

DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION

**TITLE VI AS IT APPLIES TO
FEDERAL TRANSIT ADMINISTRATION GRANT PROGRAMS**

(OMB Control No. 2132-0540)

This supporting statement is associated with a request for reinstatement without change of a previously approved information collection.

A. JUSTIFICATION

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY.

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) states:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

To achieve this purpose, each federal department and agency which provides financial assistance for any program or activity is authorized and directed by the Department of Justice (DOJ) to effectuate provisions of Title VI for each program or activity by issuing generally applicable regulations or requirements. The Department of Transportation (DOT) has issued its regulation implementing this DOJ mandate.

In this regard, the responsibility of the Federal Transit Administration (FTA) is to ensure that federally-supported transit services and benefits are distributed by applicants, recipients, and subrecipients of FTA assistance in a manner consistent with Title VI. The employment practices of a grant applicant, recipient, or subrecipient are also covered under Title VI if the primary purpose of the FTA-supported program is to provide employment or if those employment practices would result in discrimination against beneficiaries of FTA-assisted services and benefits.

FTA policies and requirements are designed to clarify and strengthen Title VI (service equity) procedures for FTA grant recipients by requiring submission of written plans and approval of such plans by the agency. All project sponsors receiving financial assistance pursuant to an FTA-funded project shall not discriminate in the provision of services because of race, color, or national origin.

Experience has demonstrated that a program requirement at the application stage is necessary to assure that benefits and services are equitably distributed by grant recipients. The requirements prescribed by the Office of Civil Rights are designed to accomplish this objective and diminish possible vestiges of discrimination among FTA grant recipients. FTA's assessment of the requirements indicated that the formulation and implementation of the Title VI program should occur with a decrease in costs to such applicants and recipients.

2. HOW, BY WHOM AND FOR WHAT PURPOSE THE DATA WILL BE USED.

On May 13, 2007, in accordance with DOJ and DOT Title VI regulations, FTA issued "Title VI and Title VI- Dependent Guidelines for Federal Transit Administration Recipients." This circular includes information, guidance, and instruction on the objectives of the FTA Title VI program; information on specific grant programs covered; a description of the process for implementing remedial and enforcement actions; information on the DOT complaint process; and public information requirements.

FTA Circular 4702.1A establishes the following two major categories of information collection and reporting requirements: General and Program Specific. In addition, requirements for State administered programs are also addressed.

No special forms are used to collect Title VI information. Each report may differ in size and format, but each grantee's report must adhere to specific program requirements and guidelines specified in the Title VI circular and regulations. All recipients of FTA funds are required to comply with the terms of a Master Agreement, which becomes part of the grant agreement. "Section 12. Civil Rights" of the Master Agreement states that recipients agree to comply with all applicable civil rights laws and regulations, except as otherwise determined in writing by the federal government. A portion of the Master Agreement is included as an information collection instrument in ROCIS.

General Reporting Requirements:

General Reporting Requirements are applicable to all recipients. This information collection is required by DOJ and DOT Title VI regulations. This requirement is applicable to all applicants, recipients, and subrecipients receiving federal financial assistance. Recipients whose only FTA funding is through the FTA's University Transportation Center Program, National Research and Technology Program, Transportation Cooperative Research Program, Over the Road Bus Accessibility program, or Public Transportation on Indian Reservations program are exempt from submitting a Title VI compliance report to FTA. The absence of this requirement to submit a Title VI report does not obviate the underlying obligations to comply with Title VI.

Title VI information must be updated, at a minimum of every 3 years and/or referenced, if information previously submitted has not changed. Records are also retained for a minimum of 3 years. No specific form is used to collect this information. The grantees prepare their reports based on guidance provided in the circular and regulations. All recipients of FTA funds are required to comply with the terms of a Master Agreement, which becomes part of

the grant agreement. "Section 12. Civil Rights" of the Master Agreement states that recipients agree to comply with all applicable civil rights laws and regulations, except as

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otherwise determined in writing by the federal government. A portion of the Master Agreement is included as an information collection instrument in ROCIS.

The submission shall include the following information:

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 (LEP) 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's 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.
- If prior to the deadline for subsequent reports, the recipient has not altered its language assistance policies, procedures for tracking and investigating a Title VI complaint, or its notice to the public that it complies with Title VI and instructions to the public on how to file a Title VI complaint, the recipient should submit a statement to this effect in lieu of copies of the original documents.

Program Specific Requirements:

Applicable in areas over 200,000 - All recipients that provide service to geographic areas with a population of 200,000 people or greater under 49 U.S.C. 5307 must submit the following program information for review and determination:

Demographic Data. In order to comply with 49 CFR Section 21.9(b), applicable recipients must collect and analyze racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving federal financial assistance. Recipients are able to choose one of three methods to collect this data. These methods include:

- A. Demographic and Service Profile Maps and Charts. Recipients may prepare demographic and service profile maps and charts. These maps and charts will help the recipient determine whether transit service is available to minority and low-income populations within the recipient's service area. Maps and charts should be prepared after each decennial census and prior to proposed service reductions or eliminations.

B. Survey Information on Customer Demographics and Travel Patterns. Recipients may collect information on the race, color, national origin, income, and travel patterns of their riders. FTA recommends that recipients collect the following information (recipients may request additional information from their riders, as appropriate, or request different information that is more applicable to the type of service they provide):

- Information on riders' race, color, and national origin.
- Whether the rider speaks or understands English "not well" or "not at all."
- Information on riders' income or income range.
- The mode of transit service that riders use most frequently (when applicable).
- The frequency of transit usage.
- The typical number of transfers made.
- The fare payment type and media most frequently used (when applicable).
- Riders' auto availability.
- Riders' opinion of the quality of service they receive (this could include questions such as satisfaction with the system, willingness to recommend transit to others, and value for fare paid).
- In administering the above option, grantees should keep the following guidance in mind:
 - Timing. The information recommended in Section 1.b. (1) can be integrated into customer surveys routinely employed by transit agencies and can be collected at the time that such surveys are routinely performed.
 - Language access. The recipient should take steps to translate customer surveys into languages other than English, or to provide interpretation services in the course of conducting customer surveys consistent with the DOT LEP guidance.

C. Locally Developed Alternative. Recipients may modify the above options or develop their own procedures to collect and analyze demographic data on their beneficiaries. Any locally developed alternative must meet the expectations of 49 CFR Section 21.9(b).

Requirements to Set System-wide Service Standards. In order to comply with 49 CFR Section 21.5(b) (2) and (7) and Appendix C to 49 CFR Section 21, recipients must adopt quantitative system-wide service standards necessary to guard against discriminatory service design or operations decisions. These standards include:

Effective Practices to Fulfill the Service Standard Requirement. FTA recommends that recipients develop quantitative standards for the following indicators.

- Vehicle load. Vehicle load can be expressed as the ratio of passengers per vehicle or

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the ratio of passengers to the number of seats on a vehicle during a vehicle's maximum load point.

- Vehicle headway. Vehicle headway is the time interval between two vehicles traveling in the same direction on the same route.
- On-time performance. On-time performance is a measure of runs completed as scheduled.
- Distribution of transit amenities. Transit amenities refer to items of comfort and convenience available to the general riding public. These items include, but are not limited to, benches, shelters, route maps, timetables, trash receptacles, and intelligent transportation systems (such as electronic fare payment and vehicle arrival information displays) along bus routes and at fixed guideway stations and elevators, escalators and "park-and-ride" facilities at fixed guideway stations.
- Service availability. Service availability is a general measure of the distribution of routes within an agency's service area. For example, a policy might be to distribute service so that 90 percent of all residents in the service area are within one-fourth of a mile of bus or rail service. A policy might also indicate the maximum distance between stops along bus routes. These measures of coverage and stop distances might also vary by population density.

Requirement to Set System-wide Service Policies In order to comply with 49 CFR Section 21.5(b)(2) and 49 CFR Section 21.5(b)(7), Appendix C to 49 CFR Section 21, recipients must adopt system-wide service policies necessary to guard against service design and operational policies that have disparate impacts. System-wide policies differ from service standards in that they are not necessary based on a quantitative threshold. FTA recommends that recipients develop policies for the following indicators.

- Vehicle assignment. Vehicle assignment refers to the process by which transit vehicles are placed into service in depots and routes throughout the recipient's system.
- Transit security. Transit security refers to measures taken to protect a recipient's employees and the public against any intentional act or threat of violence or personal harm, either from a criminal or terrorist act. These actions include, but are not limited to, deploying surveillance technology and security personnel along routes and at stations, implementing security training programs for employees and security awareness programs for the public, and conducting inspections of facilities and passengers.

Requirement to Evaluate Service and Fare Changes. In order to comply with 49 CFR Section 21.5(b)(2), 49 CFR Section 21.5(b)(7) and Appendix C to 49 CFR part 21, recipients must evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. For service changes, this requirement applies to "major service changes" only. The recipient should have established guidelines or

thresholds for what it considers to be a “major” change. Recipients can use one of the following options:

A. Assess the effects of the proposed fare or service change on minority and low-income populations.

- Effective Practices to Fulfill the Service Standard Requirement
 - Route changes. For proposed major service changes that would reduce or expand frequency of service or add or eliminate routes, the recipient should produce maps of the routes that would be eliminated, reduced, added, or expanded, overlaid on a demographic map of the service area, that highlights those Census tracts or traffic analysis zones where the total minority and low-income population is greater than the service area average.
 - Span of service. For proposed changes that would reduce or expand hours and days of service, the recipient should analyze any available information generated from ridership surveys that indicates whether minority and low-income riders are more likely to use the service during the hours and/or days that would be eliminated.
 - Fare changes. For proposed changes that would increase or decrease fares on Certain transit modes or by fare payment type or payment media, the recipient should analyze any available information generated from ridership surveys indicating whether minority and low-income riders are more likely to use the mode of service, payment type, or payment media that would be subject to the fare increase.
- Assess the alternatives available for people affected by the fare increase or major service change.
 - Service changes. For proposed service changes, the recipient should analyze what, if any, modes of transit or transit routes are available for people affected by the service expansions or reductions.
 - Fare changes. For proposed fare changes, the recipient should analyze what, if any, alternative transit modes, fare payment types, or fare payment media are available for people affected by the fare change.
 - Describe the actions the agency proposes to minimize, mitigate, or offset any adverse effects of proposed fare and service changes on minority and low-income populations.
 - Determine which, if any of the proposals under consideration would have a disproportionately high and adverse effect on minority and low-income riders.

B. Locally Developed Evaluation Procedure. Recipients have the option of modifying the above option or developing their own procedures to evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. This locally developed alternative must include a description of the

methodology used to determine the impact of the service and fare change, a determination as to whether the proposed change would have discriminatory impacts, and a description of what, if any, action was taken by the agency in response to the analysis conducted.

Requirement to Monitor Transit Service. In order to comply with 49 CFR Section 21.5(2), 49 CFR Section 21.5(b) (7) and Appendix C to 49 CFR Section 21, recipients must monitor the transit service provided throughout the recipient's service area. Periodic service monitoring activities shall be undertaken to compare the level and quality of service provided to predominantly minority areas with service provided in other areas to ensure that the end result of policies and decision making is equitable service. Monitoring shall be conducted at a minimum of once every three years. If a recipient's monitoring determines that prior decisions have resulted in disparate impacts, agencies must take corrective action to remedy the disparities.

Eliminating Redundancy. If, prior to the deadline for subsequent reporting periods, the recipient has not altered its existing demographic analysis, service standards, or service policies, the recipient may submit a statement to this effect in lieu of copies of the original documents.

Program-Specific Requirements and Guidelines for State Departments of Transportation or Other Administering Agencies

For State DOTs and other State 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 as well as any designated recipients in large urbanized areas for JARC and New Freedom must ensure that their programs, policies, and activities comply with the Department of Transportation (DOT) Title VI regulations. The Title VI program must include documentation of compliance with the general reporting requirements and the following information: This program shall be submitted once every three years.

- A copy of the procedures used for certifying that the statewide planning process complies with Title VI.
- A description of the procedures the agency uses to pass-through FTA financial assistance in a non-discriminatory manner.
- A description of the procedures the agency uses to provide assistance to potential subrecipients applying for funding in a non-discriminatory manner.
- A description of how the agency monitors its subrecipients for compliance with Title VI and a summary of the results of this monitoring.

Eliminating Redundancy. If, prior to the deadline for subsequent reporting periods, the State DOT or administering agency has not altered its procedures for certifying that the statewide planning process complies with Title VI, its description of the procedures the agency uses to

pass-through FTA financial assistance in a non-discriminatory manner, its description of the procedures the agency uses to provide assistance to potential subrecipients applying for funding in a non-discriminatory manner, or its description of how the agency monitors its subrecipients for compliance, the agency may submit a statement to this effect in lieu of copies of the original documents.

Analysis of Construction Projects

The DOT has directed all of its modal administrations, including FTA, to emphasize and incorporate environmental justice into the administration of the Title VI program. Under Executive Order 12898, federal agencies must achieve environmental justice as part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including social and economic, of its programs, policies, and activities on minority populations and low-income populations of the United States. In order to integrate into environmental analyses, considerations expressed in the DOT Order on Environmental Justice, recipients and subrecipients, FTA recommends that recipients preparing an environmental assessment (EA) or environmental impact statement (EIS) integrate into their documents the following components:

- 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 (e.g., analysis of Census data, minority business directories, direct observation, or a public involvement process).
- A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population.
- A discussion of all positive effects that would affect the identified minority and low-income population, such as an improvement in transit service, mobility, or accessibility.
- A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects, including but not limited to, any special features of the relocation program that go beyond the requirements of the Uniform Relocation Act and address adverse community effects such as separation or cohesion issues and the replacement of the community resources destroyed by the project.
- A discussion of the remaining effects, if any, and why further mitigation is not proposed.
- For projects that traverse predominantly minority and low-income and predominantly non-minority and non-low-income areas, a comparison of mitigation and environmental enhancement actions that affect predominantly low-income and minority areas with mitigation implemented in predominantly non-minority or non-low-income areas. Recipients and subrecipients that determine there is no basis for such a comparison should describe why that is so.

3. CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY.

All recipients of FTA funds are required to use FTA's Transportation Electronic Award Management (TEAM) system from the initial application stage through post award

management. Additionally, the Office of Civil Rights uses information technology with all reporting data applicable to this program. This has improved communications and the processing of program requirements.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION.

No similar information from applicants/recipients is required by any other program office in FTA or other program offices within the DOT or other federal agency.

5. IF THE COLLECTION OF INFORMATION INVOLVES SMALL BUSINESS OR OTHER SMALL ENTITIES, DESCRIBE THE METHODS USED TO MINIMIZE BURDEN.

The collection of Title VI information does not involve small businesses.

6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION WERE CONDUCTED LESS FREQUENTLY.

FTA Circular 4702.1 requires a one-time Title VI submission by all grant applicants/recipients within areas serving populations greater than 200,000, with an update due every 3 years after the initial submission. (Submissions are provided to FTA on a staggered basis so that only one-third of all grantees submit Title VI programs each year.)

If submissions were required less frequently, the preventive nature of the current Title VI program, focusing on the pre-award process and providing technical assistance to grantees, would be diminished. FTA would have to rely on the post-award review process. In addition, due to the dynamics of the service delivery process (the purchase and routing of new equipment and schedule changes) a less frequent submission would hamper FTA's ability to monitor the grantees' service delivery. Recipient respondents are required to maintain records for a minimum of 3 years.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT REQUIRE THE COLLECTION TO BE CONDUCTED IN A MANNER INCONSISTENT WITH GUIDELINES IN 5 CFR PART 1320.6.

The collection of Title VI information is conducted in a manner consistent with the guidelines specified in 5 CFR Part 1320.6.

8. DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY.

FTA has consulted on an on-going basis with Title VI officers of grant recipients and several external organizations representing program beneficiaries. Contacted groups and persons have indicated that FTA's Title VI requirements are vital to ensuring non-discrimination. In addition, FTA has conducted 14 (including one in each city in which FTA Regional Offices are located) Title VI training sessions around the country during the last 3 years. This

training is open to both recipients and beneficiaries. Finally, FTA is also developing a training course with the National Transit Institute entitled "Transit Equity Consideration" which is free for all FTA recipients and beneficiaries.

A 60-day Federal Register notice was published on June 23, 2010 (pages 35874 and 35875), soliciting comments prior to submission to the Office of Management and Budget (OMB). No comments were received. A 30-day Federal Register notice was published on September 17, 2010 (pages 57103 and 57104).

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.

No payment or gift is made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

All information collected is certified to comply with Freedom of Information Act, the Privacy Act of 1974, and OMB Circular A-108. Confidentiality is provided, when requested, for information exempt from the mandatory public disclosure requirements of the Freedom of Information Act.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE.

This information collection does not contain any questions of a personal or confidential nature.

12. PROVIDE ESTIMATE OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION AND ANNUALIZED COST TO RESPONDENTS.

Approximately 950 grantees are required to prepare Title VI submissions during each 3-year period ($950/3 = 316$ grantees per year). The number of grantees preparing general and program specific submissions is 342 and 608 grantees submit only the general requirements. Based on information received from grantees, the average time spent by a grantee in the preparation of a general and program specific program is approximately 45 hours. The annual burden is 5,130 hours ($342 \text{ grantees} \times 45 \text{ hours} = 15,390 \text{ hours for 3 years}$ ($15,390/3 = 5,130$ annual hours)). Grantees submitting only general requirements will spend approximately one hour per submission. The annual burden is 202 hours ($608 \text{ grantees} \times 1 \text{ hour} = 608 \text{ hours for 3 years}$ ($608/3 = 202$ annual hours)). The total annual burden for all grantees is 5,332 hours ($5,130 \text{ hours} + 202 \text{ hours} = 5,332 \text{ hours}$).

Assuming the average hourly wage cost is \$20.00, total annual labor cost to the grantees preparing general and program specific requirements equals \$106,640 (5,332 hours x \$20 = \$106,640). The total annual labor cost to grantees submitting only general requirements is \$4,040 (202 hours x \$20 = \$4,040). The total annual labor cost for all grantees is \$110,680 (\$106,640 + 4,040 = \$110,680).

13. PROVIDE ESTIMATES OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION (NOT INCLUDING THE COST OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).

The estimate of the printing and equipment costs for each grantee submitting general and program specific data is \$120. The total annual overhead is \$13,680 (\$120 x 342 grantees = \$41,040 (\$41,040/3 = \$13,680)). The estimated printing and equipment cost for grantees submitting only general requirements is \$27. The total annual overhead is \$5,472 (\$27 x 608 = \$16,416 (\$16,416/3 = \$5,472)). The total annual cost for printing and equipment for all grantees is \$19,152 (\$13,680 + \$5,472 = \$19,152).

14. PROVIDE ESTIMATE OF THE TOTAL ANNUALIZED COST TO THE FEDERAL GOVERNMENT.

A total of 10 Regional Civil Rights Officers review Title VI program submissions. On an average, the 10 spend approximately 11 percent of their total annual duty hours, or approximately 230 hours per year (11% x 2080 hours), reviewing programs. With an average grade of GS-13, at an hourly rate of \$43, the total cost of labor hours for the 10 officers is \$98,900 (230 hours x \$43 x 10). At an estimated 10 percent overhead rate, total overhead is \$9,890 (10% x \$98,900). The total estimated cost to the federal government is \$108,790 (\$98,900+ \$9,890).

15. EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEM 13 or 14 OF THE OMB FORM 83-I.

The burden hours for this submission have not changed. The overhead costs for printing and equipment were adjusted to reflect a slight annual increase of \$1,152

16. PLANS FOR TABULATION AND PUBLICATION FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED.

FTA does not anticipate the publication of its Title VI data.

17. IF SEEKING APPROVAL NOT TO DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL, EXPLAIN THE REASONS.

There is no reason not to display the expiration date of OMB approval.

18. EXPLAIN ANY EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19 OF OMB FORM 83-I.

No exceptions are stated.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

FTA does not anticipate the publication of its Title VI data for statistical use.

