANDAG provided a draft of its revised Board Policy No. 009. It was confirmed that the draft addressed all of the issues raised in the Title VI compliance review.

**Corrective Actions and Schedules:** No later than April 27, 2012, SANDAG must submit to the FTA Equal Opportunity Specialist in FTA’s Headquarters Office of Civil Rights documentation that its Board of Directors has approved its revised Title VI Complaint Procedures.

1. Record of Title VI Investigations, Complaints, and Lawsuits

**Requirement:** *FTA recipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipients that allege discrimination on the basis of race, color, or national origin. This list shall include the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response to the investigation, lawsuit, or complaint.*

**Findings:** During this Title VI Compliance Review of SANDAG, no deficiencies were found regarding SANDAG’s compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. SANDAG provided its *Title VI Complaint Tracking Log*, which included all the elements required by FTA Circular 4702.1A.IV.3.

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 SANDAG, deficiencies were found regarding SANDAG’s compliance with FTA requirements for Notice to Beneficiaries of Protection under Title VI. Prior to the site visit, SANDAG provided a document entitled, “*Third Party Complaint Procedures for Title VI and Other Anti-Discrimination Statutes*,” which included its Title VI Notice. This Notice did not contain all of the elements required by FTA Circular 4702.1A.IV.5a, 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 SANDAG’s 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. | No |
| A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient. | Yes |

In addition, SANDAG did not disseminate its Notice in ways other than on its website.

In response to the Draft report in a letter dated September 30, 2011, SANDAG provided a revised Notice that included all the elements required by FTA Circular 4702.1A. SANDAG stated that its revised Notice was available on its website at [www.sandag.org/notices](http://www.sandag.org/notices), but the Review team did not see the Notice at this website address. In addition, when attempting to search for the term “Title VI” on SANDAG’s website, the Review team did not see the revised Notice in the search results. SANDAG also stated that its revised Notice was included in all SANDAG Board of Directors and Policy Advisory Committee agendas. A review of the agendas posted on SANDAG’s website confirmed the revised Notice was included on Board and Advisory Committee agendas. SANDAG also stated the following:

*The SANDAG commitment to non-discrimination and compliance with Title VI obligations also is or will be included in the Regional Transportation Plan, Regional Transportation Improvement Plan (RTIP), SANDAG Board Policy No. 025, which contains the SANDAG Public Participation Plan, and other reports and documents. SANDAG will disseminate a statement of non-discrimination in reports, brochures, newsletters, fliers, and other materials…SANDAG will translate the notice into languages other than English following completion of the Four-factor Analysis and development of the Language Assistance Plan.*

While SANDAG is advised to confirm its revised Notice is posted on its website, these actions are sufficient to close the deficiency in Notice to Beneficiaries of Protection Under Title VI.

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 SANDAG, no deficiencies were found regarding SANDAG’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. SANDAG executed its FY 2011 Annual Certifications and Assurances in TEAM on November 2, 2010. SANDAG 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 SANDAG, no deficiencies were found regarding SANDAG’s compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. Prior to the site visit, SANDAG provided EJ documentation for four construction projects, as follows:

* Del Mar Bluffs Stabilization Project – Categorical Exclusion (CE)

CE for this construction project considered impacts on minority and low/income communities. The impacts were limited to short-term construction-related noise. SANDAG’s Analysis of demographics revealed that residents of the impacted area (Coastal Del Mar) are predominately non-low-income, non-minority. U.S. Census data indicated that the annual household income was $81,000 and nearly 19 out of 20 Del Mar residents are non-minority.

* Los Angeles San Diego (LOSSAN) Rail Corridor Improvements – Environmental Impact Report/Environmental Impact Statement (EIR/EIS)

During the site visit, SANDAG explained that this EIR/EIS was a high/level programmatic document prepared by Caltrans for the planned construction of multi-jurisdictional heavy rail improvements along an existing alignment from Los Angeles to San Diego. SANDAG received a $40 million FTA Grant (CA-95-X129-01) for the construction of its portion of the alignment. The Caltrans EIR/EIS included the Title VI EJ considerations taken by Caltrans in the development of the EIR/EIS for the entire project, and outlined the steps each jurisdiction should take to satisfy the Title VI EJ requirements for their respective portions of the project. This outline included the following steps per FTA Circular 4702.1A:

| **Elements Required in Environmental Justice Analysis of Construction Projects**  **(Per FTA Circular 4702.1A Chapter IV, 8a-f)** |
| --- |
| * A description of the low-income and minority population within the study area affected by the project, and a discussion of the method used to identify this population |
| * A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population. |
| * A discussion of all positive effects that would affect the identified minority and low-income population, such as an improvement in transit service, mobility, or accessibility. |
| * A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects, including, but not limited to, any special features of the relocation program that go beyond the requirements of the Uniform Relocation Act and address adverse community effects such as separation or cohesion issues; and the replacement of the community resources destroyed by the project. |
| * A discussion of the remaining effects, if any, and why further mitigation is not proposed. |
| * For projects that traverse predominantly minority and low-income and predominantly non-minority and non-low-income areas, a comparison of mitigation and environmental enhancement actions that affect predominantly low-income and minority areas with mitigation implemented in predominantly non-minority or non-low-income areas. |

At the time of the site visit, SANDAG reported that the development of the EIS for its portion of the LOSSAN project had not begun. SANDAG was instructed to make sure that it included all six of the EJ Analysis elements in the table above for all future construction projects that require an EA or EIS, including those associated with the LOSSAN project.

* The SuperLoop Transit Project – documented Categorical Exclusion (dCE)

The dCE for this construction project included a demographic analysis of the affected area compared to the demographics of the entire service area. From its analysis, SANDAG determined that minorities would not be disproportionately affected by the construction project and low-income persons would be slightly more affected than non-low-income persons. SANDAG stated that the slightly higher poverty rate in the affected area was attributed to the large University of California San Diego student population, a group that would ultimately benefit from the project; therefore, SANDAG concluded that the project would not disproportionately affect low-income populations.

* Mid-City Rapid Bus Project - dCE

While this dCE included a paragraph on EJ and a statement that no minorities or low-income persons would be affected by the construction project, it did not include a demographic analysis of the affected area. During the site visit, SANDAG stated that, while the project runs through a minority community, it primarily serves a homogenous non-minority community, non-low-income community. SANDAG was instructed to include a demographic analysis of the affect area in all future dCEs to assure itself that minority and low-income persons are not disproportionately impacted negatively by its construction projects.

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 SANDAG, no deficiencies were found regarding SANDAG’s compliance with FTA requirements to Submit Title VI Program. In its most recent *Title VI Compliance Report*, dated May 2009, SANDAG included all elements required by FTA Circular 4702.1A.IV.7, as described in the following table:

| **ELEMENTS REQUIRED FOR TITLE VI PROGRAM** | |
| --- | --- |
| **GENERAL REQUIREMENTS**  **(Per FTA C. 4702.1A, IV, 7. a. (1) – (5))** | **In SANDAG 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 |

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

This section covers one area of the Program-Specific Requirements and Guidelines for recipients that provide service to geographic areas with a population of 200,000 people or greater under 49 U.S.C 5307.

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 SANDAG, deficiencies were found regarding SANDAG’s compliance with FTA requirements for Evaluation of Service and Fare Changes. SANDAG did not have a process to evaluate significant system-wide service changes and did not have a threshold for what it considered a “major” change.

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 |

During the Review, SANDAG provided three reports that evaluated fare changes proposed from 2007 to the present:

* *SANDAG Title VI Fare Proposal for the San Diego Region*, dated September 2007,
* *SANDAG Title VI Fare Proposal for the San Diego Region*, dated June 2008, and
* *SANDAG Title VI Fare Proposal for the San Diego Region*, dated April 2009.

Each report analyzed the Title VI impacts of the fare changes being proposed and did compare the impacts of the fare changes on the minority and low-income riders to the system as a whole. There was some uncertainty about the meaning of some of the information in the reports (e.g., the column entitled “% Difference (Service Area LIM vs. Actual LIM %”) in some of the tables), but the reports were generally responsive to the requirements of the Circular.

SANDAG had major public transit service improvement projects that were being implemented and/or planned in the San Diego region (e.g., the Mid-City Rapid Bus Project). SANDAG did not have a process to evaluate significant system-wide service changes and did not have a threshold for what it considered a “major” change, as required by the Circular. During the site visit, the Review team discussed with SANDAG the recently issued FTA “Dear Colleague” letter of March 8, 2011 regarding Title VI service and fare equity analyses.

In response to the Draft report in a letter dated September 30, 2011, SANDAG provided as attachments its processes for evaluating significant system-wide service changes and fare changes. Both processes complied with FTA Circular 4702.1A requirements for Evaluation of Service and Fare Changes. SANDAG’s newly developed process for service changes included a threshold for what is considered a “major” change, as required by the Circular. SANDAG stated the following with respect to implementation of these processes:

*SANDAG will reference these two methodologies in SANDAG Board Policy No. 018…this revised Board policy is set for approval by the SANDAG Board of Directors at its October 28, 2011, meeting. Prior to approval there will be an opportunity for public comment on the methodologies at two public meetings. The two proposed methodologies will be made available on the SANDAG Web site and the final version of the methodologies also will be placed on the Web site.*

SANDAG’s efforts are sufficient to close the deficiency in Evaluation of Service and Fare Changes.

**FINDINGS OF THE PROGRAM-SPECIFIC GUIDELINES FOR METROPOLITAN TRANSPORTATION PLANNING ORGANIZATIONS**

This section covers the procedures that Metropolitan Transportation Planning Organizations (MPOs) should follow in order to comply with the Department of Transportation’s Title VI regulations.

1. Demographic Profile

**Requirement:** *MPOs should have a demographic profile of the metropolitan area 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.*

**Findings:** During this Title VI Compliance Review of SANDAG, no deficiencies were found regarding SANDAG’s compliance with FTA requirements for Demographic Profile. Prior to the site visit, SANDAG provided a demographic profile of its service area including demographic data from the 2000 Census and area profile maps highlighting minority and low-income populations.

During the site visit, SANDAG provided a document titled, “*Regional Planning Stakeholders Working Group*,” which included a narrative description of the demographic maps provided for its service area. SANDAG also provided a document titled, “*Population and Housing Estimates (2010) San Diego Region*,”which contained estimated 2010 demographic data for SANDAG’s service area. SANDAG used a model for estimating the current population trends and characteristics using various data such as birth records, death records, national immigration trends and regional real estate trends, national economic trends, job markets and vacancy rates. SANDAG stated that there were approximately 800 variables that go into the calculation of SANDAG’s model and the resulting estimates revealed the San Diego County demographics were dynamic. According to SANDAG, the non-minority population decreased from 67 percent in 2000 to 47 percent in 2010. In 2050, SANDAG estimated the non-minority population would be 35 percent of the total population.

1. Metropolitan Planning Process

**Requirement:**  *MPOs should have a metropolitan transportation planning process that identifies the needs of low-income and minority populations.*

**Findings:** During this Title VI Compliance Review of SANDAG, an advisory comment was issued regarding SANDAG’s compliance with FTA guidance for Metropolitan Planning Process. SANDAG was advised to have a transportation planning process in the development of its Regional Transportation Improvement Program (RTIP) that identified the needs of low-income and minority populations. As SANDAG stated in its most recent FTA Title VI Submittal:

*Two documents serve as the foundation for transportation planning and programming – The Regional Transportation Plan (RTP) and the Regional Transportation Improvement Program (RTIP). SANDAG also prepares an annual Regional Short-Range Transit (SRTP) and Coordinated Public Transit-Human Services Transportation Plan (Coordinated Plan) that guide short-term service changes*.

During the site visit, SANDAG provided detailed information on its development of the 2050 Regional Transportation Plan. The Draft 2050 RTP contained social equity performance measures that were analyzed to ensure that the benefits and burdens of proposed scenarios were equitably distributed between minority and low-income (LIM) populations and non-minority and non-low income (non-LIM) populations. The Social Equity Indicators were as follows:



SANDAG did not have a commensurate transportation planning process that identified the needs of low-income and minority populations in the development of its Regional Transportation Improvement Program (RTIP).

In response to the Draft report in a letter dated September 30, 2011, SANDAG included a draft of a its revised Board Policy No. 018. In this document, SANDAG included as one of its responsibilities to the regional transit service planning and implementation process, that it will do the following:

*Prepare Environmental Justice or Title VI reports in accordance with the most current version of the SANDAG Title VI Analysis Methodology for Service Changes…including all of the following circumstances:*

* *At least once every three years or when a new federal census is available; and*
* *Prior to the implementation by SANDAG of any new transit service constituting a Major Service Change as defined in the SANDAG Title VI Analysis Methodology for service changes; and*
* *Upon the transition of a temporary, experimental or promotional fare to a regular fare, in which case SANDAG may adopt in full or in part any Title VI analysis conducted by the transit agency when the temporary fare was originally implemented*

In addition, in a document titled “*TITLE VI AND ENVIRONMENTAL JUSTICE PLANNING AND ANALYTICAL PROCESS FOR REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM DEVELOPMENT*,” SANDAG stated that as a part of its development of the RTIP, it will conduct outreach to minority and low-income populations through its Stakeholders Working Group (SWG). According to SANDAG, *The SWG consists of members that represent the various socioeconomic communities in the region. Input from the SWG on the needs of LIM [Low-income and Minority] populations will be provided to the Board of Directors to be utilized in making decisions about the projects included in the RTIP.*

SANDAG’s efforts were sufficiently responsive to the advisory comment in Metropolitan Planning Process.

1. Analytical Process for Identifying Impacts

**Requirement:** *MPOs should have an analytical process that identifies the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups, identifying imbalances and responding to the analyses produced.*

**Findings:** During this Title VI Compliance Review of SANDAG, an advisory comment was issued regarding SANDAG’s compliance with FTA requirements for Analytical Process for Identifying Impacts. SANDAG was advised to have an analytical process in the development of the RTIP that identifies the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups, identifying imbalances and responding to the analyses produced. As stated in the previous section, SANDAG said in its most recent FTA Title VI Submittal:

*Two documents serve as the foundation for transportation planning and programming – The Regional Transportation Plan (RTP) and the Regional Transportation Improvement Program (RTIP). SANDAG also prepares an annual Regional Short-Range Transit (SRTP) and Coordinated Public Transit-Human Services Transportation Plan (Coordinated Plan) that guide short-term service changes*.

During the site visit, SANDAG provided detailed information on its development of the 2050 Regional Transportation Plan. The Draft 2050 RTP contained social equity performance measures that were analyzed to ensure that the benefits and burdens of proposed scenarios were equitably distributed between minority and low-income (LIM) populations and non-minority and non-low income (non-LIM) populations. SANDAG did not have a commensurate analytical process in the development of the RTIP that identified the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups.

In response to the Draft report in a letter dated September 30, 2011, SANDAG included as an attachment a document titled “*TITLE VI AND ENVIRONMENTAL JUSTICE PLANNING AND ANALYTICAL PROCESS FOR REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM DEVELOPMENT*,” in which SANDAG stated:

*SANDAG will map the distribution of transportation infrastructure investments to be included in the RTIP to ensure no disparate impact occurs to minority populations.*

*SANDAG will analyze and provide the following:*

* *Distribution of RTIP dollars per capital for LIM communities versus non-LIM communities;*
* *Access to jobs within 30 minutes of LIM communities versus non-LIM communities;*
* *Percent of housing within ½ mile of RTIP transit stations for LIM versus non-LIM communities; and*
* *Maps that overlay RTIP projects over LIM communities.*

*Analytical techniques SANDAG will use include evaluation of transportation system performance measures, typically used to assess patterns of benefits of accessibility and/or travel times to transit centers. These measures will require computer model-forecasting or a simpler method of GIS mapping of proposed project alignments and termini relative to the locations of LIM and non-LIM populations. If this analysis indicates that non-LIM populations will receive a disproportionately high benefit, SANDAG will consider revising the plan to produce a more equitable distribution of projects across all communities. Using these procedures, SANDAG will be able to identify how transportation system investments in its RTIP may benefit and burden LIM populations; identify any disparate impacts of investment identified in the RTIP on LIM populations, and respond to results of the analyses produced.*

The establishment of this process was sufficiently responsive to the advisory comment in Analytical Process for Identifying Impacts.

1. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

| **Title VI Requirements For MPOs** | **Findings** | **Description of Deficiencies** | **Corrective Action(s)** | **Response Days/Date** | **Date Closed** |
| --- | --- | --- | --- | --- | --- |
| **GENERAL REPORTING REQUIREMENTS – FTA C. 4702.1A. IV, 1-9** | | | | | |
| 1. Inclusive Public Participation | ND |  |  |  |  |
| 1. Language Access to LEP Persons | D | Lacking assessment or provisions for LEP persons | SANDAG must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights documentation that they have completed a LEP four-factor analysis and developed a Language Assistance Plan, as required by FTA Circular 4702.1A. | 4/27/2012 |  |
| 1. Title VI Complaint Procedures | D | Complaint procedures do not contain all of the required elements | SANDAG must submit to the FTA Equal Opportunity Specialist in FTA’s Headquarters Office of Civil Rights documentation that its Board of Directors has approved its revised Title VI Complaint Procedures. | 4/27/2012 |  |
| 1. Record of Title VI Investigations, Complaints, and Lawsuits | ND |  |  |  |  |
| 1. Notice to Beneficiaries of Protection Under Title VI | D | Title VI public notification deficiencies | SANDAG must submit to the FTA Equal Opportunity Specialist in FTA’s Headquarters Office of Civil Rights a revised Notice to Beneficiaries of Protection Under Title VI that includes all the elements required by FTA Circular 4702.1A IV.5. SANDAG must submit a plan to disseminate its Notice to the public in ways other than on its website. | 4/7/2012 | 9/30/2011 |
| 1. Annual Title VI Certification and Assurance | ND |  |  |  |  |
| 1. Environmental Justice Analysis of Construction Projects | ND |  |  |  |  |
| 1. Submit Title VI Program | ND |  |  |  |  |
| **PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR RECIPEINTS SERVING LARGE URBANIZED AREAS – FTA C. 4702.1A. V, 4** | | | | | |
| 1. Evaluation of Service and Fare Changes | D | Impact of fare and/or service changes not adequately examined | SANDAG must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights confirmation that its newly developed process for evaluating significant system-wide service changes has been adopted by its Board of Directors. | 4/7/2012 | 9/30/2011 |
| **PROGRAM-SPECIFIC GUIDANCE FOR METROPOLITAN TRANSPORTATION PLANNING ORGANIZATIONS – FTA C. 4702.1A. VII, 1** | | | | | |
| 1. Demographic Profile | ND |  |  |  |  |
| 1. Metropolitan Planning Process | AC | SANDAG was advised to have a transportation planning process in the development of its Regional Transportation Improvement Program (RTIP) that identifies the needs of low-income and minority populations. |  |  |  |
| 1. Analytical Process for Identifying Impacts | AC | SANDAG was advised to have an analytical process in the development of the RTIP that identifies the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups. |  |  |  |

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

NR = Not Reviewed; AC = Advisory Comment

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1. Per the 2000 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)
2. 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)