**TITLE VI COMPLIANCE REVIEW**

**OF THE**

**Virginia Department of Rail and Public Transportation (VDRPT)**

**Richmond, Virginia**

**Final Report**

**January 2012**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

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Table of Contents

I. GENERAL INFORMATION 1

II. JURISDICTION AND AUTHORITIES 2

III. PURPOSE AND OBJECTIVES 3

IV. BACKGROUND INFORMATION 5

V. SCOPE AND METHODOLOGY 11

VI. FINDINGS AND RECOMMENDATIONS 18

1. Inclusive Public Participation 18

2. Language Access to LEP Persons 23

3. Title VI Complaint Procedures 26

4. Record of Title VI Investigations, Complaints, and Lawsuits 29

5. Notice to Beneficiaries of Protection Under Title VI 30

6. Annual Title VI Certification and Assurance 32

7. Environmental Justice Analysis of Construction Projects 32

8. Submit Title VI Program 33

9. Statewide Planning Activities 36

10. Program Administration 38

11. Providing Assistance to Subrecipients 40

12. Monitoring Subrecipients 42

VII. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS 44

VIII. ATTENDEES 48

1. GENERAL INFORMATION

Grant Recipient: Virginia Department of Rail and Public Transportation (VDRPT)

City/State: Richmond, VA

Grantee Number: 1459

Executive Official: Ms. Thelma Drake

Director

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Site Visit Dates: August 30 – September 1, 2011

Compliance Review

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1. JURISDICTION AND AUTHORITIES

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct civil rights compliance reviews. The Virginia Department of Rail and Public Transportation (VDRPT) is a recipient of FTA funding assistance and is therefore subject to the Title VI compliance conditions associated with the use of these funds pursuant to the following:

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

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

#### Objectives

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

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

The Virginia Department of Rail and Public Transportation (VDRPT) is the agency designated by the governor to administer FTA grant programs. In the 1992 Session of the Virginia General Assembly, the Code of Virginia was amended to add Section 33.1-391, which established the Department of Rail and Public Transportation. The Department was given the following responsibilities:

1. Determine present and future needs for, and economic feasibility of providing, public transportation facilities and services and the retention, improvement, and addition of passenger and freight transportation in the Commonwealth;
2. Formulate and implement plans and programs for the establishment, improvement, development, and coordination of public transportation facilities and the improvement of passenger and freight rail transportation services and corridors in the Commonwealth, and the coordination of transportation demand initiatives with the Department of Transportation;
3. Coordinate with the Department of Transportation in the conduct of research, policy analysis, and planning for the rail and public transportation modes as may be appropriate to ensure the provision of effective, safe and efficient public transportation and passenger and freight rail service in the Commonwealth;
4. Develop uniform financial and operating data on and criteria for evaluating all public transportation activities in the Commonwealth, develop specific methodologies for the collection of such data by public transit operators, regularly and systematically verify such data by means of financial audits and periodic field reviews of data collection methodologies, and develop such other information as may be required to evaluate the performance and improve the economy or efficiency of public transit or passenger and freight rail operations in the Commonwealth;
5. Provide training and other technical support services to transportation operators and ridesharing coordinators as may be appropriate to improve public transportation and passenger and freight rail services;
6. Maintain liaison with state, local, district, and federal agencies, or other entities, private and public, having responsibilities for passenger and freight rail and public transportation programs;
7. Administer grants from the Federal Transit Administration, the Federal Railroad Administration, and other agencies of the United State government for public transportation, passenger and freight rail transportation, and ridesharing purposes and approval of the Commonwealth Transportation Board and to comply with all conditions attendant thereto;
8. Administer state grants for public transportation, rail transportation, and ridesharing and transportation demand management purposes with approval of the Board.
9. Promote the use of the public transportation and passenger and freight rail services to improve the mobility of Virginia's citizens and the transportation of goods;
10. Represent the Commonwealth on local, regional, and national agencies, industry associations, committees, task forces, and other entities, public and private, having responsibility for passenger and freight rail and public transportation;
11. Represent the Commonwealth's interests in passenger and freight and public transportation and coordinate with the Department of Transportation in the planning, location, design, construction, implementation, monitoring, evaluation, purchase, and rehabilitation of facilities and services that affect or are used by passenger and freight rail and public transportation;
12. Coordinate with the State Corporation Commission on all matters dealing with rail safety inspections and rail regulations that fall within their purview;
13. Prepare and review state legislation and Commonwealth recommendations on federal legislation and regulations as directed by the Secretary of transportation; and
14. Promote public transportation and passenger and freight rail safety.

As a state agency reporting to the Secretary of Transportation, VDRPT works with the Virginia Department of Transportation (VDOT), which is responsible for highways, and other transportation agencies that are responsible for aviation and ports. VDRPT has three primary areas of activity that focus on the movement of people and goods throughout Virginia, and they are rail, public transportation, and commuter services.

Rail transportation involves the movement of people and goods on railways owned and operated by private railroad companies. There are more than a dozen railroad companies and services in Virginia, including Norfolk Southern, CSX, Amtrak, VRE, and ten shortline railroads. VDRPT supports both passenger- and freight-rail initiatives through funding options, advice, research, and advocacy.

There are 60 public transportation systems in Virginia that range in size from two-bus programs in small towns to larger regional systems like the Washington Metropolitan Area Transit Authority (WMATA) in Northern Virginia and Hampton Roads Transit (HRT) in Hampton Roads. Some systems are fee-based, while others provide free access for the elderly and disabled. There are 54 human transportation services in Virginia.

Commuter Services programs work to promote carpools, vanpools, telework and other alternative modes of transportation to Virginia’s commuters. VDRPT currently partners with eighteen commuter service programs operating in Virginia to provide people with information, business incentives, and ridematching services at no charge.

VDRPT provides funding to 14 Section 5303 subrecipients, three Section 5304 subrecipients, seven Section 5309 subrecipients, 51 Section 5310 subrecipients, 23 Section 5311 subrecipients, two Section 5316 subrecipients, and 17 Section 5317 subrecipients.

VDRPT works with the Commonwealth Transportation Board (CTB), a 17 member group appointed by the Governor that establishes the administrative policies for Virginia's transportation system. The CTB allocates highway funding to specific projects, locates routes, and provides funding for airports, seaports, and public transportation. There are three divisions within VDRPT: Public Transportation, Finance and Administration, and Rail Transportation.

The Division of Public Transportation is responsible for the FTA Program Management efforts, while the Division of Finance and Administration is responsible for the financial management of FTA grants. Both the Chief of Public Transportation and the Chief Financial Officer report directly to the Director. The Director of VDRPT has the ultimate responsibility for the implementation of VDRPT’s Title VI program. At the time of the site visit, the Title VI plan was compiled by the Division of Finance and Administration, but VDRPT recently hired a new Chief of Public Transportation and this function was reported to be moved to that division shortly.

The following table represents a demographic profile of the Commonwealth of Virginia using data from the 2000 and 2010 Census. The table shows the 2000 and 2010 population by racial/ethnic group, the increase (or decrease) in population from 2000 to 2010, and the percentage of the racial/ethnic group population to the total population in both 2000 and 2010.

From 2000 to 2010, the total population of the VDRPT service area increased 13 percent. The White population increased 7.2 percent, while the Black population increased 11.6 percent, the Hispanic population increased 91.7 percent, the Asian population increased 68.5 percent, the American Indian/Alaskan Native population increased 38 percent, and the Hawaiian/Pacific Islander population increased 51.5 percent. In 2010, 68.6 percent of the total population was White (a decrease of 3.8 percent from 2000), 19.4 percent was Black (a decrease of 0.3 percent), 7.9 percent was Hispanic (an increase of 3.2 percent), 5.5 percent was Asian (an increase of 1.8 percent), 0.4 percent was American Indian/Alaskan Native (an increase of 0.1 percent), and 0.1 percent was Hawaiian/Pacific Islander (a negligible increase).

According to the 2000 Census, 9.3 percent of the population had income below the poverty level and 303,729 persons (4.6 percent) of the population had Limited English Proficiency (LEP), as shown on the Table below.

**Table 1 – Demographics of the Commonwealth of Virginia**

**Racial/ Ethnic Breakdown**

**Source: 2000 and 2010 U.S. Census**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **2000** | | **2010** | | **Change** | | |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent change ethnic group** | **Percent change total population** |
| White | 5,120,110 | 72.3% | 5,486,852 | 68.6% | 366,742 | 7.2% | -3.8% |
| Black | 1,390,293 | 19.6% | 1,551,399 | 19.4% | 161,106 | 11.6% | -0.3% |
| Asian | 261,025 | 3.7% | 439,890 | 5.5% | 178,865 | 68.5% | 1.8% |
| American Indian and Alaska Native | 21,172 | 0.3% | 29,225 | 0.4% | 8,053 | 38.0% | 0.1% |
| Hawaiian/Pacific Islander | 3,946 | 0.1% | 5,980 | 0.1% | 2,034 | 51.5% | 0.0% |
| Other Race | 138,900 | 2.0% | 254,278 | 3.2% | 115,378 | 83.1% | 1.2% |
| Two or More | 143,069 | 2.0% | 233,400 | 2.9% | 90,331 | 63.1% | 0.9% |
| Hispanic Origin[[1]](#footnote-1) | 329,540 | 4.7% | 631,825 | 7.9% | 302,285 | 91.7% | 3.2% |
| **Total** | 7,078,515 | 100.0% | 8,001,024 | 100.0% | 922,509 | 13.0% | 0.0% |
|  |  |  |  | |  | | |
| Low Income | 656,641 | 9.3% | Not Available | Not Available |  | | |
| LEP | 303,729 | 4.6% | Not Available | Not Available |  | | |

1. SCOPE AND METHODOLOGY

#### Scope

The Title VI Compliance Review of VDRPT 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 State DOTs and Other Administering Agencies – State DOTs and Other Administering Agencies, administering Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area, Job Access and Reverse Commute (JARC), and New Freedom funding programs, shall also submit the following:
11. A copy of procedures to certify that the statewide planning process is in compliance with Title VI;
12. A description of the procedures the agency uses to pass through FTA financial assistance in a non-discriminatory manner;
13. A description of the procedures the agency uses to provide assistance to potential subrecipients in a non-discriminatory manner;
14. A description of how the agency monitors its subrecipients for compliance with Title VI and the results of the monitoring.

#### Methodology

Initial interviews were conducted with the FTA Headquarters Civil Rights staff and the FTA Region III Civil Rights Officer to discuss specific Title VI issues and concerns regarding VDRPT. An agenda letter covering the Review was sent to VDRPT 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; and (2) Program-Specific Requirements and Guidelines for State Departments of Transportation and Other Administering Agencies. The General Reporting Requirements and Guidelines now include implementation of the Environmental Justice (EJ) and Limited English Proficiency (LEP) Executive Orders.

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

* List of all VDRPT subrecipients by FTA program area (e.g., FTA Section 5303, 5304, 5309, 5310, 5311, 5316, and 5317 subrecipients).
* A map or chart of the distribution of VDRPT administered FTA Section 5303, 5304, 5309, 5310, 5311, 5316, and 5317 funding throughout the State. The areas covered by each subrecipient and the dollars awarded in the past three years should be noted, as well as the number of vehicles, where appropriate. The map or chart should also identify areas where minority and low-income populations exceed the statewide averages.
* A demographic profile of the State that includes the identification of the locations of socioeconomic groups, including low-income and minority populations, as covered by Title VI and the Executive Order on Environmental Justice.
* Any studies or surveys conducted by VDRPT, 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 rural public transit service and regarding transit planning and service provided by FTA Section 5309, 5310, 5311, 5316, and 5317 subrecipients, during the past three years.
* VDRPT Organization Chart for the Department and for the unit responsible for administration of FTA grant programs.
* Summary of VDRPT’s and its FTA Section 5303, 5304, 5309, 5310, 5311, 5316, and 5317 subrecipients’ 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 VDRPT’s four factor analysis of the needs of persons with limited English proficiency.
* A copy of VDRPT’s plan for providing language assistance for persons with limited English proficiency that is based on the USDOT LEP Guidance.
* A list of FTA Section 5310, 5311, 5316, and 5317 subrecipients that have conducted the four factor analysis and have developed language assistance plans for persons with Limited English Proficiency.
* VDRPT’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 FTA Section 5310, 5311, 5316, and 5317 subrecipients that have 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 VDRPT 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 VDRPT in response to the investigation, lawsuit, or complaint.
* Copy of VDRPT’s Notice to Beneficiaries of Protections Under Title VI.
* Description of efforts made by VDRPT to apprise members of the public of the protections against discrimination afforded to them by Title VI.
* A list of FTA Section 5310, 5311, 5316, and 5317 subrecipients that have notified members of the public of the protection against discrimination afforded to them by Title VI.
* Copies of any environmental justice assessments conducted for construction projects during the past three years and, if needed, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities, including FTA Section 5310, 5311, 5316, and 5317 subrecipients.
* VDRPT’s most recent Title VI Update that was submitted to FTA, pursuant to FTA’s letter dated February 25, 2011 and VDRPT’s work plan dated March 17, 20011.
* FTA Title VI Update Approval Letter, if available.
* VDRPT’s statewide transportation planning process that identifies the needs of low-income and minority populations.
* VDRPT’s analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.
* A copy of the procedures used for certifying that the statewide planning process complies with Title VI.
* A description of how VDRPT develops its competitive selection process or annual program of projects for Section 5310, 5311, 5316, and 5317 programs submitted to FTA as part of its grant applications. This description should emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority and low-income populations, including Native American tribes, where present.
* A description of VDRPT’s criteria for selecting transit providers to participate in any FTA grant program.
* A record of requests for Section 5310, 5311, 5316, 5317 funding. The record should identify those applicants that would use grant program funds to provide assistance to predominantly minority and low-income populations. The record should also indicate whether those applicants were accepted or rejected for funding.
* A description of how VDRPT monitors its Section 5310, 5311, 5316, and 5317 subrecipients for compliance with Title VI and a summary of the results of this monitoring, including:
* The process for ensuring that all subrecipients are complying with the General Reporting Requirements of FTA Circular 4702.1A.
* The process for subrecipients who provide transportation services to verify that their level and quality of service is provided on an equitable basis, including the development of system-wide service standards and verification that service provided to predominantly minority and low-income communities meets these standards.
* A description of VDRPT’s procedures to assist potential subrecipients in applying for Section 5310, 5311, 5316, and 5317 funding, including any efforts to assist applicants that would serve predominantly minority and low-income populations.
* A description of the assistance VDRPT provides to subrecipients, upon their request, to help them comply with the FTA Title VI General Reporting Requirements. The following are examples of information that may be provided to subrecipients:
* Sample notices to the public informing beneficiaries of their rights under Title VI and procedures on how to file a Title VI complaint.
* Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient.
* Demographic information on the race, income, and English proficiency of residents served by the subrecipient.

VDRPT 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 VDRPT occurred August 29 – September 1, 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 VDRPT senior management staff, an Equal Opportunity Specialist from the FTA Headquarters Office of Civil Rights (via telephone), 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 VDRPT Manager of Financial Programming 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 by VDRPT.

The Review team then met with VDRPT staff to discuss how VDRPT incorporates FTA Title VI requirements into its public transportation program. During the site visit, the Review team visited Farmville Area Bus and Blackstone Area Bus, both Section 5309 and 5311 subrecipients, to ascertain the extent to which Title VI was being incorporated into VDRPT subrecipient activities. Both organizations served small populations with similar racial mix characteristics, primarily White and Black.  Farmville Area Bus provided service to Longwood University, whose students represented approximately half of its service area population.  Both were aware of Title VI nondiscrimination guidelines and informally incorporated some of the FTA Circular 4702.1A General Reporting Requirements and Guidelines into the operation of their systems.  Specifically, both maintained partially compliant processes for inclusive public participation, complaint procedures, and language assistance.  The Review team advised VDRPT to keep subrecipients aware of their obligations under Title VI, provide assistance to subrecipients in meeting those obligations, and monitor subrecipients accordingly. At the end of the site visit, an Exit Conference was held with VDRPT staff, an Equal Opportunity Specialist from the FTA Headquarters Office of Civil Rights (via telephone), and the contractor Review team. At the Exit Conference, initial findings and corrective actions were discussed with VDRPT.

1. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on VDRPT's compliance with the General Reporting Requirements and Guidelines and the Program-Specific Requirements and Guidelines for States and Other Administering Agencies. This section describes the requirements and findings at the time of the Compliance Review site visit. In summary, no deficiencies were identified in five of the twelve areas reviewed. Deficiencies were identified in the following seven Title VI requirement areas:

* Inclusive Public Participation
* Language Access to LEP Persons
* Title VI Complaint Procedures
* Notice to Beneficiaries of Protection Under Title VI
* Submit Title VI Program
* Statewide Planning Activities
* Program Administration

#### 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 VDRPT, deficiencies were found regarding VDRPT’s compliance with FTA guidance for Inclusive Public Participation. VDRPT did not have a public outreach plan or strategy to include minority persons in its planning process, and did not provide documentation confirming outreach to minority persons as required by FTA Circular 4701.1A, V, 9. In addition, VDRPT did not provide documentation confirming that all of its subrecipients conducted public outreach to minority or low-income persons, per the Circular.

Prior to the site visit, VDRPT provided a document titled *Title VI Review Guidance for Transportation Planning Activities Virginia Department of Rail and Public Transportation* in which VDRPT explained that:

*…each local jurisdiction that operates public transit service is required to have a Transit Development Plan (TDP). The planning process used to develop this document specifically encourages jurisdictions to identify the needs of transit-dependent populations within the service area and to summarize remedial actions related to Title VI–related deficiencies uncovered by the Federal Transit Administration.*

This document also provided the following guidance to its subrecipients regarding public outreach during TDP development:

* *Does the study effort include opportunities for minority and low-income communities to participate in the development or review of the finding through stakeholder or technical meetings?*
* *Does the study effort develop a communication plan to maximize exposure, to the extent possible, about the study among minority and low-income communities?*
* *Were minorities, low-income, transit dependent riders represented in focus groups to discuss and receive input on existing services and any changes to service or route structure?*
* *Does the TDP compare input received from non-minority communities with minority communities?*
* *Does the planning study allow minority and low-income groups to participate on technical meetings either as direct participants or through representation from local community groups or organizations?*

While this document provided helpful guidance to subrecipients on how to conduct public outreach per FTA Circular 4702.1A, VDRPT did not provide documentation confirming that the subrecipients had implemented this guidance.

During the site visit, the VDRPT Transit Planning staff provided a spreadsheet titled *MPO PPP Checklist*, which included a list of fourteen MPOs from across the State and indicated whether the MPOs had a public participation plan, and whether their plans addressed outreach to minority persons, low-income persons, and persons with limited English proficiency (LEP). According to the spreadsheet, all fourteen MPOs had developed a public participation plan. Eight of the MPOs addressed outreach to minority persons, low-income persons, and LEP persons. Four of the MPOs addressed outreach to minority and low-income persons. One MPO addressed outreach to minority and LEP persons, and one MPO did not address outreach to any Title VI group. This spreadsheet also included notes that indicated what outreach methods were in each plan. Some of the methods from these plans were as follows:

* Notifying community organizations and community leaders representative of minority and low-income persons of opportunities to provide input and comment.
* Holding meeting locations at convenient times and places.
* Using media outlets known to serve minorities and low-income persons.
* Using maps to identify areas where there are large concentrations of minorities and/or low-income persons and planning outreach events accordingly.
* Translating meeting notices for LEP persons.
* Coordinating with other agencies serving minority and low-income populations (using their mailing lists).
* Engaging advisory committees.

While these methods were effective ways to included minority and low-income persons in the planning process, the approaches to public outreach were inconsistent. Some MPOs appeared to plan to do more than others, which could lead to Title VI protected groups in some areas having less opportunity to participate in the transportation planning process than in other areas across the State. In addition, VDRPT indicated that this was the extent of its oversight regarding Title VI inclusive public participation. VDRPT did not confirm these activities took place.

VDRPT also described its public outreach process associated with the development of its Coordinated Human Transportation Plans (CHTPs). This process, however, was limited to outreach to low-income, elderly, and disabled persons and did not include outreach to minority persons. Outreach methods found in several of the CHTPs included the use of stakeholder meetings, surveys, focus groups, and regional workshops.

While VDRPT discussed public participation plans of MPOs and provided outreach plans associated with the development of CHTPs, it did not provide an inclusive public participation plan for itself per FTA Circular 4702.1A. During the site visit, VDRPT indicated that its inclusive public participation efforts were often made in conjunction with the Virginia Department of Transportation (VDOT); however, VDRPT did not explain how VDOT’s outreach efforts enabled minority and low-income persons to participate in transportation planning. VDRPT also indicated that it posted meeting notices in minority and foreign language newspapers when appropriate, but it could not provide documentation or copies of these notices confirming this activity. VDRPT did provide a calendar of events associated with its *I-95 HOV/HOT Lane Project*, which included an entry for an advertisement scheduled to run in a Spanish newspaper called *El Tiempo*. No further information was provided.

VDRPT did not provide documentation confirming its subrecipients conducted outreach to minority and low-income persons, as required by FTA Circular 4702.1A. It was suggested that VDRPT complete its own Title VI inclusive public participation plan and provide it to its subrecipients as an example. VDRPT commented that its subrecipients re probably doing more outreach than they are documenting. VDRPT was advised to document its own and its subrecipients outreach efforts as VDRPT will be required to include a summary of these efforts in its next Title VI Program submittal.

In response to the Draft report in an email correspondence dated January 17, 2012, VDRPT stated the following:

1. *DRPT has begun developing specific procedures to involve minority and low-income persons in our public involvement activities. During the period under review, we relied on our sister agency, the Virginia Department of Transportation, to undertake most advertising, meeting placement, etc for these activities. We will, however, develop procedures to increase our control of this function.*
2. *We will also provide a template for our subrecipients to use in developing their own procedures. We will strengthen our oversight of the subrecipients’ public involvement activities during our compliance reviews. DRPT has contracted with a consultant who will help us determine which subrecipients are already in compliance with Title VI in this area and which require greater assistance.*

**Corrective Actions and Schedules:** No later than May 1, 2012, VDRPT must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights documentation that it has developed:

* Specific procedures to involve minority and low-income persons in its public involvement activities.
* An Implementation Plan for its subrecipients to have procedures to involve minority and low-income persons in its public involvement activities.

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 VDRPT, deficiencies were found regarding VDRPT’s compliance with FTA requirements for Language Access to LEP persons. Prior to the site visit, VDRPT stated that since it did not provide transit service, it did not prepare a four-factor analysis for itself. It did, however, provide technical assistance to its 5311 and 5317 grantees in the preparation of their four-factor analyses.

VDRPT was advised that, while it did not provide transit service, it did conduct transportation planning for the State; therefore, it needed to complete a four-factor analysis and develop a Language Assistance Plan (LAP) for its statewide planning activities, if applicable. VDRPT’s State Management Plan development process was discussed as an example of when VDRPT should apply its LAP and what it learned from its four-factor analysis. Specifically, VDRPT should use the four-factor analysis to determine where concentrations of LEP persons were throughout the State, determine if those areas were underserved and possibly why, develop resources to help better communicate with LEP populations about statewide transportation programs, and develop outreach strategies that facilitate the participation of LEP persons or transit providers that provide service to LEP persons.

When conducting its four-factor analysis, it was recommended that VDRPT coordinate with other agencies throughout the state, particularly those in large urban areas, which may have LEP information to share. This may reduce the amount of effort on the part of VDRPT to collect useful LEP information.

With respect to its subrecipients, VDRPT provided documentation confirming it provided technical assistance and guidance to subrecipients on the conduct of their four-factor analyses and provided an example of a completed subrecipient four-factor analysis. VDRPT developed a four-factor analysis template that included several questions from the DOT LEP Guidance, the answers to which formed the substance of the analysis. The template essentially guided subrecipients through the four-factor analysis process. While the majority of the questions were sufficient to produce a satisfactory analysis, VDRPT was advised to modify its instructions to subrecipients on how to determine the number and proportion of LEP individuals in its service area. VDRPT recommended subrecipients use Census data to determine the racial make-up of each town or county. During the site visit, it was pointed out that this data alone would not help subrecipients determine how many LEP persons lived in their applicable areas and where they were located.

During the site visit, the Review team explained the four-factor assessment and Language Assistance Plan development requirements in the table below:

| **Elements Required for LEP Four-Factor Analysis and Language Assistance Plan**  **(Per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)** |
| --- |
| **Part A – Four-Factor Analysis** |
| 1. Demography –The number or proportion of LEP persons eligible to be served or likely to be encountered |
| 1. Frequency of Contact - the frequency with which LEP individuals come in contact with the program and/or activities |
| 1. Importance - the nature and importance of the program, activity, or service to people's lives; |
| 1. Resources - the resources available and costs |
| **Part B - Develop Language Assistance Plan** |
| 1. Identification of LEP Persons |
| 1. Language Assistance Measures |
| 1. Training of Staff |
| 1. Provide Notice to LEP Persons |
| 1. Monitor and Update the LAP |

The Review team also showed the video *Breaking Down The Language Barrier: Translating Limited English Proficiency into Practice*, answered questions, and provided VDRPT with LEP reference material, including the DOT LEP website [www.lep.gov](http://www.lep.gov) and the LEP handbook titled *Implementing the Department of Transportation’s Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons A Handbook for Transportation Providers, April 13,* 2007.

In response to the Draft report in an email correspondence dated January 17, 2012, VDRPT stated the following:

1. *DRPT has contracted with a consultant to assist us in developing a four-factor analysis and an LAP for DRPT as a whole. DRPT will also contact our large urban transit providers to review their LAPs and apply the data as appropriate.*
2. *DRPT has contracted with a consultant who will help us determine which subrecipients are already in compliance with Title VI in this area and which require greater assistance. Although our 5311 and 5317 subrecipients already have Four Factor Analyses which may require tweaking, as noted in the finding above, DRPT has not worked with our human service subrecipients on this matter, and we will undertake this effort immediately.*

**Corrective Actions and Schedules:** No later than May 1, 2012, VDRPT must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights documentation that it has developed:

* A four-factor analysis and a LAP for itself per FTA Circular 4702.1A and DOT LEP Guidance.
* An Implementation Plan to require its subrecipients that have not completed an analysis to complete the four factor analyses and LAPs, if necessary.

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 VDRPT, deficiencies were found regarding VDRPT’s compliance with FTA requirements for Title VI Complaint Procedures. While VDRPT did not receive any Title VI complaints in the last three years, discussions with VDRPT during the site visit about its complaint procedures, and how it would handle a Title VI complaint, revealed that VDRPT’s complaint procedures needed updating. During the site visit, VDRPT updated its complaint procedures, however, a post-site visit review of the updated procedures revealed some ambiguity with respect to how complaints filed against VDRPT (not one of its subrecipients) would be handled. VDRPT also had not met its requirement to ensure its subrecipients developed Title VI complaint procedures and made them available to the public.

The following issues were identified with VDRPT’s original complaint procedures provided prior to the site visit:

* VRDPT’s Title VI Notice to Beneficiaries stated that complaints must be filed in writing; however, VDRPT’s Title VI complaint procedures stated that complaints could be filed by calling VDRPT’s central phone number or through its website.
* It was not clear how an individual would file a complaint on VDRPT’s website.
* Complaint procedures stated that complaints were recorded in a “central civil rights log.” When asked for a copy of this log, VDRPT stated that it did not exist.
* The Review team discovered a Title VI complaint form on VDRPT’s website that was not referenced in its complaint procedures. The complaint form appeared to have been recently created and VDRPT staff could not describe how the form was, or would be, used.

VDRPT’s updated complaint procedures stated,

“*If the complaint is about DRPT, the Compliance Officer will contact the Director of DRPT and they will determine how to proceed to ensure a full and complete investigation is performed.*”

It was recommended that VDRPT establish internal procedures for handling Title VI complaints filed against it that were clear, objective, and unambiguous. For example, VDRPT could consider referring all complaints filed against it (not one of its subrecipients) to a designated senior staff member for internal investigation. Once an internal determination was made, the complainant would be notified. If the complainant was dissatisfied with VDRPT’s determination, VDRPT would refer the complainant to the FTA or some other outside agency to file an appeal.

VDRPT had not completed its requirement to have its subrecipients have complaint procedures. Prior to the site visit, VDRPT had hired a consultant to assist in this effort and indicated that it had begun the process to complete this requirement for its subrecipients.

In response to the Draft report in an email correspondence dated January 17, 2012, VDRPT stated the following:

1. *DRPT is in the process of modifying our complaint procedures to address the concerns above. We will identify one senior staff member to receive any complaints received under Title VI and to make a determination of investigation activities to be undertaken.*
2. *Although DRPT already provides oversight to our 5311 and 5317 subrecipients regarding complaint procedures, we have not worked with our human service subrecipients on this matter. We will undertake this effort immediately, including providing a template for their use as well as adding a review of complaint procedures to the triennial compliance review.*

**Corrective Actions and Schedules:** No later than May 1, 2012, VDRPT must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights the following:

* Title VI Complaint Procedures for itself that conform to FTA Circular 4702.1A, IV, 2.
* An Implementation Plan for its subrecipients to have 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 VDRPT, no deficiencies were found regarding VDRPT’s compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. FTA Circular 4702.1A, IV, 3 requires recipients and subrecipients to record the following about the Title VI investigations, complaints, and lawsuits it receives:

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

Since VDRPT did not have any FTA Title VI investigations, complaints, or lawsuits, there was no record to submit. However, prior to the site visit, VDRPT provided a spreadsheet titled *Contact Tracking,* which VDRPT explained was used to log all contact with the public. This spreadsheet did not sufficiently record information on the actions taken by VDRPT in response to a Title VI investigation, lawsuit, or complaint.

During the site visit, VDRPT created a new tracking log designed to record all of the information required by the Circular. VDRPT indicated that the new tracking log would be used to record future Title VI investigation, complaints, and lawsuits. In addition, VDRPT indicated that it would provide its log as an example to its subrecipients so they also would record Title VI complaint information, as 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 VDRPT, deficiencies were found regarding VDRPT’s compliance with FTA requirements for Notice to Beneficiaries of Protection under Title VI. Prior to the site visit, VDRPT submitted its Title VI Notice. The Notice did not contain all of the elements required by FTA Circular 4702.1A, IV, 5.a, as illustrated in the following table:

| **Elements Required in Title VI Notice to Beneficiaries**  **(Per FTA Circular 4702.1A Chapter IV Section 5.a)** | **Included in VDRPT’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 |

During the site visit, VDRPT added the missing statement to its Title VI Notice and posted the updated Notice on its website. In addition, the Review team confirmed that VDRPT included its Notice in public comment meeting notices.

VDRPT had not completed the requirement to have its subrecipients have a Notice to Beneficiaries of Protection Under Title VI. VDRPT hired a consultant to assist in this effort and indicated that it had begun the process of completing this requirement for its subrecipients.

In response to the Draft report in an email correspondence dated January 17, 2012, VDRPT stated the following:

*DRPT has contracted with a consultant to determine which of our subrecipients are not meeting the requirement for the Notice to Beneficiaries under Title VI. The consultant has completed the review for the 5311s and the 5317s, and they are about to begin the review of our human service providers. We will provide our subrecipients with a template as needed, and we will add this area to our triennial compliance review. We will also provide a copy of DRPT’s Notice to Beneficiaries during our next program submittal.*

**Corrective Actions and Schedules:** No later than May 1, 2012, VDRPT must submit to the Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights, an Implementation Plan for its subrecipients to have a 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 VDRPT, no deficiencies were found regarding VDRPT’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. VDRPT executed its FY 2011 Annual Certifications and Assurances in TEAM on January 11, 2011. VDRPT 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 VDRPT, no deficiencies were found regarding VDRPT’s compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. VDRPT did not have any major construction projects in its FTA program. VDRPT was advised that the current requirements for an EJ analysis have been revised with the issuance of FTA Circular 4702.1A. Projects that qualify for a CE should have the NEPA CE Checklist completed. Projects that require an Environmental Assessment (EA) or an Environmental Impact Statement ( EIS) should contain EJ documentation that includes the following elements:

| **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. |

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 VDRPT, deficiencies were found regarding VDRPT’s compliance with FTA requirements to Submit Title VI Program. In its most recent Title VI Program, dated August 28, 2009, VDRPT included seven of the nine elements required by FTA Circular 4702.1A, IV, 7, as described in the following table:

| **ELEMENTS REQUIRED FOR TITLE VI PROGRAM** | |
| --- | --- |
| **GENERAL REQUIREMENTS AND GUIDELINES**  **(Per FTA C. 4702.1A, IV, 7. a. (1) – (5))** | **In VDRPT 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. | No |
| * 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. | No |
| **pROGRAM SPECIFIC REQUIREMENTS for state dots**  **(Per FTA C. 4702.1A, VI, 5. a. (1) – (4))** |  |
| 1. A copy of the procedures used for certifying that the statewide planning process complies with Title VI. | Yes |
| 1. A description of the procedures the agency uses to pass-through FTA financial assistance in a non-discriminatory manner. | Yes |
| 1. A description of the procedures the agency uses to provide assistance to potential subrecipients applying for funding in a non-discriminatory manner. | Yes |
| 1. A description of how the agency monitors its subrecipients for compliance with Title VI and a summary of the results of this monitoring. | Yes |

VDRPT was advised to develop its next Title VI Submittal in conformance with the new Title VI guidance detailed in FTA Circular 4702.1B, which includes a requirement to submit a Public Participation Plan and a copy of its Notice to Rights Under Title VI.

In response to the Draft report in an email correspondence dated January 17, 2012, VDRPT stated the following:

*DRPT received approval of our most recent Title VI Program, dated August 28, 2009, including the following language: “Now that we have reviewed your program, we have determined that it meets the requirements set out in the FTA’s Title VI Circular, 4702.1A.” However, given the current situation, DRPT will prepare a summary of public outreach undertaken as well as our procedures to address the public outreach and involvement activities moving forward.*

**Corrective Actions and Schedules:** No later than May 1, 2012, VDRPT must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights a summary of public outreach and involvement activities undertaken since its last submission and a description of steps taken to ensure that minority and low-income persons had meaningful access to these activities.

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

This section covers the Program-Specific Requirements and Guidelines for State DOTs and Other Administering Agencies, administering Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area, Job Access and Reverse Commute (JARC), and New Freedom funding programs.

1. Statewide Planning Activities

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

**Findings**: During this Title VI Compliance Review of VDRPT, deficiencies were found regarding VDRPT’s compliance with FTA requirements for Statewide Planning Activities. VDRPT did not provide documentation that it had a statewide transportation planning process that identified the needs of low-income and minority populations and an analytical process that identified the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced, as described in FTA Circular 4702.1A. During the site visit, VDRPT provided several planning documents that it had developed over the past several years. These studies included the Statewide Public Transportation Plan, Corridor Studies, Transit Development Plans, Coordinated Human Services Mobility Plans, Transit Service Studies, and Facility Feasibility Studies. VDRPT did not provide documentation that any of the studies considered the needs of minority populations. Many of the studies addressed the needs of the transit-dependent populations (i.e., individuals with disabilities, older adults, and people with low incomes). Prior to the site visit, VDRPT did provide demographic maps of the *Percentage Distribution of Population – Persons Age 65 and Older in 2000* and *Population Below Poverty Level, 2000*. VDRPT also provided charts of the 2000 and 2010 *Percentage of Minority Populations in the Commonwealth by Jurisdiction*. During the site visit, VDRPT provided a demographic map of the distribution of the minority population in the Commonwealth.

The following table contains guidance for conducting Statewide Planning Activities and whether VDRPT followed the guidance:

| **GUIDANCE ON CONDUCTING STATEWIDE PLANNING**  **(Per FTA C. 4702.1A, VI, 1. a. – c.)** | **In VDRPT Documentation?** |
| --- | --- |
| * A demographic profile of the State that includes identification of the locations of socioeconomic groups, including low-income and minority populations as covered by the Executive Order on Environmental Justice and Title VI. | Yes |
| * A statewide transportation planning process that identifies the needs of low-income and minority populations. | Yes for low-income, No for minority |
| * An analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced. | No |

In response to the Draft report in an email correspondence dated January 17, 2012, VDRPT stated that it “… *has begun working on developing and implementing a new statewide transportation planning process that conforms to Title VI requirements.*”

**Corrective Actions and Schedules:** No later than May 1, 2012, VDRPT must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights documentation that it has developed a statewide transportation planning process that identifies the needs of low-income and minority populations and an analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced, as described in FTA Circular 4702.1A.

1. Program Administration

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

**Findings:** During this Title VI Compliance Review of VDRPT, deficiencies were found regarding VDRPT’s compliance with FTA requirements for Program Administration. VDRPT did not provide documentation that it had a process in place to ensure that it was passing through FTA Section 5310, 5311, 5316, and 5317 funds without regard to race, color, or national origin and that minority and low-income populations were not being denied the benefits of or excluded from participation in these programs, as described in FTA Circular 4702.1A. During the site visit, VDRPT provided the following State Management Plans (SMPs):

* *Commonwealth of Virginia Department of Rail and Public Transportation Section 5311 State Management Plan For Public Transportation in Nonurbanized Areas Revised May, 2011*
* *Commonwealth of Virginia Department of Rail and Public Transportation FTA Section5310/Section5316 and /Section5317 State Management Plan Updated June 2011*

The Section 5311 SMP did not address the Program Administration guidance in the Circular. The Sections 5310, 5316, and 5317 SMP addressed the Program Administration guidance for the Section 5310 program.

The following table contains guidance for conducting subrecipient Program Administration and whether VDRPT satisfactorily followed the guidance:

|  |  |
| --- | --- |
| **GUIDANCE ON PROGRAM ADMINISTRATION**  **(Per FTA C. 4702.1A, VI, 2. a. (1) – (5))** | **In VDRPT Process?** |
| * A description of how the agency develops its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. This description should emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority and low-income populations, including Native American tribes, where present. | Partial |
| * A description of the agency’s criteria for selecting transit providers to participate in any FTA grant program. | Yes |
| * A record of requests for Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area Formula Funding, JARC, and New Freedom funding. The record should identify those applicants that would use grant program funds to provide assistance to predominantly minority and low-income populations. The record should also indicate whether those applicants were accepted or rejected for funding. | No |
| * A description of the agency’s procedures to assist potential subrecipients in applying for Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area Formula Funding, JARC, and New Freedom funding, including any efforts to assist applicants that would serve predominantly minority and low-income populations. | Yes |
| * State DOTs or other administering agencies may classify applicants as providing service to predominantly minority and low-income populations if the proportion of minority and low-income people in the applicant’s service area exceeds the statewide average minority and low-income population. | N/A |

The 2011 VDRPT State Management Review (SMR) identified a deficiency with VDRPT not developing a Record of Requests for its FTA programs as required. VDRPT provided to FTA Office of Civil Rights a Record of Requests for its FTA programs for the past three years to close out the SMR deficiency. VDRPT did not have procedures to ensure that it develops a Record of Requests as part of its competitive selection process or annual program of projects submitted to FTA as part of its grant applications.

At the Exit Conference, VDRPT provided updated drafts to its SMPs that contained a process for developing a Record of Requests as part of its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. VDRPT should finalize its SMPs to incorporate the appropriate language.

In response to the Draft report in an email correspondence dated January 17, 2012, VDRPT stated the following:

*The prescribed changes to the State Management Plans have been made and are undergoing internal reviews at this time. Upon completion of these reviews, DRPT will submit the changes to FTA Headquarters Office of Civil Rights.*

**Corrective Actions and Schedules:** No later than May 1, 2012, VDRPT must submit to the Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights revised State Management Plans for its Section 5310, 5311, 5316, and 5317 programs that includes procedures to ensure that it develops a Record of Requests as part of its competitive selection process or annual program of projects submitted to FTA as part of its grant applications.

1. Providing Assistance to Subrecipients

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

**Findings:** During this Title VI Compliance Review of VDRPT, no deficiencies were found regarding VDRPT’s compliance with FTA guidance for Providing Assistance to Subrecipients. VDRPT had a process in place to provide assistance to its subrecipients as required by the Circular. On August 19, 2011, VDRPT issued a Purchase Order to obtain consultant resources for FTA Title VI assistance to subrecipients. The Purchase Order had four tasks, as follows:

* Task 1 – Develop , Administer, and Assess Title VI Compliance Review Checklists for 5311 Sub-recipients
* Task 2 – Develop “Model” Written Title VI Policies and Programs
* Task 3 – Develop, Administer, and Assess Title VI Compliance Review Checklists for 5310 Sub-recipients
* Task 4 – Develop, Administer, and Assess Title VI Compliance Review Checklists for 5305 Sub-recipients

During the site visit, VDRPT indicated that it was actively implementing Tasks 1 and 2, and that it was awaiting the Title VI Review to determine whether it would proceed with Tasks 3 and 4. During the site visit, VDRPT indicated that it would be proceeding with Tasks 3 and 4. VDRPT also stated that its Section 5316 and 5317 subrecipients were either Section 5310, 5311, or 5305 subrecipients.

The following table contains guidance for Providing Assistance to Subrecipients and whether VDRPT followed the guidance:

|  |  |
| --- | --- |
| **GUIDANCE ON PROVIDING ASSISTANCE TO SUBRECIPIENTS**  **(Per FTA C. 4702.1A, VI, 4. a. – c.)** | **VDRPT** |
| * Sample notices to the public informing beneficiaries of their rights under Title VI and procedures on how to file a Title VI complaint. | Yes |
| * Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient. | Yes |
| * Demographic information on the race, income, and English proficiency of residents served by the subrecipient. (This information will assist the subrecipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.) | Yes |

1. Monitoring Subrecipients

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

**Findings:** During this Title VI Compliance Review of VDRPT, no deficiencies were found regarding VDRPT’s compliance with FTA requirements for Monitoring Subrecipients. During the site visit, VDRPT provided documentation to confirm that it was monitoring its subrecipients for compliance with Title VI. VDRPT provided the following monitoring tools:

* VIRGINIA RURAL PUBLIC TRANSIT COMPLIANCE REVIEW WORKBOOK For FTA Section 5311 Grantees
* VIRGINIA SPECIALIZED TRANSPORTATION PROGRAM ON-SITE REVIEW WORKBOOK For Section 5310 Sub-Grantees

Both workbooks contained sections for monitoring subrecipient compliance with Title VI. During the site visit, the Reviewers and VDRPT staff discussed ways to make the workbooks conform more specifically to the Circular requirements. During the site visit, VDRPT provided updated workbooks that conformed to all the Circular requirements for subrecipient monitoring.

The following table contains guidance for monitoring subrecipients and whether VDRPT followed the guidance:

|  |  |
| --- | --- |
| **GUIDANCE ON PROVIDING ASSISTANCE TO SUBRECIPIENTS**  **(Per FTA C. 4702.1A, VI, 3. a. – b.)** | **VDRPT** |
| * The agency should document its process for ensuring that all subrecipients are complying with the general reporting requirements of this circular. | Yes |
| * At the request of FTA, in response to a complaint of discrimination, or as otherwise deemed necessary by the State DOT or administering agency, the agency should request that subrecipients who provide transportation services verify that their level and quality of service is provided on an equitable basis. Recipients should ask subrecipients to develop system-wide service standards and verify that service provided to predominantly minority and low-income communities meets these standards. | N/A |

1. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

| **Title VI Requirements For State DOTs** | **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 | D | Public outreach deficiencies | VDRPT must submit to the Equal Opportunity Specialist in the FTA Headquarters:   * Specific procedures to involve minority and low-income persons in its public involvement activities. * An Implementation Plan for its subrecipients to have procedures to involve minority and low-income persons in its public involvement activities. | May 1, 2012 |  |
| 1. Language Access to LEP Persons | D | * Lacking assessment or provisions for LEP persons * Insufficient oversight of Title VI compliance | VDRPT must submit to the Equal Opportunity Specialist in the FTA Headquarters:   * Documentation that it has completed the four-factor analysis and developed a LAP for itself per FTA Circular 4702.1A and DOT LEP Guidance. * An Implementation Plan to require its subrecipients that have not completed the analyses to complete the four factor analyses and LAPs, if appropriate. | May 1, 2012 |  |
| 1. Title VI Complaint Procedures | D | Complaints not addressed properly | VDRPT must submit to the FTA Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights the following:   * Title VI Complaint Procedures for itself that conform to FTA Circular 4702.1A, IV, 2. * An Implementation Plan for its subrecipients to have complaint procedures. | May 1, 2012 |  |
| 1. Record of Title VI Investigations, Complaints, and Lawsuits | ND |  |  |  |  |
| 1. Notice to Beneficiaries of Protection Under Title VI | D | Insufficient oversight of Title VI compliance | VDRPT must submit to the Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights an Implementation Plan for its subrecipients to have a Notice to Beneficiaries of Protection Under Title VI. | May 1, 2012 |  |
| 1. Annual Title VI Certification and Assurance | ND |  |  |  |  |
| 1. Environmental Justice Analysis of Construction Projects | ND |  |  |  |  |
| 1. Submit Title VI Program | D | Title VI program submittal incomplete | VDRPT must submit to the Equal Opportunity Specialist in the FTA Headquarters 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 persons had meaningful access to these activities. | May 1, 2012 |  |
| **PROGRAM SPECIFIC REQUIREMENTS – FTA C.4702.1A VI, 1-4** | | | | | |
| 1. Statewide Planning Activities | D | Statewide planning activities lacking | VDRPT must submit to the Equal Opportunity Specialist in the FTA Headquarters:   * A process to identify the needs of low income and minority populations in its planning activities * An analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced, as described in FTA Circular 4702.1A. | May 1, 2012 |  |
| 1. Program Administration | D | No record of approved and rejected funding requests maintained | VDRPT must submit to the Equal Opportunity Specialist in the FTA Headquarters Office of Civil Rights revised State Management Plans for its Section 5310, 5311, 5316, and 5317 programs that includes procedures to ensure that it develops a Record of Requests as part of its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. | May 1, 2012 |  |
| 1. Providing Assistance to Subrecipients | ND |  |  |  |  |
| 1. Monitoring Subrecipients | 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** |
| --- | --- | --- | --- |
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| Julie Adams | Farmville Area Bus, Transit Manager | 434-392-7433 | [fab@moonstar.com](mailto:fab@moonstar.com) |
| Jennifer Beck | Town of Blackstone, Director of Transportation and Community Development | 434-292-3025 | [jennifer.beck@blackstonebus.com](mailto:jennifer.beck@blackstonebus.com) |
| **Federal Transit Administration – FTA** | | | |
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1. Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)