**TITLE VI COMPLIANCE REVIEW**

**OF THE**

**Southeastern Wisconsin Regional Planning Commission (SEWRPC)**

**Waukesha, Wisconsin**

**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: 1326

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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 Southeastern Wisconsin Regional Planning Commission (SEWRPC) 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 (October 1, 2011).
* FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines For Federal Transit Administration Recipients,” May 17, 2007.
1. PURPOSE AND OBJECTIVES

#### Purpose

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

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

#### Objectives

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

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

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

1. Background Information

The Southeastern Wisconsin Regional Planning Commission (SEWRPC), established in 1960, is the area-wide regional planning agency for land use and public infrastructure, including transportation, for the seven-county Southeastern Wisconsin Region. SEWRPC is an advisory regional planning agency and is the designated metropolitan planning organization (MPO) for the Milwaukee, Kenosha, Racine, and the Wisconsin portion of the Round Lake Beach urbanized areas.

The Executive Director has the ultimate responsibility for the implementation of SEWRPC’s Title VI program. SEWRPC has delegated the responsibility for implementation of the Title VI program to the Title VI Coordinator who is part of the Administration Division of SEWRPC which reports directly to the Executive Director. SEWRPC receives Section 5303 funding as a subrecipient to the Wisconsin Department of Transportation, Section 5307 funding as a subrecipient to Milwaukee County, and Section 5309 funding as interim staff to the Southeastern Regional Transit Authority.

The SEWRPC governing board consists of 21 members, three from each of the seven counties which it serves. An elected county board supervisor is appointed by each county (by the County Executive or County Board Chairman) to serve on the SEWRPC board. The remaining two members from each county are appointed by the Governor, one on the Governor’s own authority and the other is selected from a list submitted to the Governor by each county. Board members are appointed for six year terms.

The metropolitan area for transportation planning has been established to include six of the seven counties of the region: Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties. These six counties encompass all of the region’s urbanized areas. In addition to seven counties, the region contains 146 general purpose local units of government. This includes 29 cities, 60 villages, and 57 towns. Also, located within the SEWRPC region are three urbanized areas—Milwaukee, Racine, and Kenosha—and the Wisconsin portion of the Round Lake Beach-McHenry-Grayslake urbanized area that extends south into the Chicago metropolitan region.

SEWRPC serves an area of 2,689 square miles with a resident population of 2.02 million persons. The region represents five percent of the total area of Wisconsin and contains 35 percent of the State’s population.

In conducting all of its regional planning work, SEWRPC relies heavily on advisory committees. In general, SEWRPC advisory committees are comprised of elected and appointed public officials and interested and concerned citizens. In carrying out its MPO functions, SEWRPC relies on a Regional Land Use Planning Committee; a Regional Transportation System Planning Committee; and four Advisory Committees dealing primarily with the programming of transportation projects. In addition, SEWRPC recently established an Environmental Justice Task Force with the purpose of strengthening its responses to civil rights and environmental justice concerns.

In 2009, the State of Wisconsin created an entity known as the Southeastern Regional Transit Authority (SERTA), consisting of the Counties of Kenosha, Racine, and Milwaukee. The purpose of SERTA was to construct, operate, and manage a commuter rail line, to be known as KRM Commuter Rail Service. This line would connect Milwaukee and Racine to existing Chicago to Kenosha commuter rail, using existing rail lines owned by the Union Pacific Railroad and Canadian Pacific Railway. SEWRPC served as the interim staff for SERTA and prepared an alternatives analysis and draft environmental impact statement for the proposed commuter rail line. A “New Starts” application (WI-03-0094-01) was submitted to FTA in June 2010 and was under review at the time of the Compliance Review site visit.

Subsequent to the site visit, on August 3, 2011, SEWRPC submitted an amended application in TEAM to FTA to de-obligate the remaining funds for the project. The TEAM application stated that:

*The Southeastern Regional Transit Authority and Southeastern Wisconsin Regional Planning Commission provided confirmation of the withdrawal of the Kenosha-Racine-Milwaukee (KRM) Commuter Rail project.*

A demographic profile of the SEWRPC Service Area using data from the 2010 Census, as presented on Table 1, showed that 71 percent of the population was White non-Hispanic, 15.8 percent was Black, 9.9 percent was Hispanic, 3.1 percent was Asian/Pacific Islander, and 1.1 percent was American Indian/Alaskan Native.

The population of the region has changed somewhat since the 2000 Census (Table 2). The current population per the 2010 Census is 2,019,970 persons, an increase of about 88,805 persons, or 4.4 percent, over the 2000 census. The non-Hispanic white population comprised 71.1 percent of the total population in 2010, a decrease of 5.4 percent from 2000 (76.5 percent). Also, while the Black, American Indian, and Asian populations had slight increases (none more than 1.5 percent), the Hispanic population increased by 3.4 percent.

According to the 2000 Census, 10.5 percent of the population had income below the poverty level (Table 3) and 36,289 persons (two percent) of the population had Limited English Proficiency (LEP), as shown on Table 4.

**Table 1 – 2010 Demographics of the SEWRPC Service Area**

**POPULATION BY RACE: 2010**

|  |  |  |  |
| --- | --- | --- | --- |
|   |   | Minority |   |
|   | White alone, | Black/ | American Indian and | Asian and |   |   |   |
|   | Non-Hispanic | African American | Alaska Native | Pacific Islander | Other Race | Hispanic[[1]](#footnote-1) |   |
|   |   | Percent |   | Percent |   | Percent |   | Percent |   | Percent |   | Percent | Total |
| County | Number | of Total | Number | of Total | Number | of Total | Number | of Total | Number | of Total | Number | of Total | Population |
| Kenosha |  129,892  | 78.0 |  13,336  | 8.0 |  1,849  | 1.1 |  3,549  | 2.1 |  9,160  | 5.5 |  19,592  | 11.8 | 166,426 |
| Milwaukee |  514,958  | 54.3 |  269,246  | 28.4 |  13,729  | 1.4 |  38,642  | 4.1 |  58,663  | 6.2 |  126,039  | 13.3 | 947,735 |
| Ozaukee |  80,689  | 93.4 |  1,518  | 1.8 |  467  | 0.5 |  1,957  | 2.3 |  597  | 0.7 |  1,956  | 2.3 | 86,395 |
| Racine |  145,414  | 74.4 |  24,471  | 12.5 |  1,806  | 0.9 |  2,898  | 1.5 |  11,363  | 5.8 |  22,546  | 11.5 | 195,408 |
| Walworth |  88,690  | 86.8 |  1,436  | 1.4 |  738  | 0.7 |  1,215  | 1.2 |  5,098  | 5.0 |  10,578  | 10.3 | 102,228 |
| Washington |  124,348  | 94.3 |  1,740  | 1.3 |  798  | 0.6 |  1,889  | 1.4 |  1,327  | 1.0 |  3,385  | 2.6 | 131,887 |
| Waukesha |  353,114  | 90.6 |  6,528  | 1.7 |  2,205  | 0.6 |  12,852  | 3.3 |  4,955  | 1.3 |  16,123  | 4.1 | 389,891 |
| Region | 1,437,105 | 71.1 | 318,275 | 15.8 | 21,592 | 1.1 | 63,002 | 3.1 | 91,163 | 4.5 | 200,219 | 9.9 | 2,019,970 |

**Table 2 – 2000 Demographics of the SEWRPC Service Area**

**POPULATION BY RACE: 2000**

|  |  |  |  |
| --- | --- | --- | --- |
|   |   | Minority |   |
|   | White alone, | Black/ | American Indian and | Asian and |   |   |   |
|   | Non-Hispanic | African American | Alaska Native | Pacific Islander | Other Race | Hispanic1 |   |
|   |   | Percent |   | Percent |   | Percent |   | Percent |   | Percent |   | Percent | Total |
| County | Number | of Total | Number | of Total | Number | of Total | Number | of Total | Number | of Total | Number | of Total | Population |
| Kenosha | 127,287 | 85.1 | 8,629 | 5.8 | 1,314 | 0.9 | 1,930 | 1.3 | 5,990 | 4 | 10,757 | 7.2 | 149,577 |
| Milwaukee | 583,481 | 62.1 | 240,113 | 25.5 | 11,907 | 1.3 | 28,930 | 3.1 | 48,227 | 5.1 | 82,406 | 8.8 | 940,164 |
| Ozaukee | 78,894 | 95.8 | 917 | 1.1 | 335 | 0.4 | 1,131 | 1.4 | 382 | 0.5 | 1,073 | 1.3 | 82,317 |
| Racine | 150,238 | 79.6 | 21,100 | 11.2 | 1,448 | 0.8 | 1,885 | 1 | 8,168 | 4.3 | 14,990 | 7.9 | 188,831 |
| Walworth | 85,428 | 91.1 | 983 | 1 | 495 | 0.5 | 859 | 0.9 | 2,946 | 3.1 | 6,136 | 6.5 | 93,759 |
| Washington | 113,870 | 96.9 | 641 | 0.5 | 587 | 0.5 | 938 | 0.8 | 659 | 0.6 | 1,529 | 1.3 | 117,493 |
| Waukesha | 339,905 | 94.2 | 3,480 | 1 | 1,733 | 0.5 | 6,497 | 1.8 | 4,013 | 1.1 | 9,503 | 2.6 | 360,767 |
| Region | 1,479,103 | 76.5 | 275,863 | 14.3 | 17,819 | 0.9 | 42,170 | 2.2 | 70,385 | 3.6 | 126,394 | 6.5 | 1,932,908 |

|  |
| --- |
| **Table 3 – 2000 Low-Income Population in the SEWRPC Service Area****PERSONS IN POVERTY IN**  |
| **SOUTHEASTERN WISCONSIN BY COUNTY: 2000** |
|  |  |  |  |
| County | Population for Whom Poverty Status is Determined[[2]](#footnote-2) | Population with Income Below Poverty Level |
| Number | Percent of Total |
| Kenosha | 139,358 | 10,915 | 7.8 |
| Milwaukee | 873,148 | 139,747 | 16.0 |
| Ozaukee | 77,223 | 2,078 | 2.7 |
| Racine | 175,707 | 15,491 | 8.8 |
| Walworth | 88,296 | 7,478 | 8.5 |
| Washington | 109,493 | 4,204 | 3.8 |
| Waukesha | 337,664 | 9,635 | 2.9 |
| Region | 1,800,889 | 189,548 | 10.5 |

**Table 4 – 2000 LEP Population in the SEWRPC Service Area**

|  |
| --- |
| **POPULATION WITH LIMITED ENGLISH PROFICIENCY IN** |
| **SOUTHEASTERN WISCONSIN BY COUNTY AND LANGUAGE GROUP: 2000** |
|  |  |  |  |  |  |  |
| County | Total Population Age 5 and Over | Population with Limited English Proficiency (LEP)[[3]](#footnote-3) | LEP Population by Non-English Language Group |
| Spanish | Other Indo-European | Asian and Pacific Islands | Other Languages |
| Kenosha | 139,358 | 2,103 | 1,443 | 536 | 100 | 24 |
| Milwaukee | 873,148 | 25,548 | 17,707 | 4,106 | 3,421 | 314 |
| Ozaukee | 77,223 | 451 | 180 | 229 | 42 | 0 |
| Racine | 175,707 | 2,841 | 2,226 | 370 | 206 | 39 |
| Walworth | 88,296 | 1,790 | 1,504 | 189 | 97 | 0 |
| Washington | 109,493 | 722 | 371 | 310 | 41 | 0 |
| Waukesha | 337,664 | 2,834 | 1,532 | 861 | 413 | 28 |
| Region | 1,800,889 | 36,289 | 24,963 | 6,601 | 4,320 | 405 |

**V. SCOPE AND METHODOLOGY**

####

#### Scope

The Title VI Compliance Review of SEWRPC examined the following requirements and guidelines 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 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:
11. Demographic Profile
12. Metropolitan Planning Process
13. Analytical Process for Identifying Impacts

#### Methodology

Initial interviews were conducted with the FTA Headquarters Civil Rights staff and the FTA Region V Civil Rights Officer to discuss specific Title VI issues and concerns regarding SEWRPC. An agenda letter covering the Review was sent to SEWRPC 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 compliance areas that are contained in FTA Circular 4702.1A that became effective on May 13, 2007. These compliance areas are: (1) General Reporting Requirements and Guidelines; (2) certain aspects of the 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.

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

| FTA Circular 4702.1A Requirement/Documentation to Be Provided Prior to the site visit |
| --- |
| **0. Background** |
| 1. Description of SEWRPC’s planning area, including general population and other demographic information using the most recent Census data.
 |
| 1. SEWRPC Organization Chart.
 |
| 1. Any studies or surveys conducted by SEWRPC, 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 public transit service in its planning area during the past three years.
 |
| **General Reporting Requirements and Guidelines** |
| **1. Inclusive Public Participation (FTA C. 4702.1A, IV.9.)** |
| 1. Summary of SEWRPC’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.
 |
| **2. Language Access to LEP Persons (FTA C. 4702.1A, IV.4.)** |
| 1. A copy of SEWRPC’s four factor analysis of the needs of persons with Limited English Proficiency.
 |
| 1. A copy of SEWRPC’s plan for providing language assistance for persons with Limited English Proficiency that is based on the USDOT LEP Guidance.
 |
| 3. Title VI Complaint Procedure (FTA C. 4702.1A, IV.2.) |
| 1. SEWRPC’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.
 |
| **4. Record of Title VI Investigations, Complaints and Lawsuits (FTA C. 4702.1A, IV.3.)** |
| 1. A list of any investigations, lawsuits, or complaints naming SEWRPC 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 SEWRPC in response to the investigation, lawsuit, or complaint.
 |
| **5. Notice to Beneficiaries of Protection Under Title VI (FTA C. 4702.1A, IV.5.)** |
| 1. Copy of SEWRPC’s Notice to Beneficiaries of Protections under Title VI.
 |
| 1. Documentation of efforts made by SEWRPC to notify members of the public of the protections against discrimination afforded to them by Title VI.
 |
| **6. Annual Title VI Certification and Assurance (FTA C. 4702.1A, VI.1.)** |
|  No documents requested. |
| **7. Environmental Justice Analysis of Construction Projects (FTA C. 4702.1A, IV.8.)** |
| 1. 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.
 |
| **8. Submission of Title VI Program (FTA C. 4702.1A, IV.7.)** |
| 1. SEWRPC’s most recent Title VI Update that was submitted to FTA.
 |
| 1. FTA Title VI Update Approval Letter.
 |
| **Program-Specific Guidance for Metropolitan Transportation Planning Organizations** |
| **10. Demographic Profile (FTA C. 4702.1A, VII.1a.)** |
| 1. A demographic profile of SEWRPC’s metropolitan area that includes identification of the locations of socioeconomic groups, including low-income and minority populations.
 |
| **11. Metropolitan Planning Process (FTA C. 4702.1A, VII.1b.)** |
| 1. SEWRPC’s metropolitan transportation planning process that identifies the needs of low-income and minority populations.
 |
| **12. Analytical Process for Identifying Impacts (FTA C. 4702.1A, VII.1c.)** |
| 1. SEWRPC’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.
 |

SEWRPC assembled most of 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 SEWRPC occurred March 15 – 17, 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 SEWRPC senior management staff, two Federal Highway Administration (FHWA) staff, and the contractor Review team. The Review team showed the participants a U.S. Justice Department Title VI film during the Entrance Conference. Also, during the Entrance Conference, the Review team explained the goals of the Review and the needed cooperation of staff members.

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

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

VI. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on SEWRPC's compliance with the General Reporting Requirements and Guidelines and the 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 the eleven areas reviewed.

**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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA guidance for Inclusive Public Participation. Prior to the site visit, SEWRPC provided a summary of its efforts to seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting outreach and involvement activities.

SEWRPC established a Division of Public Involvement and Outreach to further assist with Inclusive Public Participation efforts. The SEWRPC Public Involvement and Outreach Manager provided the Review team with an overview of the Division’s methods to increase public involvement, including outreach, education, and organizational assistance and support techniques.

The following are some recent Inclusive Public Participation activities that SEWRPC described to the Review team:

* A public meeting on the alternatives under consideration in the Milwaukee County Transit Development Plan (TDP) was held in a minority area at the Washington Park Library Senior Center.
* Brochures for early stages of both the Racine County Public Transit Plan and the Kenosha County TDP were reviewed by SEWRPC’s Environmental Justice Task Force and translated into Spanish.
* Concerted efforts were made to augment the Racine County Transit Plan Workgroup and ensure representation on the Kenosha County TDP Advisory Committee of minority and low-income persons, including LEP persons, reflected in the advisory group/committee composition.
* Brochures in Spanish were produced to help introduce the Regional Housing Plan, and to provide an update regarding inventory findings. These brochures were reviewed for content beforehand by the Environmental Justice Task Force.
* Brochures in Spanish were produced for the public review period and meetings related to Regional Transportation Improvement Programs.
* Newspaper advertisements in Spanish were purchased for all scheduled public meetings and for public meetings related to project selection under the American Resource and Recovery Act.
* Partnering with Testing the Waters, an interagency consortium, which trains teachers and high school students, most from within the Milwaukee River Watersheds, including minority students.

SEWRPC also indicated that it maintained a list of 90 minority and/or low-income groups/organizations that it included in its planning efforts. In particular for major junctures in planning, SEWRPC sent study newsletters and brochures to the organizational contacts. These organizations were also invited to public meetings and organization representatives were invited to meet personally with SEWRPC staff apart from the public open house meetings.

During the site visit, SEWRPC provided the Review team with a recent letter that was sent out to minority and/or low-income organizations informing them of the Regional Housing Plan, the Advisory Committee, and the draft Transportation Improvement Program. The letter included an invitation to future committee meetings as well as an invitation to meet “one on one” with the organization, and a brochure entitled “*Planning for Housing in Southeastern Wisconsin*” (also available in Spanish). The Review team was also provided with meeting notices for the Environmental Justice Task Force and the applicable meeting minutes and a flyer inviting people to a Regional Transit and Economic Development Symposium.

The Review team advised SEWRPC to keep a log or summary of all of its outreach activities and that it should go through its records of past events to begin developing the log/summary to be included in its next Title VI Program submittal.

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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA requirements for Language Access to LEP persons. Prior to the site visit, SEWRPC provided its *Language Access To LEP Persons Four-Factor Analysis Considerations* (*Analysis*) and a staff memorandum entitled *Meeting the Regional Planning Information Needs of Southeastern Wisconsin Residents Having Limited English Proficiency (LAP)*.

The *Analysis* discussed SEWRPC’s analysis of the needs of persons with limited English proficiency as they related to planning and programming efforts. The *Analysis* included a seven factor framework which it felt corresponded and amplified the four factor analysis noted in the Federal Transit Administration Office of Civil Rights document *Implementing the Department of Transportation’s Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons; A Handbook for Public Transportation Providers (2007).* The analysis contained a qualitative discussion, as shown below, for the seven factors:

1. Number and proportion of LEP persons in the Region, and the variety of languages spoken. *Locales of LEP concentration where need may be greatest and agency efforts most fruitful or cost-effective, highlighted by the ongoing analysis of key geographic areas.*
2. Frequency with which LEP individuals come in contact with the program or activity. *Or, which reasonably might be expected to come into contact via targeted outreach efforts, given that infrequent contact is the norm.*
3. Importance of service provided by the program or activity. *Specifically, the likely level of importance to an LEP individual, or the relative importance in their life—which has generally been determined to be low.*
4. Resources available to the Commission. *Ways in which the Commission plans to allocate staff and resources for the provision of needed language services, including coordination by the Regional Planning Educator and contracting for translation services.*
5. The level of services provided to fully English proficient people. *Assessments of particular public participation activities and programs to determine an appropriate LEP match.*
6. Whether LEP persons are being excluded from services, or being provided a lower level of service. *Per guidance, anticipated to be rare. This plan seeks an inclusive environment, with any exclusions due to inadvertent omission and addressed upon determination of interest.*
7. Whether the Commission has adequate justification for restrictions, if any, on special language services or speaking languages other than English. *Outright restrictions are not planned. Practical limitations tied to language variety or LEP person disinterest with Commission subject matter to be further evaluated.*

The *Analysis* contained maps and tables of the LEP populations that it had developed for each of the public transit systems in the region. SEWRPC had not aggregated the data to determine the total LEP population throughout the entire region.

A review of SEWRPC’s *LAP* revealed that it did not contain all the required elements (e.g., a discussion of LEP training for its staff and a process for monitoring and updating the LAP).

Prior to the Exit Conference and following a discussion with the Review team, SEWRPC submitted a revised *Assessment* and *LAP* that incorporated the missing elements previously described. As shown below, the revised documents were adequate to meet the requirements set forth in FTA C. 4702.1A and the DOT Policy Guidance for LEP.

| **Elements Required for LEP Assessment and Language Access Plan** **(Per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)** | **Included in SEWRPC’s Revised LEP Documents** |
| --- | --- |
| **Part A – Four-Factor Assessment** |  |
| 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
 | Yes |
| 1. Importance - the nature and importance of the program, activity, or service to people's lives;
 | Yes |
| 1. Resources - the resources available and costs
 | Yes |
| **Part B - Develop Language Assistance Plan** | Yes |
| 1. Identification of LEP Persons
 | Yes |
| 1. Language Assistance Measures
 | Yes |
| 1. Training of Staff
 | Yes |
| 1. Provide Notice to LEP Persons
 | Yes |
| 1. Monitor and Update the LAP
 | Yes |

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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA requirements for Title VI Complaint Procedures. Prior to the site visit, SEWRPC provided its Title VI Complaint Form and procedures as well as the Notice to Beneficiaries of Protection under Title VI. It was noted that these documents were posted on SEWRPC’s website and in the information kiosk in the lobby of its offices.

During the site visit, the Review team discussed the Complaint Form provided, titled “*Southeastern Wisconsin Regional Planning Commission Title VI Complaint Form*.” It was determined that the complaint procedures needed some changes, such as referencing FTA as an agency to obtain additional information or to file a complaint. Prior to the Exit Conference, SEWRPC made all the required changes to make its Title VI Complaint Form and Procedures conform to the requirements of FTA Circular 4702.1A, IV.2. The Review team confirmed that the revised complaint form was posted on the SEWRPC website.

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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. Prior to the site visit, SEWRPC provided a summary of two discrimination complaints, both filed by the American Civil Liberties Union (ASLU) of Wisconsin against SEWRPC. One was a Title VI complaint and was filed with FTA in 2008. This complaint was closed prior to the site visit. The other was an Equal Employment Opportunity (EEO) complaint filed with the Office of Federal Contract Compliance, also in 2008, and remained open.

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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA requirements for Notice to Beneficiaries of Protection under Title VI.

Prior to the site visit, SEWRPC submitted its “*Notice to Public: Title VI Compliance*” which was posted on its website and on the information kiosk in its lobby. A review of the notice determined that it did not fully conform to the requirements. The notice included the following statement:

*The Title VI requires that no person in the United States shall, on the grounds of race, color, sex, age, disability, or national origin, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Commission receives Federal financial assistance.*

Title VI only applies to race, color, and national origin and not sex, age, or disability. Prior to the Exit Conference, SEWRPC provided a revised *Notice*. As shown below, the revised *Notice* met all of the requirements of FTA Circular 4702.1A, as shown below:

|  |  |
| --- | --- |
| **Elements Required in Title VI Notification****(Per FTA Circular 4702.1A Chapter IV Section 5.a)** | **Included in Revised** **SEWRPC 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 |

SEWRPC was advised to consider additional methods of disseminating its *Notice* to the public.

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 SEWRPC, no deficiencies were found regarding SEWRPC’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. SEWRPC executed its FY 2011 Annual Certifications and Assurances in TEAM on November 15, 2010. SEWRPC 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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. Prior to the site visit, SEWRPC informed the Review team that it was acting as the interim staff for Southeastern Regional Transit Authority (SERTA), the commuter rail authority for Kenosha, Milwaukee, and Racine Counties. SERTA had prepared an alternatives analysis and draft environmental impact statement (DEIS) for a proposed commuter rail line and a new starts application for the project was being reviewed by the FTA. SEWRPC submitted excerpts from the document titled “*Environmental Justice Assessment Kenosha-Racine-Milwaukee Commuter Rail Line Prepared by Southeastern Regional Transit Authority in Project Draft Environment Impact Statement.*” During the site visit, the Review team informed SEWRPC that the six elements required for an Environmental Impact Statement Environmental Justice Analysis were not all included in its commuter rail DEIS.

SEWRPC was advised of the requirements for an Environmental Justice Analysis of Construction Projects as described in FTA Circular 4702.1A. These requirements are noted below:

| **Elements Required in Environmental Justice Analysis of Construction Projects****(Per FTA Circular 4702.1A Chapter IV, 8a-f)** |
| --- |
| 1. 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
 |
| 1. A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population.
 |
| 1. 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.
 |
| 1. 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.
 |
| 1. A discussion of the remaining effects, if any, and why further mitigation is not proposed.
 |
| 1. 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.
 |

During the site visit, SEWRPC stated that the project was on hold, and that the DEIS would be finalized if the project moved forward. SEWRPC was advised to comply with the FTA Circular with regards to Environmental Justice Analysis if the project commenced, and going forward for any other construction projects.

Subsequent to the site visit, on August 3, 2011, SEWRPC submitted an amended application in TEAM to FTA to de-obligate the remaining funds for the project. The TEAM application stated that:

*The Southeastern Regional Transit Authority and Southeastern Wisconsin Regional Planning Commission provided confirmation of the withdrawal of the Kenosha-Racine-Milwaukee (KRM) Commuter Rail project.*

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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA requirements to Submit Title VI Program. Prior to the site visit, SEWRPC submitted its Title VI Update dated July 31, 2007, the FTA conditional approval letter dated August 4, 2008, and the additional submission in response to the conditional approval dated September 4, 2008. The July 31, 2007 Update was submitted just two months after the current FTA Circular 4702.1A, dated May 13, 2007, was disseminated. While the submission did not include all the requirements of the new Circular, the Review team advised SEWRPC to submit a Title VI Program that complied with FTA Circular 4702.1A when the next one was due (i.e., July 31, 2011). The following are the required elements of a Title VI Program:

| **GENERAL REQUIREMENTS****(Per FTA C. 4702.1A, IV, 7. a. (1) – (5))** |
| --- |
| * 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.
 |
| * 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.
 |
| * A copy of the agency procedures for tracking and investigating Title VI complaints.
 |
| * 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.
 |
| * 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.
 |
| **pROGRAM SPECIFIC REQUIREMENTS for MPO’s****(Per FTA C. 4702.1A, VII, 1. A-c)** |
| * 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.
 |
| * A description of the metropolitan transportation planning process that identifies the needs of low-income and minority populations.
 |
| * A description of the 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 OF THE PROGRAM-SPECIFIC GUIDELINES FOR METROPOLITAN TRANSPORTATION PLANNING ORGANIZATIONS**

This section covers the procedures that metropolitan planning organizations (MPOs) should follow in order to comply with the Department of Transportation’s Title VI regulations. In order to integrate, into metropolitan planning activities, considerations expressed in the DOT Order on Environmental Justice, MPOs should have an analytic basis in place for certifying their compliance with Title VI.

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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA requirements for Demographic Profile. Prior to the site visit, SEWRPC provided a demographic profile of the seven county Southeastern Wisconsin Region, including the identification of the locations of socio-economic groups, including low-income and minority populations. This demographic profile was developed using data from the 2000 Census. SEWRPC provided the following maps and tables:

* Map K-1 – Concentrations of Black/African American Persons Within Southeastern Wisconsin: 2000
* Map K-2 – Concentrations of American Indian and Alaska Native Persons Within Southeastern Wisconsin: 2000
* Map K-3 – Concentrations of Asian and Pacific Islanders Persons Within Southeastern Wisconsin: 2000
* Map K-4 – Concentrations of Other Minority Persons Within Southeastern Wisconsin: 2000
* Map K-5 – Concentrations of Hispanic Persons Within Southeastern Wisconsin: 2000
* Map K-6 – Population By Race And Ethnicity In The Southeastern Wisconsin Region: 2000
* Map K-7 – Concentrations of Families in Poverty Within Southeastern Wisconsin: 2000
* Table K-1 – Population By Race And Hispanic Ethnicity In The Region By County: 2000
* Table K-2 – Families With Income Below The Poverty Level In The Region By County: 200 and Poverty Thresholds By Size Of Family And Number Of Related Children Under 18 Years OF Age For Purposes Of The 200 Census
* Table K-3 – Distribution Of Employed Persons By County Of Residence, Race, And Mode Of Travel: 2000
* Table K-4 – Comparison Of The Percentages Of Minority Populations And Minority Population Transit Ridership In Milwaukee and Waukesha Counties, And The Cities Of Kenosha, Racine, And Waukesha
* Table K-5 – Percentage Distribution Of Employed Region Residents By County Of Residence, County Of Work, And Race: Year 2000

The Review team discussed each of these maps and tables with SEWRPC. The demographic data submitted was in compliance with FTA Circular 4702.1A. The Review team advised SEWRPC to update its demographic maps using the recently released 2010 Census data.

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 SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA guidance for Metropolitan Planning Process. Prior to the site visit, SEWRPC provided a description and maps of its Metropolitan Planning Process that included how it incorporated Title VI considerations into the process. During the site visit, SEWRPC did not provide documentation of specific activities to support its description. SEWRPC provided maps of areas of minority and low-income populations, but the maps did not specifically outline the needs of minority and low-income populations and a plan to address those needs.

Prior to the Exit Conference, SEWRPC provided a revised description of its Metropolitan Planning Process that would specifically identify the needs of minority and low-income populations. As part of the revised description, SEWRPC indicated that:

*For future regional transportation plans beginning with the plan reevaluation to be initiated in 2012 and completed in 2016, the Commission will fully document in the plan development section of the regional transportation plan the identification of the transit service needs of the minority and low income populations including: magnitude and location of populations, identification of transit service improvement needs, and development of transit plans to address those needs. The section of the regional transportation plan providing the assessment of the plan impacts on minority and low income populations will also continue to include mapping of the magnitude and location of minority and low income populations, and evaluation of the extent to which proposed transit service improvements meet identified minority and low income population transit service needs.*

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 the analyses produced.*

**Findings:** During this Title VI Compliance Review of SEWRPC, no deficiencies were found regarding SEWRPC’s compliance with FTA requirements for Analytical Process for Identifying Impacts. Prior to the site visit, SEWRPC provided a description of its Analytical Process for Identifying Impacts. During the site visit, SEWRPC did not provide documentation of specific activities to support its description.

Prior to the Exit Conference, SEWRPC provided a revised description of its Metropolitan Planning Process that would specifically identify the benefits and burdens of metropolitan transportation system investments for different socioeconomic groups, identifying imbalances and responding to the analyses produced. As part of the revised description, SEWRPC indicated that:

*The documentation of the benefits and burdens of the regional transportation plan on minority and low income population will be expanded in future regional transportation plans, beginning with the plan reevaluation to be initiated in 2012 and completed in 2016, to include further quantitative evaluation of the extent to which plan recommended transit service improvement and expansion provides service to minority and low income populations. This would include evaluation of the characteristics of the population served by proposed express transit system; and evaluation of the characteristics of the population in areas to receive improved frequency of transit service; and evaluation of characteristics of population of areas which would be served by new transit service.*

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
 | ND |  |  |  |  |
| 1. Title VI Complaint Procedures
 | ND |  |  |  |  |
| 1. Record of Title VI Investigations, Complaints, and Lawsuits
 | ND |  |  |  |  |
| 1. Notice to Beneficiaries of Protection Under Title VI
 | ND |  |  |  |  |
| 1. Annual Title VI Certification and Assurance
 | ND |  |  |  |  |
| 1. Environmental Justice Analysis of Construction Projects
 | ND |  |  |  |  |
| 1. Submit Title VI Program
 |  |  |  |  |  |
| **PROGRAM-SPECIFIC GUIDANCE FOR METROPOLITAN TRANSPORTATION PLANNING ORGANIZATIONS – FTA C. 4702.1A. VII, 1** |
| 1. Demographic Profile
 | ND |  |  |  |  |
| 1. Metropolitan Planning Process
 | ND |  |  |  |  |
| 1. Analytical Process for Identifying Impacts
 | 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

| **NAME** | **ORGANIZATION/TITLE** | **PHONE NUMBER** | **E-MAIL ADDRESS** |
| --- | --- | --- | --- |
| **GRANTEE – Southeastern Wisconsin Regional Planning Commission (SEWRPC)** |
| Kenneth Yunker | Executive Director | (262) 547-6721 | kyunker@sewrpc.org |
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| **Federal Highway Administration – FHWA** |
| Alexis Kuklenski | Community Planner | (608) 829-7517 | alexis.kuklenski@dot.gov |
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| **Federal Transit Administration – FTA** |
| Erick Allen | Regional Civil Rights Officer, Region V | (312)353-3855  | donald.allen@dot.gov  |
| **REVIEW TEAM – The DMP Group, LLC** |
| John Potts | Lead Reviewer | (504)283-7661 | johnpotts@thedmpgroup.com  |
| Gregory Campbell | Reviewer | (202) 726-2630 | gregory.campbell@thedmpgroup.com  |
| Nikki Akinyeye | Reviewer | (202) 726-2630 | nikki.akinyeye@thedmpgroup.com  |

1. Per the 2000 and 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)
2. Poverty status was determined for all people except institutionalized people, people in military group quarters, people in college dormitories, and unrelated individuals under 15 years old. *Source: U.S. Census Bureau and SEWRPC.* [↑](#footnote-ref-2)
3. Population with limited English proficiency includes those persons age 5 and over who reported that they spoke a language other than English at home and who speak English "not well" or "not at all." *Source: U.S. Census Bureau and SEWRPC.* [↑](#footnote-ref-3)